

**TO:** Mayor and City Commissioners  
**RE:** **REVISED Study Session Agenda**  
**FROM:** Richard U. Nienstedt, City Manager

A Study Session is scheduled for **February 27, 2012 at 4:00 pm** in the conference room on the first floor of City Hall, 101 S. Hickory. The following items will be presented:

**I. Public Comments**

**II. Items to be Placed on the Regular City Commission Agenda**

- a. An ordinance establishing a stormwater management program and a stormwater utility fee. *pp. 1-10*
- b. A resolution establishing a stormwater utility fee. *pp. 11-12*
- c. A request to approve the Airspace Protection Planning Grant application. *pp. 13-18*
- d. A request to approve the second amendment to the first redevelopment agreement for the South 59 TIF District Redevelopment Project Area I. Staff requests action at the study session. *pp. 19-25*

**III. Items for Presentation and Discussion**

- a. A request for assistance to facilitate a Walk Kansas event from Rebecca McFarland. *p. 26*
- b. Discussion continues regarding the Urban Growth Agreement and the Memorandum of Understanding between the City of Ottawa and Franklin County.
- c. City Manager's Report
- d. Commissioners' Reports
- e. Mayor's Report

**IV. Announcements**

- March 1, 2012 Joint Study Session with Franklin County Commissioners, 7:00 pm, Franklin County Commission Chambers, Franklin County Annex, 1428 S. Main
- March 5, 2012 Study Session, 4:00 pm
- March 7, 2012 **NEXT REGULAR MEETING**, 7:00 pm
- March 12, 2012 Study Session, 4:00 pm
- March 19, 2012 Study Session, 4:00 pm
- March 21, 2012 Regular Meeting, 9:30 am
- March 26, 2012 Study Session, 4:00 pm
- March 27, 2012 Mayor's Prayer Breakfast, 7:30 am Westminster Presbyterian Church, 401 W. 13

**V. Adjourn**

**VI. Items Already Placed**

- a. An ordinance to rezone an area in the Urban Growth Area from Franklin County zoning to City zoning. Addresses in this Phase 26 rezone include: 2730, 2641, 2804, 2340, 2550, 2530, 2441, 2740, 2410, 2739, 2450, 2640, 2510, 2715, 2729, 2316, 2341, 2435, 2621, 2720, 2631, 2427, 2719, 2710, 2449, 2411, 2315 Greenwood Dr., 2721, 2736, 2740, 2726, 2716, 2711 Maple Terrace, 2446, 2439, 2440, 2435 Autumn Court, and 2350 Labette Road.
- b. An ordinance to rezone an area in the Urban Growth Area from Franklin County zoning to City zoning. Addresses in this Phase 27 rezone include: 2615 Louisiana Road, 2679 Louisiana Road, 2671 Louisiana Road, 2350 Labette Road, 2326 Labette Road, 2635 Louisiana Road, 2354 Labette Road, 2320 Labette Road, 2663 Louisiana Road, 2641 Louisiana Road and 2344 Labette Road.
- c. A resolution approving the final plat and accepting the dedication of all easements within the NCCC property located at 900 E. Logan.
- d. A resolution accepting public improvements within the NCCC property located at 900 E. Logan.
- e. A request to approve the annual updates to the recommended list of priorities for improvements to the Ottawa Municipal Airport in order for these projects to be considered for funding from the Federal Aviation Administration.

CITY OF OTTAWA, KANSAS  
MEMORANDUM

TO: City Manager and City Commission  
FROM: Andy Haney  
SUBJECT: Stormwater Utility Proposal  
DATE: February 22, 2012

Staff has been developing the Stormwater Utility proposal, including associated fees that would be assessed to properties. A Stormwater Task Force (focus group) has been working with us on this project. We've also made presentations at civic club meetings, First Friday Forum, and other such events. We've met twice with owners/operators of businesses at the Industrial Park. There has also been media coverage by the Ottawa Herald and by KOFO Radio.

The attached ordinance establishing the utility is provided for your information. This ordinance has been progressing for several months with input from different groups, included the City Commission, and we believe it to be a complete and accurate proposal.

Also attached is a Resolution establishing the amount of the Stormwater Utility fee and a system of credits based on stormwater handling improvements made and maintained by private property owners. The proposed fee is based on anticipated annual maintenance and compliance costs, along with a list of capital improvement projects. Bruce Kimmel, a financial consultant we've been working with on this project, will be present to discuss the rationale for the proposed fee, and the impact of any changes to that proposed fee.

The target date to begin collecting fees is January 1, 2013. This provides time for business, etc. who need to prepare budget forecasts to allocate funding for this new expense. The taskforce concurred with the recommendation of \$5 per ERU, begin collecting January 1, hold the fee flat for three years, and on the credits proposed.

We propose that the Ordinance and the Resolution be adopted as soon as possible so that staff can continue to refine details with members of the community.

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

**AN ORDINANCE ESTABLISHING A STORMWATER MANAGEMENT PROGRAM AND A STORMWATER UTILITY FEE FOR THE CITY OF OTTAWA, KANSAS, FOR THE PURPOSE OF PLANNING, DESIGNING, FUNDING, CONSTRUCTING AND MAINTAINING STORMWATER MANAGEMENT, SEDIMENT AND EROSION CONTROL, AND FLOOD AND STORMWATER DISCHARGE PROGRAMS, PROJECTS AND FACILITIES, AND REVIEWING AND APPROVING STORMWATER MANAGEMENT AND SEDIMENT CONTROL PLANS FOR LAND DISTURBING ACTIVITIES, AND PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT THEREOF AND PROVIDING FOR STORMWATER MANAGEMENT RATES TO BE SET BY RESOLUTION OF THE GOVERNING BODY.**

**WHEREAS,** the City of Ottawa maintains a system of storm and surface water management facilities including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, and other components as well as natural waterways. The stormwater system in the City needs regular maintenance and improvements; and

**WHEREAS,** all property in the City uses or benefits from the maintenance of the stormwater system. The extent of use of the stormwater system by each property is dependent on factors that influence runoff, including land use and the amount of impervious surface on the property; and

**WHEREAS,** the costs of improving, maintaining, operating and monitoring the stormwater system should be equitably allocated, to the maximum extent practicable, to all properties based on the impact of runoff from the impervious areas of the property on the stormwater management system; and

**WHEREAS,** management of the stormwater system to protect the public health, safety and welfare requires adequate revenues and it is in the interest of the public to finance stormwater management adequately with a user fee system that is reasonable and equitable so that each user of the system pays to the extent to which the user contributes to the need for it. The City is responsible for the provision of a planned and orderly system for managing and mitigating the effects of development on stormwater and appropriate balancing between development and preservation of the natural environment. To accomplish these ends, the City desires to create a Stormwater Management Program and Stormwater Utility; and

**WHEREAS,** the Stormwater Management Program will also initiate innovative and proactive approaches to stormwater management to address problems in areas of the City that currently are prone to flooding, protect against replication of these types of problems and the creation of similar problems in newly developing areas of the City, and assist in meeting the mandates of the National Pollutant Discharge Elimination System (NPDES) as created by the Federal Clean Water Act and associated state and federal laws and their supporting regulations; and

**WHEREAS,** the Stormwater Utility Fee imposed by this ordinance is neither a tax nor a special assessment, but a charge (in the nature of tolls, fees or rents) for services rendered or available.

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OTTAWA, KANSAS,**

**DRAFT (2/8/2012)**  
**UTILITIES**  
**Chapter 14**  
**ARTICLE VI. STORMWATER UTILITY**

**Sec. 14-601 Definitions.**

For the purposes of this Article, the following words and phrases shall have the meanings indicated:

*Billing Period* means the service period identified on the utility bill. Each account shall be billed monthly in arrears of the service period. A developed property that receives a City of Ottawa water or sewer utility service shall be billed monthly in arrears of the service.

*City Attorney* and his or her designee provides legal counsel for the City Commission, City Manager and City staff.

*City Manager* means the City Manager for the City of Ottawa, Kansas or his or her designee.

*Customer* means anyone receiving and being billed for water/sewer utility services from the City.

*Developed Property* means real property that has been altered from its natural state by the addition of any improvements such as buildings, structures or other impervious area.

*Dwelling Unit* means a singular unit or apartment providing complete, independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking and sanitation.

*Equivalent Residential Unit (ERU)* means a unit of measure that is equal to the average impervious area per dwelling unit located on residential property within the City limits.

*Equivalent Residential Unit Rate (ERU Rate)* means the amount charged for each ERU in calculating the Stormwater Utility Fee.

*Exempt Property* means public rights of way, public streets, public alleys, residential and non-residential driveways, and public sidewalks.

*Fee or Stormwater Utility Fee* means the charge established under this Article to be billed to customers/owners to fund the costs of Stormwater Management Program and of operating, maintaining and improving the Stormwater System in the City.

*Governing Body* means the Mayor and elected Commissioners as set out in Chapter 2 of the Code of the City of Ottawa, KS.

*Impervious Area* means the number of square feet of hard surfaced areas which either prevent or delay the entry of water into soil mantle as it entered under natural conditions as Undeveloped Property and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as Undeveloped Property including, but not limited to, roofs, sidewalks, patios, most conventionally surfaced streets, pavement, driveways, parking lots, athletic courts and any other oiled, graveled, or compacted surface.

**DRAFT (2/8/2012)**

**UTILITIES**

**Chapter 14**

*Non-Residential Property* means any property that is designated by the Utility Billing System in a billing category other than residential.

*National Pollutant Discharge Elimination System (NPDES)* means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318 and 405 of the federal Clean Water Act.

*Property Owner* means the property owner of record as listed in the County Assessment Roll. A property owner includes any individual, corporation, firm, partnership or group of individuals acting as a unit, and any trustee, receiver or personal representative.

*Residential Property* means any property designated by the Utility Billing System as residential.

- a) *Master Water Meter Residential* means developed property which contains both a master water meter pursuant to Chapter 14 of the City Code; and 2) residential property.
- b) *Multiple Water Meter Residential* means developed property that contains both 1) multiple water meters pursuant to Chapter 14 of the City Code; and 2) residential property.

*Stormwater* or *Stormwater Runoff* means runoff, surface flow, and drainage resulting from precipitation (which may include surface water, snowmelt, and and/or ground water).

*Stormwater Management Fund or Fund* means the enterprise Fund created by this Article to operate, maintain and improve the City's Stormwater System and for such other purposes as stated in this Article.

*Stormwater Management Program* means the planning, design, construction, regulation and enforcement, improvement, repair, maintenance, control measures, public education, citizen participation and operation of facilities and programs relating to water, flood plains, flood control, grading erosion, tree conservation and sediment control.

*Stormwater System* means the system or network of storm and surface water management facilities including but not limited to inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basin, infiltration facilities and other components as well as all natural waterways located within the corporate City limits and/or the City's area of zoning authority.

*Stormwater Utility* means the utility created by this Article for the purpose of implementing and funding the Stormwater Management Program.

*Stormwater Utility Fee* see *Fee*

*Undeveloped Property* means real property that has not been altered from its natural state by dredging, filling, removal of trees and vegetation, creation of impervious surfaces or other activities that have disturbed or altered the topography or soils on the property.

**UTILITIES**

**Chapter 14**

*Utility Billing System* means the system utilized by the City of Ottawa to create a periodic utility bill and any or all upgrades or modifications to that system.

*Vacant Improved Property* means unoccupied developed property that contains impervious area.

**Sec. 14-602 Findings and Statements of Policy.**

- A. The City maintains a system of storm and surface water management facilities including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities and other components as well as natural waterways. The stormwater system needs regular maintenance and improvements.
- B. All developed property in the City either uses or benefits from the maintenance of the stormwater system. The extent of use of the stormwater system by each property is dependent on factors that influence runoff and overland flow, including land use and the amount of impervious surface on the property.
- C. The costs of improving, maintaining, operating and monitoring the stormwater system should be allocated, to the extent practicable, to all developed properties based on the impact of runoff from the impervious areas of the property on the stormwater management system.
- D. Management of the stormwater system to protect the public health, safety and welfare requires adequate revenues and it is in the interest of the public to finance stormwater management adequately with a user fee system that is reasonable and equitable so that each user of the system pays to the extent to which the user contributes to the need for it. The City is responsible for the provision of a planned and orderly system for managing and mitigating the effects of development on stormwater and appropriate balancing between development and preservation of the natural environment. To accomplish these ends, the City desires to create a Stormwater Management Program (SWMP) and Stormwater Utility.
- E. The Stormwater Management Program will also initiate innovative and proactive approaches to stormwater management within the City to address problems in areas of the City that currently are prone to flooding, protect against replication of these types of problems in newly developing areas of the City, and assist in meeting the mandates of the National Pollutant Discharge Elimination System (NPDES) as created by the Federal Clean Water Act and associated state and federal laws and their supporting regulations.
- F. The Stormwater Utility Fee imposed by this Article is neither a tax nor a special assessment, but a charge (in the nature of tolls, fees or rents) for services rendered or available.

**UTILITIES**

**Chapter 14**

**Sec. 14-603 Establishment of Stormwater Management Program and Stormwater Utility.**

Pursuant to this Article, Chapter 14, the City's general home rule authority, its nuisance abatement authority, its police powers and all other authority, the governing body does hereby establish both a Stormwater Management Program and a Stormwater Utility and hereby declares its intention to operate the same.

**Sec. 14-604 Administration of the Stormwater Management Program.**

Under the Stormwater Utility, the City Manager shall have the power to undertake the following activities to administer the Stormwater Management Program:

- A. To advise the governing body on matters relating to the Stormwater Management Program and to make recommendations to the governing body concerning the adoption of ordinances, resolutions, policies and regulations in furtherance of the objectives of the Stormwater Management Program.
- B. The acquisition by gift, purchase or eminent domain of real property, easements thereon and/or interests therein necessary to construct, operate and maintain stormwater management facilities.
- C. To undertake the engineering and design, debt service and related financing expenses, construction costs for new facilities and enlargement or improvement of existing facilities, operation and maintenance of the stormwater system.
- D. Regulate, establish standards, review and inspect land use or property owner activities when such activities have the potential to affect the quantity, timing, velocity, erosive forces, quality, environmental value or other characteristics of stormwater which would flow into the stormwater management system or in any way affect the implementation of the Stormwater Management Program.
- E. Monitoring, sampling and inspection of stormwater management facilities.
- F. Water quality monitoring and water quality programs.
- G. Retrofitting developed areas for pollution control.
- H. Inspection and enforcement activities.
- I. Analyze the cost of services and benefits provided by the Stormwater Utility and the structure of fees, service charges, credits and other revenues on a regular basis and make recommendations to the governing body regarding the same.
- J. To undertake expenditures as required to implement these activities, including costs of capital improvements, operations, maintenance and other costs as may be required.
- K. Other activities, which are reasonably required.

*DRAFT (2/8/2012)*

**UTILITIES**

**Chapter 14**

**Sec. 14-605 Classification of Property for Purposes of Determining the Stormwater Utility Fee.**

For purposes of determining the Stormwater Utility Fee, all properties in the City are classified into one of the following classes:

- A. Residential property.
  - 1. Residential Fee. The Commission has determined that a flat Stormwater Utility Fee shall be charged against all residential properties classified as a dwelling unit. The Commission reserves the right to amend or adjust this Stormwater Utility Fee or to establish a formula for calculating the Stormwater Utility Fee at any time.
  - 2. The Equivalent Residential Unit (ERU) is hereby established for purposes of calculating the Stormwater Utility User Fee. The ERU is hereby established to be 2,600 square feet of Impervious Area.
  - 3. The initial ERU rate to be used for calculating the Stormwater Utility Fee per ERU shall be established by resolution, with recommended revisions set by resolution of the governing body. The Stormwater Utility User Fee for residential property shall be the ERU rate multiplied by the number of individual dwelling units existing on the property.
    - a. Multiple Water Meter Residential: the charge for each water customer shall be the ERU multiplier times the ERU rate.
    - b. Master Water Meter Residential: the charge for the single water customer shall be the ERU rate multiplied by one (1).
- B. Non-residential Property.
  - 1. For non-residential property, the charge shall be the ERU rate times the square footage of all impervious area of the property divided by 2,600 square feet. Non-residential properties with shared impervious area shall be charged on a proportionate amount as determined by the City Manager.
  - 2. Properties less than 2,600 square feet shall be defined as 1 ERU and assessed a minimum stormwater utility fee.
- C. Undeveloped Property.
  - 1. There shall be no fee for undeveloped property.

**UTILITIES**

**Chapter 14**

**Sec. 14-606 Stormwater Utility Fee.**

A monthly service charge is imposed upon all developed property, not including exempt property as defined in 14-601, in the City to fund Stormwater Management Programs. The amount of the fee will be established by resolution and shall be implemented as stated in the resolution.

Thereafter, the monthly service charge shall be calculated annually on January 1 and monthly during the following 12 month period. This service charge shall be known as the Stormwater Utility Fee ("Fee"). The Fee shall be calculated to ensure adequate revenues to fund the costs of the Stormwater Management Program and to provide for the operation, maintenance and capital improvements of the stormwater system in the City.

The City Manager shall make an annual recommendation to the governing body as to the monthly charge necessary to fulfill the proposed purpose of the Stormwater Management Program. Any changes in the fee may then be established by resolution of the Governing Body.

**Sec. 14-607 Charges for Tax-Exempt Properties.**

The governing body finds that all real property in the City contributes to stormwater runoff and either uses or benefits from the maintenance of the stormwater system. Therefore, except as otherwise provided in Section 14-601, all developed property in the City, including property that is exempt from property tax shall be charged the appropriate Stormwater Utility Fee.

**Sec. 14-608 When Stormwater Utility Fee Payable; Failure to Pay; Vacant Improved Property; Lien on Real Property.**

The Stormwater Utility Fee shall become part of the monthly water bill sent to utility customers, paid in accordance with Chapter 14, Article 2, Water Service. Any account that is inactive in the utility billing system shall not be charged the Stormwater Utility Fee until the account becomes active. In the event any person, shall fail to pay the user charges when due, water service shall be terminated as provided in section Chapter 14, Article 2 of Municipal Code of the City of Ottawa, Kansas.

In the event a developed or improved non-residential property is vacant, and does not have an active water account for more than 30 days, the Stormwater Utility fee assigned to the property in question may be billed directly to the property owner. If the direct billing is not paid after 60 days of being issued, the finance office will have authority to place a lien on the same commercial property for the amount(s) billed.

**Sec. 14-609 Requests for Appeal or Correction of the Stormwater Utility Fee.**

A customer/property owner may request an appeal or correction of the fee by submitting the request in writing to the Director of Finance (or his/her designee) within thirty (30) days after the issue date of the contested bill. Grounds for appeal or correction of the fee include:

*DRAFT (2/8/2012)*

**UTILITIES**

**Chapter 14**

- A. Incorrect classification of the property for purposes of determining the fee; and
- B. Errors in the identification of the property subject to the fee.

The Director of Finance shall make a determination within thirty (30) days after receipt of the customer/property owner's completed written request for appeal or correction of the fee. The Director's decision on a request for appeal or correction of the fee shall be final. A customer/property owner must comply with all rules and procedures adopted by the City when submitting a request for appeal or correction of the fee and must provide all information necessary for the Director to make a determination on a request for correction of the fee. The burden of proof shall be on the customer/property owner to demonstrate, by clear and convincing evidence, that the determination of the Director, from which the appeal is being taken, is erroneous. The Director shall notify the customer/property owner in writing of the decision. Failure to comply with the provisions of this subsection shall be grounds for denial of the request. The filing of a notice of appeal shall not stay the imposition or duty to pay the fee. If the Director determines that the fee should not be paid or the amount is less than the amount appealed, the City shall issue a refund in the appropriate amount to the customer/property owner. All refunds shall be without interest.

**Sec. 14-610 Rules and Regulations, Authority to Promulgate.**

The City Manager shall promulgate such reasonable rules and regulations as may from time to time be necessary to properly conduct and administer the operation of the stormwater management system. Violations of such rules and regulations will be punishable as provided in this Article. Fees for insufficient fund checks or other uncollectible instruments of payment may be established from time to time.

**Sec. 14-611 Right of Entry and Inspection.**

The City Manager shall have access to any premises within the City's stormwater management program area, and shall have authority to direct compliance with the provisions of this Article and with the rules and regulations promulgated pursuant to the authority set forth in this Article.

**Sec. 14-612 Failure to Comply with Article and Rules; Duty of Director; Discontinuance of Service; Prosecution.**

If the City Manager shall discover, upon any premises served by the stormwater management program, any violation of this Article, or of any rule or regulation promulgated there under, the City Manager shall order cessation of the prohibited practice or discontinue service to the premises or both, and s/he may request the City Attorney to prosecute the offending customer/property owner.

**Sec. 14-613 Time for Payment; Late Payment Fee.**

Each customer shall make payment of the amount shown on his/her statement to be due at the Office of the Department of Utilities in City Hall during regular hours on or before the due date or within fifteen (15) days thereafter; provided, that if the due date is the twenty-fifth (25th) day of a calendar month, payment may be on or before the tenth (10th) day of the calendar month following. If the amount due is

**UTILITIES**

**Chapter 14**

not paid within said time, the account shall be classified as delinquent and shall therefore have a late payment fee consisting of the greater of ten dollars (\$10.00) or ten percent (10%) of the billed amount.

**Sec. 14-614 Unpaid and Delinquent Utility Bills, Costs of Collection.**

After authorization by the City Manager, on any collection action filed by the City Attorney or any attorney acting on behalf of the City of Ottawa, for an unpaid and delinquent stormwater utility bill, the City hereby authorizes the said attorney to include as the costs of the action the reasonable collection costs, including but not limited to reasonable attorney fees necessary there under, as a lawful damage to be sought by the City Attorney in any collection.

**Sec. 14-615 Stormwater Utility Fee Credits.**

The Governing Body may, by resolution, establish a system of credits for best management practices (BMPs) that assist in minimizing site-specific stormwater runoff and/or reducing site pollutants in stormwater runoff or any other similar BMP measure. This credit may reduce the Stormwater Utility Fee that is imposed in Section 14-605.

**Sec. 14-616 Severability.**

If any provision of this Article is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the policy and the applicability thereof to other persons and circumstances shall not be affected thereby.

**Sec. 14-617 Codification.**

This Ordinance shall be incorporated into the Municipal Code of the City of Ottawa.

**Sec. 14-618 Effective Date.**

This Ordinance shall be in full force and effect from its adoption and after publication in the Ottawa Herald.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION FINDING THE ADVISABILITY OF AND ORDERING THE ADOPTION AND ESTABLISHMENT OF A STORMWATER UTILITY FEE AND ESTABLISHMENT OF A STORMWATER UTILITY CREDIT SYSTEM, AND PROVIDING FOR THE ENFORCEMENT THEREOF AND ESTABLISHING AN EFFECTIVE DATE THEREFORE.**

**Whereas**, the Governing Body has previously adopted such rules and regulations deemed necessary to establish a Stormwater Utility; and

**Whereas**, Section 14-606 et seq., of the Municipal Code of the City of Ottawa, Kansas, 2012 provides for the establishment of rates, conditions of service, rules and regulations pertaining to the Stormwater Utility to be set by resolution of the Governing Body of the City of Ottawa; and

**Whereas**, Section 14-615 of the Municipal Code of the City of Ottawa, Kansas, 2012 provides for the establishment of a Stormwater Utility credit system, which may reduce the Stormwater Utility fee.

**Now, therefore, be it resolved by the Governing Body of the City of Ottawa:**

**Section 1:** For the purposes of calculating a Stormwater Utility Fee, the Equivalent Residential Unit (ERU) method shall be used. The ERU is established at 2,600 square feet (sqft) of impervious area. The ERU rate is hereby established at \$5.00 as a monthly service charge for each individual dwelling unit.

**Section 2:** For the purpose of calculating Stormwater Utility Fees for non-residential property, the ERU rate shall be multiplied by the square footage for all impervious area of each non-residential property divided by the ERU.

Example:  $\$5.00 \times (\text{Total sqft of impervious area} / 2600 \text{ sqft}) = \text{Non-residential monthly charge}$

**Section 3:** The Governing Body shall establish a system of credits as detailed and attached to this Resolution. Credits may reduce the assessed Stormwater Utility Fee and are applied to those who implement Best Management Practices (BMPs) that minimize site-specific stormwater runoff and/or reducing site pollutants in stormwater runoff or any other similar BMP measure.

- A. Residential and Non-Residential properties may apply for a Stormwater Utility credit that may reduce the assessed stormwater utility fee.
- B. In order to qualify for a credit, the applicant must provide proper documentation that demonstrates proper installation and/or maintenance has taken place on an annual basis.
- C. Applicants must renew any credit they receive on an annual basis per the date as recommended by the Director of Finance.
- D. The City of Ottawa offers the following stormwater utility credits, not to exceed a total of 15%, except where an engineer designed detention system is in use. In the case of such a detention system a maximum of 25% may be allowed. (See Table 1 below)

**Table 1: Stormwater Utility Credit, Outline**

<b>% Credit</b>	<b>Credit Type</b>	<b>Applicability</b>
5%	Residential Rain Barrel	Residential properties
10%	Residential Rain Garden (Bioretention)	Residential properties
10%	Stormwater Detention	Any
10%	Stormwater Education	Primary/secondary/post-secondary; public/private institutions only
10%	SW Quality Improvements	Any
25%**	SW Detention (1% Storm)	Engineered/designed system that can detain a 1% rainfall event

**Section 4:** The Stormwater Utility Fee for each active water account shall be imposed for the purpose of collecting sufficient fees to adequately finance new stormwater infrastructure and maintenance activities which reduce flooding hazards and reduce pollution in stormwater outfalls.

**Section 5:** The City Manager or his/her designee is charged with the enforcement of the stormwater utility fee.

**Section 6:** The imposed Stormwater Utility fee remain at the rate as defined in Section 1 for a minimum of three (3) years after adoption of this Resolution. After such time, the City Manager may make an annual recommendation to the Governing Body as to the monthly charge necessary to fulfill the proposed purpose of the Stormwater Management Program as established in City of Ottawa Municipal Code Sec. 14-606.

**Section 7:** The imposed Stormwater Utility fee shall remain in full force and effect until rescinded or modified by subsequent resolution(s) of the Governing Body of the City of Ottawa.

Passed and adopted on this [DAY] day of [MONTH] 2012.

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

CITY OF OTTAWA, KANSAS  
MEMORANDUM

TO: City Manager and City Commission  
FROM: Andy Haney  
SUBJECT: Airspace Protection Planning Grant  
DATE: February 24, 2012

Attached is a grant offer from The Kansas Department of Transportation (Aviation). The completed project will result in planning criteria jointly established with Franklin County that will protect approaches to Ottawa Municipal Airport.

This grant is for 95% of the total project cost, which has been proposed by H.W. Lochner Engineers at \$18,865. Our five percent share would be \$943.25.

According to language in the grant offer, the City of Ottawa will be entirely responsible for any final costs exceeding \$19,000.

Dwight D. Eisenhower State Office Building  
700 S.W. Harrison Street  
Topeka, KS 66603-3745



Phone: 785-296-2553  
Fax: 785-296-3833  
Hearing Impaired - 711  
publicinfo@ksdot.org  
<http://www.ksdot.org>

Barbara W. Rankin, Acting Secretary  
C. Edward Young, Director

Sam Brownback, Governor

February 16, 2012

Andy Haney, Director of Public Works  
City of Ottawa  
101 S. Hickory  
Ottawa, KS 66067

Dear Mr. Haney:

As part of the continuing process to execute your FY 2012 Kansas Airport Improvement Program (KAIP) grant for the project summarized as: **Airspace Protection Planning**, I have attached the following documents:

1. Airport Project Agreement specific to your project (2 copies)
2. KDOT Special Attachment No. 1 (civil rights and anti-discrimination clauses)
3. Form DA-146a, Contractual Provisions Attachment
4. Grant Payee Information sheet

If the grant is acceptable, please return all the following items as soon as possible:

1. Both copies of the agreement, bearing original signatures of the sponsor
2. Completed Grant Payee Information sheet

If you have any concerns or reservations about the grant agreement, please contact George Laliberte in this office at (785) 296-2553.

We look forward to working with you on these improvements to your airport.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Young". The signature is fluid and cursive.

C. Edward Young  
Director

Encl: a/s

AIRPORT DESIGN & PLANNING AGREEMENT

**PARTIES:** This Agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the City of Ottawa, Kansas, hereinafter referred to as the "Sponsor" and the Secretary of Transportation of the State of Kansas, hereinafter referred to as the "Secretary." Collectively referred to as the "Parties."

**PROJECT:** **Airspace Protection Planning**

**EFFECTIVE**

**DATE:** This Agreement shall be effective the date the Secretary signs the Agreement.

**The Parties mutually agree as follows:**

1. The Sponsor agrees to undertake an airport planning study that produces a tangible document that assists the airport in the consideration of factors typically examined in an airport layout plan.

2. According to the guidelines of the Kansas Airport Improvement Program, the Secretary agrees to reimburse the Sponsor ninety five percent (95%) of planning costs, but not to exceed \$19,000.00. The Sponsor agrees to be responsible for one hundred percent (100%) of Project costs that exceeds \$19,000.00. The Secretary reserves the right to retain up to five percent (5%) of the \$19,000.00 until the Sponsor completes its obligations under this Agreement to the satisfaction of the Secretary.

3. The provisions found in Contractual Provisions Attachment Form DA-146a, which is attached hereto and executed by the Parties in this Agreement, are hereby incorporated into this Agreement by reference and made a part hereof.

4. To participate and cooperate with the Secretary in an annual audit of the Project. The Sponsor shall make its records and books available to representatives of the Secretary for audit for a period of five (5) years after date of final payment under this Agreement. That if any such audits reveal payments that have been made with state funds by the Sponsor for items considered non-participating, the Sponsor shall promptly reimburse the Secretary for such items upon notification by the Secretary.

5. The Sponsor agrees the total estimated local share costs associated with the Project is \$1,000.00. Upon request by the Secretary, the Sponsor agrees to provide the Secretary an accounting of all reimbursable costs associated with the Project which are paid directly by the Sponsor to any party outside of KDOT and all costs incurred by the Sponsor not to be reimbursed by KDOT. This will enable the Secretary to report all costs of the Project to the legislature.

6. The provisions found in the Kansas Department of Transportation's Civil Rights Special Attachment No. 1 are attached hereto and hereby incorporated into this Agreement by reference and made a part hereof.

7. It is further understood this Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the Secretary and the Sponsor and their successors in office.

8. It is expressly agreed no third party beneficiaries are intended to be created by this Agreement, nor do the Parties herein authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms or provisions of this Agreement.

9. At any time that the public is not allowed access to the airport, the Sponsor agrees to reimburse the Secretary a prorated amount based on a ten year useful life of the project. This assurance clause will be valid and enforceable for 10 years from the date that the project is complete. This provision is only applicable to closure for non-airport purposes.

The Parties have executed this Agreement by their duly authorized officers on the day and year first written above.

\_\_\_\_\_,  
Sponsor Title

\_\_\_\_\_  
Date



\_\_\_\_\_  
Barbara W. Rankin, Acting Secretary  
Kansas Department of Transportation

\_\_\_\_\_  
Date

**KANSAS DEPARTMENT OF TRANSPORTATION**

Special Attachment  
To Contracts or Agreements Entered Into  
By the Secretary of Transportation of the State of Kansas

NOTE: Whenever this Special Attachment conflicts with provisions of the Document to which it is attached, this Special Attachment shall govern.

THE CIVIL RIGHTS ACT OF 1964, and any amendments thereto,  
REHABILITATION ACT OF 1973, and any amendments thereto,  
AMERICANS WITH DISABILITIES ACT OF 1990, and any amendments thereto,  
AGE DISCRIMINATION ACT OF 1975, and any amendments thereto,  
EXECUTIVE ORDER 12898, FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY  
POPULATIONS AND LOW INCOME POPULATIONS 1994, and any amendments thereto,  
49 C.F.R. Part 26.1 (DBE Program), and any amendments thereto

NOTIFICATION

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (78 Stat. 252), §504 of the Rehabilitation Act of 1973 (87 Stat. 355) and the Americans with Disabilities Act of 1990 (42 USC 12101), the Age Discrimination Act of 1975 (42 USC 6101), the regulations of the U.S. Department of Transportation (49 C.F.R., Part 21, 23, and 27), issued pursuant to such Act, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (1994), and the DBE Program (49 C.F.R., Part 26.1), hereby notifies all contracting parties that, the contracting parties will affirmatively ensure that this contract will be implemented without discrimination on the grounds of race, religion, color, gender, age, disability, national origin, or minority populations and low income populations as more specifically set out in the following "Nondiscrimination Clauses".

CLARIFICATION

Where the term "Consultant" appears in the following "Nondiscrimination Clauses", the term "Consultant" is understood to include all parties to contracts or agreements with the Secretary of Transportation of the State of Kansas.

Nondiscrimination Clauses

During the performance of this contract, the Consultant, or the Consultant's assignees and successors in interest (hereinafter referred to as the "Consultant"), agrees as follows:

- 1) Compliance with regulations: The Consultant will comply with the regulations of the U.S. Department of Transportation relating to nondiscrimination in its federally-assisted programs and codified at Title 49, Code of Federal Regulations, Parts 21, 23 and 27, (hereinafter referred to as the "Regulations"). The Regulations are herein incorporated by reference and made a part of this contract.
- 2) Nondiscrimination: The Consultant, with regard to the work performed by the Consultant after award and prior to the completion of the contract work, will not discriminate on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations in the selection and retention of subcontractors, including in the procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- 3) Solicitations for Subcontractors, including Procurements of Material and Equipment: In all solicitations, either competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract including procurements of materials and equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations.

(Revised 9/29/11)

**CONTRACTUAL PROVISIONS ATTACHMENT**

**Important:** This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 10-11), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges-hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.  
  
Contractor agrees to comply with all applicable state and federal anti-discrimination laws.  
  
The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

---

---

## MEMORANDUM

---

---

**TO:** RICHARD U. NIENSTEDT, CITY MANAGER  
**FROM:** SCOTT D. BIRD, DIRECTOR OF FINANCE  
**SUBJECT:** LOVES/GRANGER 2ND AMENDMENT  
**DATE:** 2/23/2012  
**CC:**

---

You may recall that, due to a state legislative change that occurred during 2011, Tax Development District (TDD) financing has been given more flexibility. Late last year a first amendment was executed by all parties involved with the Loves/Granger development. That amendment allows us to move forward with this second amendment, which eliminates the need for the sale of TDD bonds. The bonds were to be purchased by the developers, but instead the two developers will directly reimburse the city for their share of the infrastructure improvements. In turn, they will receive reimbursement as the one cent TDD sales tax is collected from the development area. Keep in mind, the TDD sales tax was originally established to pay back the bonds. This agreement eliminates the need for that, saving all parties the cost of issuance.

To that end, the attached amendment has been developed by Dotty Riley, the City's Bond Attorney and both developers have executed it. Upon final approval by the City Commission, the developers will repay the city and periodic payments will be remitted to the developers as the TDD sales tax is received.

Action at Monday's meeting is recommended.

**SECOND AMENDMENT TO THE FIRST REDEVELOPMENT AGREEMENT  
FOR THE SOUTH 59 TIF DISTRICT REDEVELOPMENT PROJECT AREA I**

THIS SECOND AMENDMENT TO THE FIRST REDEVELOPMENT AGREEMENT (this “Amendment”), is made and entered into as of \_\_\_\_\_, 2012, among the CITY OF OTTAWA, KANSAS, a municipal corporation duly organized under the laws of the State of Kansas (“City”), Love’s Travel Stops & Country Stores, Inc., an Oklahoma corporation (the “Developer”), and Robert W. Loyd, as Trustee of the Kenton C. Granger Self Declaration of Trust dated September 19, 1985, as amended (the “Residual Developer”), and amends the First Redevelopment Agreement for the South 59 TIF District Redevelopment Project Area I dated as of October 7, 2009, between the City, the Developer and the Residual Developer (the “Original Agreement”), as amended by the First Amendment to the First Redevelopment Agreement dated as of September 1, 2010 (the “First Amendment,” the Original Agreement and the First Amendment are referred to collectively herein as the “Existing Agreement”).

**Section 1.** Section 101 of the Original Agreement is amended by adding the following definition:

“TDD Deposit” means a cash deposit made with the City by the Residual Developer and the Developer in an aggregate amount equal the TDD Project costs paid by the City, plus City Expenses for the preparation of this Agreement, less amounts deposited in the TDD Sales Tax Fund and distributed to the City for TDD Project costs; provided, the amount of the TDD Deposit to be made by the Residual Developer shall equal 48% of the required TDD Deposit total, *i.e.*, \$167,755.45, and the amount of the TDD Deposit to be made by the Developer shall equal 52% of the required TDD Deposit total, *i.e.*, \$181,735.08.

**Section 2.** Subsection B of Section 303 of the Original Agreement is amended to read as follows:

**B. Payment or Reimbursement of TDD Project Costs.** All TDD Sales Tax received by the City shall be deposited in the TDD Sales Tax Fund. If TDD Bonds are issued by the City, a TDD Bond Fund shall be created and administered by the City or its designee and will be utilized solely to repay the TDD Bonds. The specifics of the issuance and repayment of the TDD Bonds shall be in accordance with the TDD Bond Documents, to be approved by City ordinance, in accordance with this Agreement and the TDD Act. All TDD Sales Tax shall be available for and dedicated to pay Eligible Expenses for the TDD Project, to reimburse the City for payment of the TDD Project costs and to reimburse the Developer and Residual Developer for the TDD Deposit for the duration of the TDD Term and shall be utilized in the following order of priorities:

First, if TDD Bonds are issued by the City, to pay the fees and expenses, if any, due to the trustee for the TDD Bonds;

Second, if TDD Bonds are issued by the City, to pay the principal of and interest on TDD Bonds issued to finance the TDD Projects;

Third, to reimburse the Developer and the Residual Developer on a pro rata basis for the amount each contributed to the TDD Deposit;

Fourth, to pay or reimburse the City for all Eligible Expenses for the TDD Project including City Expenses and the City TDD Administrative Fee to the extent such expenses have not been paid.

**Section 3. Section 303** of the Original Agreement is hereby amended to by adding the following subsection:

**E. TDD Deposit Alternative.** Notwithstanding any provision herein to the contrary, in lieu of the issuance of the City paying for the TDD Project Costs with the proceeds of TDD Bonds, the City may pay the TDD Project Costs with available City cash and be reimbursed for such payment with the TDD Deposit. The Developer and Residual Developer shall each fund their share of the TDD Deposit by February 15, 2012. The TDD Deposit shall be used by the City for the sole purpose of paying or reimbursing the City for TDD Project Costs. The Developer and Residual Developer shall be reimbursed for their share of the TDD Deposit from funds deposited into the TDD Sales Tax Fund in the manner provided herein. Reasonable evidence of the use of the TDD Deposit for the TDD Project Costs shall retained by the City as long as the TDD Sales Tax is in effect and shall be available, on request, to the Developer and Residual Developer.

**Section 4. Article IV** of the Original Agreement is amended by adding the following Section 401.1:

**Section 401.1. Reimbursement of TDD Deposit.** Except as provided herein, the City agrees to disburse TDD Sales Tax in accordance with Section 303B of this Agreement within 60 days of receipt of such taxes by the City; provided, the City is not obligated to disburse TDD Sales Tax if less than \$10,000 has been received and is on deposit in the TDD Sales Tax Fund (unless such disbursement is the final disbursement of TDD Sales Tax hereunder, in which event it will be disbursed in accordance with the terms hereof).

As a condition precedent to disbursement of TDD Sales Tax pursuant to this Section 401.1, the recipient of such disbursement must (i) not be in material default under this Agreement (subject, however, to any applicable cure period) and (ii) be current on the payment of ad valorem property taxes within the City. If funds are available for disbursement in the TDD Sales Tax Fund but the conditions set forth in this paragraph have not, in the reasonable judgment of the officer or agent of the City charged with disbursing such funds, been met, the City shall provide written notice of such failure to the appropriate party (a "Condition Failure Notice") within 70 days of receipt of such taxes and shall retain the funds

that would have otherwise been disbursed to such party. If the condition(s) are met to the reasonable satisfaction of such officer or agent of the City within 30 days from the date of the Conditional Failure Notice, the disbursement that was withheld shall be promptly made. If the condition(s) are not met to the reasonable satisfaction of such officer or agent of the City within the 30-day period, the retained funds shall be available for disbursement to the other parties hereunder (provided such parties are in compliance with such conditions) in accordance with the priority set forth in Section 303B of this Agreement; provided such disbursement shall not be made until 10 days following such 30-day period. In the event a party disagrees in good faith with the determination of such officer or agent of the City, such party may appeal the determination to the Governing Body of the City by providing written notice to the City Clerk within 10 days of the end of the 30-day period, and the retained funds shall not be disbursed until the Governing Body directs the disbursement. Such notice of appeal shall reasonably describe the basis for such appeal. The City agrees to conduct a public hearing on such appeal within 60 days of receipt of such notice and to provide the party requesting such appeal with not less than 10 days written notice of the hearing date, time and location. The determination of the Governing Body of the City with respect to the disbursement shall be final. Any determination by the officer or agent of the City or by the Governing Body of the City under this Section 401.1 that funds should not be disbursed shall apply as to that particular disbursement only and shall not impair or in any manner affect future disbursements.

**Section 5. Counterparts.** This Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

[Reminder of this page intentionally blank]

IN WITNESS WHEREOF, the City, the Developer and the Residual Developer have duly executed this Amendment pursuant to all requisite authorizations as of the date first above written.

**CITY OF OTTAWA**  
a Kansas municipal corporation

By: \_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
City Clerk

**ACKNOWLEDGMENT**

STATE OF KANSAS                    )  
  ) ss.  
COUNTY OF FRANKLIN            )

On this \_\_\_\_\_, 2012, before me, a Notary Public in and for said County and State, came \_\_\_\_\_, Mayor of the City of Ottawa, Kansas, a municipal corporation duly authorized, incorporated and existing under and by virtue of the Constitution and laws of the State of Kansas, and \_\_\_\_\_, City Clerk of said City, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

In Witness Whereof, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

[SEAL]

\_\_\_\_\_  
Notary Public in and for said County  
and State

My Commission Expires: \_\_\_\_\_





February 22, 2012

**Frontier Extension  
District #11**

TO: Ottawa City Commissioner

FROM: Rebecca McFarland  
District Extension Agent, Family and Consumer Sciences

RE: Walk Kansas 2012 "Flash Mob Walk"

**Lyndon Office**  
128 W. 15th  
P.O. Box 400  
Lyndon, KS 66451-0400  
785-828-4438  
Fax: 785-828-3427

**Ottawa Office**  
1418 South Main, Suite 2  
Ottawa, KS 66067-3543  
785-229-3520  
Fax: 785-229-3527

Walk Kansas is an eight-week, team-based program that helps participants lead a healthier life by being more active, making better nutrition choices, and learning positive ways to deal with stress. Walk Kansas 2012 is March 18 - May 12. We are getting ready to kick-off our 10th annual Walk Kansas program here in Franklin County.

Since we are in our 10th year, we are trying to find ways to rejuvenate the program, and increase participation. On Friday, March 16, we will have a group "weigh-in" at the Ottawa Co-op fertilizer plant at First and Cedar. After the "weigh-in", we would like to have a "flash mob" walk from Co-op, west on First Street to Main Street, south on Main Street to Fifth Street, east on Main Street to Hickory Street, and north on Hickory Street, back to the Co-op.

I am writing to ask you to authorize The Frontier Extension District to host the "Walk Kansas Flash Mob Walk", on Friday, March 16, at approximately 12:30 p.m. Thank you for your time. I will be available at the study session on Monday, March 27, to answer any questions.

Kansas State University, County Extension  
Councils, Extension Districts, and U.S.  
Department of Agriculture Cooperating.

K-State Research and Extension is an equal  
opportunity provider and employer.