

# **Performance Audit: Rock Chalk Park infrastructure improvement monitoring**

**July 2014**

City Auditor  
City of Lawrence, Kansas

July 18, 2014

Members of the City Commission

This performance audit focuses on the infrastructure construction related to Rock Chalk Park.

The city used monitoring provisions in the development agreement to monitor construction of Rock Chalk Park infrastructure and identify issues in time to correct them.

I issued three interim report memos during the fieldwork for this performance audit. The interim reports provided information to the City Manager about issues identified to allow for action to be taken before this final report was completed. See Appendix A for the interim memos.

This performance audit includes seven recommendations. The City Manager's response to those recommendations is in Appendix B.

I appreciate the cooperation and assistance provided by city staff as I completed this project.

Michael Eglinski  
City Auditor

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# Performance Audit: Rock Chalk Park infrastructure

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# Performance Audit: Rock Chalk Park infrastructure

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## Results in Brief

The city used monitoring provisions in the development agreement to monitor construction of Rock Chalk Park infrastructure and identify issues in time to correct them. The development agreement calls for the city to attend infrastructure improvement team meetings, provides city staff with access to the site, requires monthly progress updates, and provides access to concrete weight/batch tickets. In addition, the City Manager provides written monthly reports on infrastructure construction to the City Commission and the public at regular City Commission meetings. Before making the final payment to RCP, the city will have an opportunity to review some documentation supporting the payment and RCP should audit the cost of the work.

The City Auditor issued three interim report memos during the fieldwork for this performance audit. The interim reports provided information to the City Manager about issues identified to allow for action to be taken before this final report was completed. See Appendix A for the interim memos.

Establishing performance expectations related to the infrastructure could help ensure success. The city has established general mechanisms for monitoring and reporting on the performance of work supported by economic development incentives and on some types of infrastructure. With some additional work, these mechanisms could incorporate Rock Chalk Park infrastructure.

In completing the field work for this performance audit, the City Auditor identified compliance issues related to the procurement process for two consulting contracts and the application fee process for industrial revenue bonds.

This performance audit includes seven recommendations. The City Manager's response to those recommendations is in Appendix B.

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## Performance Audit: Rock Chalk Park infrastructure

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### City monitored infrastructure work to identify problems in time to correct them

The city made use of several monitoring provisions in the development agreement to monitor the infrastructure construction and identify issues in time to correct them. The development agreement calls for the city to attend regular infrastructure improvement team meetings, provides city staff with access to the site, requires monthly progress updates, and provides access to concrete weight/batch tickets. In addition, the City Manager provides written monthly reports on infrastructure construction to the City Commission and the public at regular City Commission meetings. Before making the final payment to RCP, the city will have an opportunity to review some documentation supporting the payment and RCP should audit the cost of the work.

#### Rock Chalk Park Infrastructure

Rock Chalk Park is a development that includes facilities that will be used by KU Athletics, a city recreation center, and parking and other infrastructure serving the facilities. The city has partnered with two other entities – RCP and Bliss Sports II – to build the infrastructure.

The infrastructure at Rock Chalk Park include water and sewer lines, storm water facilities, streets and sidewalks, tennis courts, natural trails, parking lots, and the recreation center pad. The estimated price for the infrastructure improvements is \$12.3 million.

A development agreement, special use permit and construction contracts define the basic roles and responsibilities of the partners. RCP contracted with Bliss Sports II to build the infrastructure improvements. RCP will pay Bliss Sports II for the work, and the City will pay RCP for the infrastructure. RCP is a KU Endowment Association-related entity. Bliss Sports II is a private company.

City staff met with representatives of RCP and Bliss Sports II at the work site about every two weeks. The meetings provided opportunities to discuss the status of the work, any issues and the schedule. Meeting every two weeks was more than required by the development agreement and allowed the parties to address issues as they came up.

#### Meeting Agenda Example

Meetings generally address items such as monthly reports, issues related to the work, and progress. The agenda below is from the November 19, 2013 meeting:

##### Agenda

1. Storm Water events / inspections
2. Last rain event 11/5/13,
3. September report on 11/19 cc agenda
4. October Report city staff still compiling
5. Concrete issues
  - not being cured
  - not being covered
  - wrong size tie bars, and not epoxy coated
  - saw cutting
  - cracking of pavement
  - spalling
6. Cold weather moving forward
  - all concrete should be covered at 35 and rising beginning Oct
  - next pour scheduled thur or friday this week, RCP drive
7. Progress
  - need October invoice from Fritzel
8. Next two weeks
  - in fill
  - next week will work Friday, Saturday not Thursday
  - city has put additional inspection
  - water line - small amount remaining
  - water line test result have all passed so far

City staff inspected the work during construction. The development agreement provides the city with access to inspect construction to determine that it meets requirements. City inspectors included staff from the Utilities and Public Works departments and contract inspectors. Inspections provide the city a mechanism to ensure construction complies with construction plans, specifications, applicable laws, codes and regulations. Inspectors monitor the work, inspect and investigate construction and complaints, and work to ensure compliance.

City staff has access to concrete weight/batch tickets. The tickets provide a record of the transaction and include information on the quantity and design. The development agreement provides for the city to collect the

concrete weight/batch tickets for infrastructure improvements that will be owned by the city. Before construction began city staff decided that instead of having city staff collect the tickets Bliss Sports II would collect and scan the tickets and provide the city with scanned copies. Collecting concrete weight/batch tickets acts as a control to ensure that concrete amounts and mix designs are correct.

City staff provided monthly reporting to the City Commission to help the City Commission provide oversight of the project.<sup>1</sup> The monthly reports provide information on the quantity of work completed and also generally answer:

- Has the City identified any issues of concern?
- Has the work completed been done to specifications?
- Have the parties made any changes to the design, scope, functionality or amenities of the infrastructure or changed the improvement plans?
- Is construction of the infrastructure improvements on schedule?<sup>2</sup>

Monthly reporting helps control risks associated with timing, specification and costs. Regular reporting helps ensure risks can be managed in a timely manner.

RCP will audit the cost of the work. The construction contract between RCP and Bliss Sports II requires that RCP auditors review and write a report on the final accounting of the costs.<sup>3</sup> Under the development agreement, it is not clear if the City will have access to the RCP audit. If the City does have access, that audit report could help the city understand the final costs and could provide support before the city makes its final payment.<sup>4</sup>

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<sup>1</sup> The reports cover work completed during each calendar month as opposed to providing updates on a monthly basis. As a consequence, the City Commission updates may be months after the work covered in the report. For example, the August construction report was provided to the City Commission on October 22 and the December 2014 construction report was provided to the City Commission on March 25, 2014.

<sup>2</sup> An October 2013 interim report recommended the monthly reports include an introduction that answer these questions and that the City Manager provide a schedule of when the reports would be anticipated and that they be available about every 30 days. See Appendix A.

<sup>3</sup> Agreement between owner [RCP, LLC] and contractor [Bliss Sports II] *Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work plus a fee without a Guaranteed Maximum Price*, July 10, 2013, section 12.2.2.

<sup>4</sup> A January 2014 interim report recommended that the City Manager develop an understanding of RCP's processes for their audit of the costs of the work. See Appendix A.

The city used the oversight approaches to identify and report to the City Commission on a number of problems and changes related to infrastructure construction. For example the monthly reports noted:

- Used compacted soil rather than flowable fill as trench backfill for a sanitary sewer line
- Concrete was not always saw cut in a timely manner or covered when weather was cold
- Installed conduit for fiber that wasn't included in the development agreement.<sup>5</sup>

Reporting this sort of information helped the City Commission monitor progress on the infrastructure work.

The City Manager should provide a report at the end of construction that identifies issues identified in the monthly reports and how those issues were addressed.

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## **Interim reports identified issues the city could address in a timely manner**

The City Auditor issued three interim report memos during the fieldwork for this performance audit. The interim reports provided information to the City Manager about issues identified to allow for action to be taken before this final report was completed. See Appendix A for the interim reports.

Interim report memos included recommendations intended to:

- Ensure monthly reports to the City Commission addressed key questions and were available on a regular basis
- Address compliance with the requirement that lighting be approved by the City Commission in advance of construction
- Document changes in the work as required by the development agreement and infrastructure improvement construction contract
- Develop an understanding of RCP's processes for managing the work and auditing the costs of work

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<sup>5</sup> A January 2014 interim report recommended that the City Manager ensure changes in the work have appropriate written authorization and that the city maintains documentation of those changes. See Appendix A.



The City Auditor did not follow-up on the interim recommendations but requested the City Manager to provide an update as part of his response to the draft report. The City Manager’s response is included in Appendix B.

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## **Establishing performance measures and assessing infrastructure condition could help ensure success**

Establishing performance expectations related to the Rock Chalk Park infrastructure could help ensure success. The city has established general mechanisms for monitoring and reporting on the performance of work supported by economic development incentives and on some types of infrastructure. With some additional work, these mechanisms could incorporate Rock Chalk Park infrastructure.

### **Inventory and assess infrastructure at Rock Chalk Park**

The city should add Rock Chalk Park infrastructure to city inventories and plan to regularly assess the condition of those infrastructure features. Up to date and reliable information on the condition of infrastructure can help inform decisions about maintenance and repair. Performance measures that combine condition measures and goals or benchmarks help demonstrate adequate maintenance.

#### **Inventory and assess infrastructure to improve decisions**

Infrastructure inventories and reliable information on the condition of assets help inform decisions and:

- Identify maintenance and repairs;
- Evaluate design standards; and
- Determine appropriate maintenance.

Appropriate maintenance helps to improve the overall condition of assets in a cost effective manner.

Source: *Performance Audit: Pavement Condition Measures*, October 2008.

The city has inventory and asset condition systems for some, but not all, of the infrastructure at Rock Chalk Park. Table 1 summarizes the infrastructure items constructed at Rock Chalk Park and the city’s existing

systems for inventory and condition assessments. While the city has inventory and condition assessment systems for streets, trees and waterlines, the city lacks inventory and condition assessments for most of the infrastructure built at Rock Chalk Park. In 2014 the city began collecting data on sidewalk defects that will provide condition information for sidewalks.

**Table 1 Inventories and assessments for infrastructure items**

Infrastructure item <sup>6</sup>	Estimated improvement value	Existing inventory system?	Existing condition assessment data?
Parking lot/access drives	3,821,846.50	No	No
Rock Chalk Drive and George Williams Way; Rock Chalk Lane and Rock Chalk Parkway	1,594,618.25	Yes	Yes
Tennis courts	640,000.00	Yes	No
Landscaping (trees and shrubs)	583,850.00	Yes (system is in place but city-wide data not complete)	Yes
Waterlines	468,061.65	Yes	Yes
Natural trails	404,520.00	Yes	No
Sidewalks	376,690.00	Yes	Collecting data city-wide in 2014

Maintenance responsibilities for the trails and parking and access drives are spelled out in two agreements between RCP, the City, Bliss Sports and Kansas Athletics. Those agreements explain financial responsibilities and set general performance goals for maintenance. For example, Kansas Athletics will maintain the trails in “good condition, reasonable wear and tear excepted, in a professional manner that is reasonably acceptable to each of the parties.” The agreements do not provide for or require maintenance standards, benchmarks, performance measures, or periodic reporting.<sup>7</sup> Condition assessments could help the parties ensure trails, parking and access drives are maintained adequately.

**Develop performance measures and report annually**

The city should develop performance measures for annual reporting for the portion of the project supported by economic development incentives. The City code establishes a standard mechanism for monitoring and reporting on projects supported by economic development incentives. The city generally requires performance provisions when granting economic development incentives and annually reports on performance<sup>8</sup>. While

<sup>6</sup> The table shows items with an value of greater than \$250,000 for Rock Chalk Park infrastructure improvement costs in the development agreement.

<sup>7</sup> Monitoring criteria are based on *Performance Audit: City Needs a Consistent Method for Cooperating with the County*, August 2013.

<sup>8</sup> City Code, Chapter 1, Article 21, sections 1-2107 and 1-2109.

measures were not established when the incentives were approved, creating some measures would help monitor the success of the project in coming years.

The City supported the development and infrastructure construction through two economic development incentives – industrial revenue bonds and a grant. The industrial revenue bond incentive went through the city’s normal process, but the grant did not. For the industrial revenue bonds incentive, specific performance provisions weren’t set, although performance was characterized as the “development agreement in place that indicates performance.”<sup>9</sup> Performance provisions were not established for the grant. Table 2 summarizes how the two incentives complied with the city’s established process.

**Table 2 Incentive processes**

Step <sup>10</sup>	Industrial Revenue Bonds	Grant
Applicant provides a standards application	Applicant completed an initial application on 1/15/13 and submitted a final application on 2/11/13	No. However, in October 2012, KU Endowment requested that the city waive all city related fees
City staff analyze cost/benefit and prepare written review	Staff prepared a cost/benefit analysis and wrote a review on February 27, 2013	No
Public Incentives Review Commission (PIRC) reviews application and provides the City Commission with comments and recommendations	Considered on March 5, 2013 by PIRC. PIRC voted 3-3 when considering a recommendation	No
City Commission considers approval	Approved Resolution 7014 on March 5, 2013	Approved Ordinance 8842 on March 5, 2013
Performance provisions in performance agreement	Compliance with development agreement was described as the performance agreement	None

City Code requires annual review of performance of recipients of economic development incentives based on the performance agreement. The Public Incentives Review Commission reviews the report prepared by city staff. While formal performance provisions were not established, city staff could annually review the performance of the industrial revenue bond and economic development grant incentives. This would provide an additional mechanism for the City Commission to provide ongoing oversight of the Rock Chalk Park infrastructure.

<sup>9</sup> *March 5, 2013 Minutes*, Public Incentives Review Committee.

<sup>10</sup> City Code, Chapter 1, Article 21, sections 1-2105 through 1-2109.

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## Other issues: compliance with internal procedures

In completing the field work for this performance audit, the City Auditor identified compliance issues related to the procurement process for two consulting contracts and the application fee process for industrial revenue bonds.

### **City should follow internal purchasing procedures**

Two consultants engaged for work related to the Rock Chalk Park development worked before city staff had issued requisitions or purchase orders. Requisitions and purchase orders are elements of the city's controls over purchasing. The city's purchasing procedures are designed to maximize the value of purchases, ensure fair and equitable treatment, foster competition, and increase public confidence.

The city's general process follows a set of steps:

1. Determine the need for a purchase
2. Make a requisition through the city's financial system
3. Department-level approval of the requisition
4. Purchasing agent review of the requisition
5. Contract award
6. Purchase order issued directing the work to begin
7. Verification of the work
8. Payment made

In conducting planning work for this performance audit, the City Auditor identified two consultants working on aspects of the development who were working before the city had made a requisition or issued a purchase order. In both cases, the consultant's initial invoice for work they'd done was received by the city before a requisition was created or a purchase order issued. As a result, the purchases were not subject to the city's normal internal controls over purchasing.

**Table 3 Procurement summary**

Activity	Vendor A	Vendor B
First invoice, indicating some billable work completed	March 8, 2013 <sup>11</sup>	June 26, 2012
Requisition initiated	March 11, 2013	July 24, 2012
Purchase order approved	March 11, 2013	July 25, 2013

Compliance with purchasing procedures is intended to increase public confidence in city purchasing, ensure fair and equitable treatment, and provide safeguards for maintaining a purchasing system of quality and integrity.

**City should strengthen cash handling for incentive applications**

The city can't account for the application fee required for industrial revenue bonds. The city code requires an application fee but that fee was either not collected or not received by the city.<sup>12</sup>

The City Code requires that applicants for certain economic development incentives to make a formal application and pay an application fee. The fee, due upon filing, is intended to help defray the city's cost in processing the application.<sup>13</sup>

Bliss Sports applied for industrial revenue bond for sales tax exemption as an incentive by making a preliminary application in January 2013 and a final application in February 2013. The application went to the Public Incentives Review Committee in March 2013. The City Code requires the payment of \$1,000 as an application for this incentive.

The city's financial accounting system does not have a record that the city received the required payment for the economic development incentive. The City Auditor reviewed the financial system and daily deposit paperwork but was unable to confirm the city received the payment.<sup>14</sup> In contrast, reviewing the financial system confirmed that the two other incentive applicants considered by the city in 2013 paid the required application fees. It is unclear whether the city requested payment but didn't receive it or didn't request payment.

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<sup>11</sup> The first invoice covered \$20,541 of services provided from January 15 through February 28 and was before negotiating an agreement was complete.

<sup>12</sup> On May 2, 2014, the City sent a letter to Bliss Sports and RCP noting that the City needed a \$1,000 IRB application fee.

<sup>13</sup> Chapter 1, Article 21, sections 1-2105 and 1-2113.

<sup>14</sup> The City Auditor reviewed all revenues in the account used to record economic development application fees for 2012 and 2013. The auditor also reviewed all revenue transactions for \$1,000 received in other accounts to identify the payment on the chance that it had been miscoded in the financial system.

### **Cash handling controls**

Effective controls over cash handling, including the receipt of checks, require developing written policies and procedures, consistently following those procedures, and ensuring that managers and staff understand the purpose of the controls. All types of cash should be safeguarded and controlled to ensure the city receives all payments and that those payments are properly recorded and deposited. An August 2012 performance audit noted the need for improved procedures in the City Manager's Office which handles payments for economic development incentive application fees.

Source: *Performance Audit: Cash Handling*, August 2012.

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## Recommendations

The City Auditor recommends that the City Manager:

1. Provide a report at the end of construction that identifies issues identified in the monthly reports and how those issues were addressed.
2. Ensure that Rock Chalk Park infrastructure is included in existing inventory and condition assessment systems.
3. Develop infrastructure inventory and condition assessment systems for city parking infrastructure.
4. Develop performance measures related to Rock Chalk Park infrastructure to track and report in the annual staff report on economic development incentives.
5. Use the city's miscellaneous billing process for economic development incentive application and related fees.
6. Provide training to city employees who handle cash.
7. Collect the application fee payment required for the industrial revenue bond application for Rock Chalk Park.

During the fieldwork for this performance audit, the City Auditor identified several areas to consider for future audit work.

- Good practices for public-private partnerships
- Audit clauses in contracts and agreements
- Contract management practices
- Compliance with city purchasing procedures

The City Auditor will consider these topics when proposing annual performance audit plans in the future.

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# Performance Audit: Rock Chalk Park infrastructure

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## Scope, methods and objectives

The performance audit was designed to:

- Identity how the City would oversee construction of infrastructure related to Rock Chalk Park
- Determine if the City was using those oversight mechanisms to help ensure the success of the infrastructure

The audit focused on work related to the Rock Chalk Park infrastructure completed through the end of 2013. At the end of 2013, about 54 percent of the infrastructure construction was complete.

To understand the oversight mechanisms, the City Auditor reviewed the development agreement, the Special Use Permit, the construction contract, the economic development and economic development incentives and tax abatement policy (City Code Chapter 1, Article 21), the city's purchasing procedures and other relevant documents. The auditor also reviewed agenda materials, video and minutes of City Commission meetings where the project was discussed.

To determine if the city was making use of the oversight mechanisms, the City Auditor attended two of the biweekly project meetings, reviewed monthly infrastructure reports provided to the City Commission, reviewed the city's *Economic Development Goals, Process and Procedures*, and interviewed city staff.

To determine if the city followed internal policies and procedures on procurement and cash handling, the City Auditor reviewed the city's *Purchasing Procedures* and *Cash Handling Guidelines*, interviewed city staff, reviewed transaction information in the city's financial system, and reviewed supporting documentation.

Because the performance audit work began during construction, the City Auditor provided interim reporting to the City Manager. The interim reports provided information to the City Manager about issues identified



to allow for corrective action to be taken before a final report was completed. Appendix A includes copies of those memos.

The city Auditor conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require planning and performing the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. The City Auditor believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

The City Auditor provided a final draft of the report to the City Manager on May 21, 2014. The City Manager's written response is included

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## **Performance Audit: Rock Chalk Park infrastructure**

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### **Appendix A: Interim report memos**

The City Auditor issued three interim report memos during the fieldwork for this performance audit. The interim reports provided information to the City Manager about issues identified to allow for corrective action to be taken before a final report was completed.

# Memorandum

## City of Lawrence

### City Auditor

TO: David L Corliss, City Manager

FROM: Michael Eglinski, City Auditor

CC: Charles Soules, Director of Public Works  
Dave Cronin, City Engineer  
Cynthia Wagner, Assistant City Manager  
Diane Stoddard, Assistant City Manager  
Jonathan Douglass, Assistant to the City Manager

Date: October 23, 2013

RE: Interim Recommendation on RCP Infrastructure Monthly Reporting

Based on my in-progress performance audit on Rock Chalk Park infrastructure, I recommend two changes to the monthly reports going to the City Commission and other stakeholders:

1. In the introduction section of the monthly report clearly answer key questions including:
  - Has the city identified any issues of concern?
  - Have the city and RCP or Bliss Sports II had any disagreements?
  - Has the work completed been done to city specifications?
  - Have the parties made any changes to the design, scope, functionality or amenities of the infrastructure or changed the improvement plans?
  - Is construction of the infrastructure improvements on schedule?

The body of the monthly report should provide additional information as appropriate to address the questions. For example if the city has identified work that has not been completed to specification, then the body of the report should provide additional detail on the issue.

2. Provide the City Commission with dates that they can anticipate receiving the monthly reports and aim for reports to be provided about every 30 days.

Implementing the recommendations would make the monthly reporting more consistent and ensure that key stakeholder concerns are clearly addressed. Providing a schedule for the City Commission to expect monthly reports would help the City Commission provide oversight of city staff efforts to monitor the infrastructure project.

The July and August Rock Chalk Park Infrastructure Reports provide information on the construction of infrastructure at Rock Chalk Park but do not necessarily address some questions previously raised by City Commissioners and some monitoring items in the development agreement. In addition, these first two reports were made available well over a month apart.

To identify key questions I reviewed the minutes and video of City Commission meetings from July 2 and July 16 where the development agreement and city monitoring of infrastructure were discussed. I reviewed the relevant sections of the development agreement. I reviewed the monthly reports for July and August. I attended one meeting of the city, RCP and Bliss Sports II. I also reviewed the Government Finance Officers Associations' best practice on capital project monitoring and reporting and other relevant literature on contract management.

At this point, the performance audit fieldwork is not completed and the work has not gone through my normal quality assurance process. However, because of the potential need for timely action, I am providing this memo as an interim report. The final performance audit report will include a reference to this interim report.

# Memorandum

## City of Lawrence

### City Auditor

TO: David L Corliss, City Manager

FROM: Michael Eglinski, City Auditor

CC: Scott McCullough, Director of Planning and Development Services  
Cynthia Wagner, Assistant City Manager  
Diane Stoddard, Assistant City Manager

Date: November 26, 2013

RE: Interim Recommendation on City Commission Approval of Lighting

Based on my in-progress performance audit on Rock Chalk Park infrastructure, I recommend:

1. The City Manager should work with RCP LLC to ensure that the City Commission has adequate time to consider photometric plans for all outdoor lighting before completing installation of lights.

The City Commission has not yet approved a photometric plan for all exterior lighting although some of the lighting – specifically some of the lights for outdoor recreation uses – is under construction. The ordinance that approved the special use permit required “a photometric plan for all exterior lighting shall be provided for review and approval by the City Commission prior to the release of the SUP plans for building permits.” The city’s general development standards do not require City Commission approval but do require an outdoor lighting plan and outdoor recreation uses require as-built lighting and photometric plans. The requirement in the January 2013 ordinance that addresses Rock Chalk Park is stricter than the requirements of the city’s general development standards.



November 22, 2013, photo by Public Works staff

The Planning Commission approved the requirement for City Commission approval of all exterior lighting in December 2012, and the City Commission approved the requirement in January 2013. In general, the city regulates outdoor lighting for safety reasons since it can cause glare for drivers and pedestrians. In addition, the city regulates outdoor lighting to protect property values and to reduce nuisances associated with glare or spillover light.

To review the status of the approved lighting plans I interviewed city staff in the Planning and Development Services Department and the Public Works Department, reviewed Ordinance 8833 that approved the special use permit, reviewed the City's Land Development Code, reviewed minutes of the Planning Commission and visited the construction site.

At this point, the performance audit fieldwork is not completed and the work has not gone through my normal quality assurance process. However, because of the potential need for timely action, I am providing this memo as an interim report. The final performance audit report will include a reference to this interim report.

# Memorandum

## City of Lawrence

### City Auditor

TO: David L Corliss, City Manager

FROM: Michael Eglinski, City Auditor

CC: Cynthia Wagner, Assistant City Manager  
Diane Stoddard, Assistant City Manager

Date: January 8, 2014

RE: Interim Recommendations on changes to the work and RCP's audit of the infrastructure improvement costs

Based on my in-progress performance audit on Rock Chalk Park infrastructure, I recommend the City Manager:

1. Ensure changes in the work have appropriate written authorization and that the city maintains documentation of those changes.
2. Develop an understanding of RCP's processes for their audit of the costs of the work.

#### **Documenting changes in work**

Changes in the work should be prepared by the architects (Gould Evans and Paul Werner) and signed off on by representatives of the City, RCP, and Bliss Sports II. The changes should be written. Both the development agreement and the infrastructure improvements contract require written documentation and approval of changes in the work. Under the infrastructure improvements construction contract between RCP and Bliss Sports II, those written change orders include:

- The change in the work;
- That there is to be no adjustment in the contract sum; and
- The extent of the adjustment, if any, in the contract time.

Based on the fieldwork I've completed to date, city staff have identified and recorded changes in the work and are reporting them in the monthly reports. But, the city has not documented those changes in writing with appropriate approvals. That documentation may not have been completed or, if completed, may not have been received by the city. Even when there is no change in payments, written documentation of changes helps avoid disputes.

#### **Relying on RCP Audit of Payments**

The city should determine the extent to which it can rely on RCP, LLC’s audit of the cost of work as a control to ensure the infrastructure payment is supported. Under the infrastructure improvements construction contract, RCP’s:

...auditors will review and report in writing on the Contractor’s [Bliss Sports II] final accounting within 30 days after delivery of the final accounting to the Architect [Gould Evans and Paul Werner] by the Contractor.

The contract provides RCP’s auditors with access to Bliss Sports II’s accounting records and accounts, “including completed documentation supporting accounting entries, books, correspondence, instructions, drawing, receipts, subcontracts, Subcontractor’s proposals, purchase orders, vouchers, memoranda and other data relating to this Contract.”

Base on the fieldwork I’ve completed to date, city staff is not aware of how RCP’s auditors will conduct the work. Depending on the nature of the auditor’s work, the city may choose to rely on that work to a greater or lesser extent. Staff should work with RCP to understand the auditor’s work sufficiently to determine the extent to which the city may rely on that work to support payments. If staff determines the city can rely to some extent on the RCP auditor’s work, then the city should obtain a copy of the written report.

**Simple framework to consider RCP’s audit**

A framework for understanding the work of RCP’s auditors as support for the city’s payment could include addressing the:

- knowledge, skills and abilities of the auditors;
- approach to ensure those auditors complete their work independently, objectively and with due professional care; and
- nature and scope of the specific work performed

**Method**

To understand the documentation of changes to the work, I reviewed the infrastructure improvement construction contract, the development agreement, AIA commentary on the standard general conditions of the contract for construction, the city’s Purchasing Procedures, and monthly reports provided to the City Commission. I also interviewed city staff.

To understand the city’s use of RCP’s audit of the cost of work, I reviewed the infrastructure improvements contract, the development agreement, I also interviewed city staff. To develop a simple framework for considering the extent to which the city could rely on RCP’s auditors, I reviewed literature on reliance on the work of auditors and specialists.

In reviewing the infrastructure improvement construction contract I relied on the documents provided to me by city staff and also available on the city’s web page. Those documents are



signed but not dated. The agreements include spaces for dates to be added, but those dates are not included in the documents I reviewed. I have requested dated copies of the contract but have not received those to date. If those dated agreements differ in significant ways, the analysis and recommendations included in this interim report may need to be reconsidered.

At this point, the performance audit fieldwork is not completed and the work has not gone through my normal quality assurance process. However, because of the potential need for timely action, I am providing this memo as an interim report. The final performance audit report will include a reference to this interim report.

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## **Performance Audit: Rock Chalk Park infrastructure**

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### **Appendix B: Management's Response**

City Code requires a written response addressing agreement or disagreement with findings and recommendations, reasons for disagreement, plans for implementing solutions, and a timetable for completing such activities.



# City of Lawrence KANSAS

CITY COMMISSION

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June 26, 2014

Mr. Michael Eglinski  
City Auditor  
City of Lawrence, Kansas

*Re: Performance Audit: Rock Chalk Park Infrastructure improvement monitoring*

Dear Michael,

Thank you for providing a draft copy of the above captioned audit. City staff's review of the recommendations provided on page 11 indicates that staff believes that staff responsibilities under those recommendations can be accomplished within the remainder of the calendar year. For items beyond the control of city staff, other entities will need to be contacted. Staff anticipates a substantial amount of additional information regarding the infrastructure at Rock Chalk Park as the project draws to a close, and staff is committed to successful implementation of the development agreement and the success of the project as a whole.

Sincerely,

David L. Corliss  
City Manager