

**KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
BROWNFIELDS CLEANUP REVOLVING LOAN AND GRANT FUND**

SUBGRANT AGREEMENT

This Agreement is entered into this day of June 8, 2010, by and between the Kansas Department of Health and Environment ("KDHE"), 1000 SW Jackson, Topeka, Kansas 66612 (the "Subgrantor") an agency of the state of Kansas, and the City of Wichita, Kansas, a Municipality according to K.S.A. 65-3321 (the "Subgrantee"), having an office for its principal place of business located at 1900 E. 9th Street, Wichita, Kansas 67214.

RECITALS

WHEREAS, the Subgrantor is a recipient from the United States Environmental Protection Agency (EPA) of a Brownfield Revolving Loan Fund Grant (BF# 98718102-0) (EPA Grant); and

WHEREAS; the Subgrantee is the fee simple owner, or prospective fee simple owner in the process of acquiring certain real estate and improvements thereon located in the City of Wichita, Kansas, within an area of approximately three acres that extends from I-35 to Oliver Street between Central Street and 17th Street in Wichita, Kansas and is more fully described on Exhibit A (the "Property"); and

WHEREAS; the Subgrantee has provided Subgrantor with its plans to develop the "Property" as follows: The railroad corridor will be utilized as a recreational paved bike path following completion of the environmental action at the Property (hereinafter "the Project"); and

WHEREAS, the Property suffers from certain adverse environmental conditions more fully described in the following described environmental reports, copies of which have or will be provided by Subgrantee to Subgrantor: Burns & McDonnell conducted Phase I and Terracon conducted Phase II environmental site assessments at the subject property in 2009 and 2010, respectively through the KDHE Brownfields Program; and

WHEREAS, Subgrantee has made certain representations to Subgrantor relating to the Property, the Project and Subgrantee's financial abilities, upon which representations Subgrantor has relied and continues to rely in making this Subgrant; and

WHEREAS, the Subgrantee desires to receive the sum of two-hundred thousand dollars (\$200,000.00) (hereinafter, "the Subgrant") from the Subgrantor under the terms and conditions set forth herein, which such Subgrant will complete Subgrantee's financing package to substantially complete the Project; and

WHEREAS, by City Council action, attached hereto as Exhibit B, Subgrantee's City Council has approved and authorized this Subgrant.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES, THE MUTUAL AGREEMENTS SET FORTH BELOW AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH HEREBY IS ACKNOWLEDGED, THE PARTIES HERE TO AGREE AS FOLLOWS:

I. Agreement to Grant & Purpose of Subgrant

1. Subgrantor agrees to grant to Subgrantee and Subgrantee agrees to accept from Subgrantor the principal amount of \$200,000.00, upon the terms and conditions contained herein for the purpose of providing Subgrantee with funds necessary to complete the environmental action to address the property consistent with the terms and conditions of the EPA Grant regulations, governing laws and guidelines.
2. Upon fulfillment of all conditions described herein, and otherwise in accordance with Section IV hereof, Subgrantor shall advance the Subgrant to Subgrantee. This Agreement shall be null and void and of no effect in the event Subgrantee shall fail to fulfill all conditions described herein within thirty (30) days of the execution hereof providing that under no circumstances shall the environmental action to address the property extend beyond 2010 to complete. Subgrantor shall reasonably cooperate with Subgrantee in fulfilling such conditions but shall be under no financial burden in connection therewith.
3. Prior to funding the Subgrant (and/or any installment thereof), Subgrantee shall, among other conditions stated in this Agreement, deliver to Subgrantor an originally executed and notarized and properly authenticated Resolution of Subgrantee's City Commissioners authorizing this Subgrant and the execution of all Subgrant Documents and a true and accurate copy of the deed by which Subgrantee has acquired fee simple title to the Property.

II. Mandatory Participation in KDHE VCPRP and Eligible & Ineligible Uses of Subgrant

1. To ensure the proposed environmental action is protective of human health and the environment and as a condition to Subgrantor's obligation to fund this Subgrant (and/or any installment hereof), Subgrantee, among other conditions stated in this Agreement, shall: secure enrollment and participation of the Property in the Kansas Department of Health and Environment—Kansas Brownfields Program; secure enrollment in the KDHE Voluntary Cleanup and Property Redevelopment Program (KDHE VCPRP) develop and secure KDHE VCPRP approval of a Voluntary Cleanup Plan (VCP) for the Property and Project and maintain such participation in good status throughout the Project.
2. If acceptable to KDHE Kansas Brownfields Program, the KDHE VCPRP may require changes/alterations to the approved VCP as may be necessary to respond to substantive information relative to the environmental condition of the Property obtained subsequent to KDHE VCPRP's approval of the VCP. In implementing the VCP, Subgrantee shall follow any and all directives of Subgrantor and EPA which are not in conflict with the approved VCP.

3. Subgrantee shall immediately provide Subgrantor with true and accurate copies of all correspondence and communications by and between Subgrantee and KDHE VCPRP relative to the Project, the Property and the VCP, including, but not limited to, the "No Further Action" letter.
4. Proceeds of this Subgrant shall be used to pay for costs & expenses incurred by Subgrantee directly related to implementing the approved VCP. To the extent any environmental assessment, testing and/or sampling is required to implement the VCP (e.g. cleanup verification sampling, post-cleanup confirmation sampling), the Subgrantee shall comply with 40 CFR Part 31.45 to develop and implement quality assurance practices sufficient to produce technically defensive data adequate to meet project objectives. The costs and expenses associated with preparing and securing EPA approval of a Quality Assurance Project Plan (QAPP) consistent with 40 CFR Part 31.45 and prepared in accordance with current EPA requirements as defined in EPA Requirements for Quality Assurance Project Plans: EPA QA/R-5 (EPA/240/B-01/003, March 2001) and Guidance for Quality Assurance Project Plans: EPA QAJG-5(EPA/240/R-02/009, December 2002), or their subsequent revisions, shall also be deemed an eligible use of the Subgrant. In no event, however, shall the costs of undertaking such additional assessment, testing and/or sampling be deemed an eligible use of the Subgrant unless pre-approved in writing by EPA.
5. Subgrantee shall not use Subgrant funds for ineligible uses. Every use of Subgrant funds shall be deemed "ineligible" unless expressly deemed eligible in this Agreement. By way of further clarification, Subgrant funds may not be used for payment of the following: a penalty or fine; a federal cost-share requirement; administrative costs prohibited under CERCLA 104(k)(4)(B). Other prohibited costs include all indirect costs under applicable OMB Circulars incurred by Subgrantee.
 - a. Ineligible administrative costs include costs incurred in the form of salaries, benefits, contractual costs, supplies, and data processing charges, incurred to comply with most provisions of the Uniform Administrative Requirements for Grants contained in 40 CFR Part 30 or 40 CFR part 31. Direct costs for grant and subgrant administration, with the exception of costs specifically identified as eligible programmatic costs, are ineligible even if the subgrantee is required to carry out the activity under the grant agreement.
 - b. Ineligible grant or subgrant administration costs include: preparation of applications for Brownsfields grants and subgrants; record retention required under 40 CFR 30.53 and 40 CFR 31.42; record keeping associated with supplies and equipment purchases under 40 CFR 30.33, 30.34, and 40 CFR 31.32 and 31.33; preparing revisions and changes in the budgets, scopes of work, program plans and other activities required under 40 CFR 30.25 and 40 CFR 31.30; maintaining and operating financial management systems required under 40 CFR 30.25 and 40 CFR 31.30, preparing payment requests and handling payments under 40 CFR 30.22 and 40 CFR 31.21; non-federal audits required under 40 CFR 30.26, 40 CFR 31.26, and OMB Circular A-133; and close out under 40 CFR 30.71 and 40 CFR 31;
 - c. Other ineligible costs include: disbursement requests; overhead costs of the Subgrantee that do not directly clean up the Property; salaries/wages/benefits of employees of Subgrantee; a response cost at a brownfields site for which the

recipient of the Subgrant is a potentially responsible party for purposes of CERCLA Sec. 107; a cost of compliance with any federal law (excluding cost of compliance with laws applicable to the cleanup); unallowable costs (e.g. lobbying and fund raising) under OMB Circulars A-21, A-87 or A-122.

III. Additional Miscellaneous Requirements, Terms and Conditions

1. At all times throughout the course of the Project, Subgrantee shall maintain such financing to substantially complete the Project including an amount equal to a minimum of twenty percent (20%) of the Subgrant as equity investment which such amount shall be used only for cost and expenses which would be deemed eligible under this Agreement. Disbursements of the subgrant shall be made only after the subgrantor has received satisfactory evidence that all of the subgrantee's equity has been expended for the project. Equity must be in the form of cash or a line of credit. Subgrantee must provide documentation in the form of paid receipts or other form acceptable to Subgrantor which indicates the source and amount of equity contributed. Subgrantor shall retain a sum equal to ten percent (10%) of the total subgrant proceeds until project completion and final approval.
2. Subgrantee shall carry out the Project in accordance with: the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Sec. 104(k); Kansas' Voluntary Cleanup Program (the governing ordinance and any and all regulations and polices promulgated thereunder); the Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (40 CFR Part 31); OSHA Worker Health & Safety Standard 29 CFR 1910.120; Executive Order 11246 relating to Equal Employment Opportunity and implementing the regulations found at 41 CFR 60-4; the Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. Sec. 327 et. seq.); the Anti-Kickback Act (40 U.S.C. Sec. 276c); the Americans with Disabilities Act (42 U.S.C. 12101 et seq.); the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR 300) and all other applicable provisions of federal, state or local law.
3. Subgrantee shall also carry out the Project in accordance with the Davis-Bacon Act (40 USC Sec. 276a. et. seq., and all regulations promulgated thereunder) pertaining to prevailing wage requirements for construction, repair or alteration contracts funded in whole or in part with Subgrant funds. The Subgrantee shall impose this requirement on its subcontractors with contracts in excess of \$2,000 and Subgrantee shall obtain copies of the applicable wage rate determination from the U.S. Dept. of Labor and incorporate same into all contracts. Subgrantee shall provide Subgrantor documentary proof acceptable to Subgrantor evidencing Subgrantee's compliance herewith which such proof shall include payroll certification records on forms provided by Subgrantor. (Subgrantor makes no representation as to whether or not Project costs other than environmental remediation costs funded hereby will be subject to this or other prevailing wage laws as a consequence of this Subgrant/financing transaction; Subgrantee shall consult its own legal counsel in this regard.)

4. Prior to implementing the approved VCP and as a condition to funding the Subgrant (and/or any installment thereof), Subgrantee shall submit the VCP to Subgrantor for Subgrantor's consideration of alternative cleanup strategies in compliance with Analysis of Brownsfields Cleanup Alternatives ("ABCA") and a determination by Subgrantor that Subgrantee's VCP represents the most efficient and cost effective means of addressing and/or remediating the known adverse environmental conditions at the Property in light of known contaminants, exposure pathways and evaluation of corrective measures.
5. Prior to commencing implementation of the approved VCP and as a condition to funding the Subgrant (and/or any installment thereof), Subgrantee shall fully cooperate with Subgrantor in fulfilling the public participation a/k/a Community Relations Plan required by EPA including, but not limited to, designating a spokesperson for the Project, providing reasonable notice to the surrounding community of the proposed cleanup activities, creating an information repository at or near the potential site that include public information related to the proposed cleanup activities, and providing an opportunity for community comment upon such cleanup activities and providing responses to such comments.
6. Subgrantee shall be responsible for obtaining and maintaining throughout the course of the Project all permits, licenses, zoning designations, approval, inspections etc. required by federal, state and/or local law in order to complete the Project and operate the Property and Project for its intended purposes.
7. Subgrantee's contractor shall maintain commercial general liability insurance with respect to the Property and any uses thereof, such insurance policies to be provided by one or more carriers, licensed to do business in the State of Kansas. Subgrantee's contractors commercial general liability insurance shall have a combined single limit of at least one million dollars (\$1,000,000.00) for bodily injury and property damage and shall contain endorsements for Property and operations, personal injury liability, contractual liability, products and completed operations, independent contractor liability and broad form liability. Subgrantee shall ensure its contractors obtain and maintain worker's compensation insurance in amounts which are customary and reasonable in the industry covering all persons working at or on the Property. Subgrantee's contractor shall obtain and maintain at all times during the course of the Project fire and extended coverage insurance in a form and substance acceptable to Subgrantor for protection against all loss of, or damage to the Property or materials for the Project to their full insurable value. Said insurance shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss or damage including, without duplication of coverage, theft, vandalism and malicious mischief, and shall also insure against specific hazards affecting Subgrantor's collateral security. Subgrantee's contractor shall provide Subgrantor with certificates of insurance to evidence the foregoing coverage's and terms, and the Subgrantor shall be named as additional insured's as their interests may appear with respect to any policy of liability insurance, and such certificates shall confirm that the applicable insurance coverage may not be amended or modified except on thirty (30) days' prior written notice to Subgrantor.

8. Subgrantee agrees to indemnify and hold harmless Subgrantor, and their respective employees, agents, officials; commissioners and officers from any and all claims for bodily injury, death and property damage caused by or resulting from the condition of the Property (including environmental condition) and/or the negligent or willful acts or omissions of Subgrantee, its officers, employees, agents, contractors, subcontractors and for any and all costs incurred in defending such claims including but not limited to attorneys fee, witness fees and court costs, etc.
9. Subgrantee shall require its general contractors obtain a performance and payment bond securing full and complete performance of their respective scopes of work and full payment to all subcontractors and suppliers performing work and/or providing materials to the Property and Project.
10. Subgrantee shall develop and maintain an Administrative Record during the environmental action, consistent with the requirements of 40 C.F.R. Part 300 "the NCP." Subgrantee shall maintain records of all expenditures of Subgrant proceeds for a period of ten (10) years beginning with completion of the cleanup and, upon expiration of said period, Subgrantee shall obtain Subgrantor's written approval prior to destruction of such records. During said ten (10) year period, Subgrantee shall permit inspection of copying of such records by Subgrantor and agencies of the Federal government, upon reasonable advance notice.
11. The proceeds of the Subgrant shall not be disbursed prior to the Subgrantee obtaining fee simple ownership of the Property. Subgrantee agreed to provide Subgrantor with a copy of the full executed deed conveying title to the Property to the Subgrantee as evidence of ownership.

IV. Method of Subgrant Disbursement

In accordance with the EPA Grant requirements, the Subgrant funds shall be disbursed by Subgrantor to Subgrantee according to the "actual expense" method. Under the actual expense method, the Subgrantee submits documentation to Subgrantor of the Subgrantee's actual expenditures (e.g. invoices) for eligible work already performed and Subgrantor then shall request payment from EPA.

V. Miscellaneous Additional Federal Requirements & Provisions

1. Subgrantee understands and acknowledges that this Subgrant constitutes a "lower-tier covered transaction" for purposes of 40 CFR Part 32 relating to debarment and suspension of certain persons from participation in certain transactions involving the federal government and federal funds. Subgrantee hereby warrants, covenants, certifies and represents that neither it nor any of its principals: are debarred, suspended, excluded or disqualified from doing business with any agency of the federal government; have been convicted ' within the preceding three years of any of the offenses listed in 40 CFR Sec. 32.800(a) nor had an adverse civil judgment relating to one of those offenses; are presently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the above-referenced offenses; and/or have had one or more public

transactions terminated within the preceding three years for cause or default. Subgrantee will, at the request of Subgrantor and/or EPA, submit any and all documents and certificates reasonably requested relevant to this warranty, covenant, certification and representation. Moreover, Subgrantee understands and acknowledges that any and all subcontracts hereunder awarded by Subgrantee (including subcontracts to M/WBE firms) are also "lower-tier covered transactions". Absent an exception granted by EPA under 40 CFR Section 32.120, Subgrantee may not enter into any such relationship, relating to this Project, with any person who is debarred, suspended, excluded and/or disqualified from: doing business with any agency of the federal government. Subgrantee shall refer to the Excluded Parties-List System (EPLS) maintained by the U.S. General Services Administration to ensure no violation of this restriction. Subgrantee shall impose identical obligations set forth in Subpart C, immediately above, upon any subcontractor who/which desires to further subcontract work to lower tier participants.

2. Subgrantee understands and acknowledges that the project must meet the following conditions in order to qualify for a subgrant under the terms of the EPA Grant:
 - a. Facilitate the creation of, preservation of, or addition to a park, greenway, undeveloped property, recreational property, or other property used for nonprofit purposes;
 - b. Meet the needs of a community that is unable to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfields site is located because of the small population or low income of the community;
 - c. Facilitate the use or reuse of existing infrastructure.
3. No portion of the Subgrant may be used to pay any person for influencing or attempting to influence any agency of the federal, state or local government or any employee or elected officials thereof. The Subgrantee agrees to comply with 40 CFR Part 34 entitled New Restrictions on Lobbying. Moreover, for all subcontracts in excess of \$100,000 awarded by Subgrantee funded, in whole or in part, by this Subgrant, Subgrantee shall impose these restrictions upon said subcontractor and insert same in the written agreement with each such subcontractor. The Subgrantee and each subcontractor with a contract in excess of \$100,000 shall deliver to Subgrantor a fully executed "Certification Regarding Lobbying" as set forth in Appendix A to 40 CFR Part 34. Those subject to these restrictions on lobbying who/which make a prohibited expenditure under 40 CFR Part 34 or fail to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
4. Subgrantee shall comply with EPA's objectives of achieving 10% MBE and 5% WBE participation in the work funded by this Subgrant, in compliance with 40 CFR 35.6580 entitled Contracting with MBE/WBE Small Businesses and Labor Surplus Zone Firms. Subgrantee shall take the following affirmative steps towards achieving such goals: identify and solicit M/WBEs for subcategories of work within the scope of work; if feasible, divide total requirements into smaller tasks to permit maximum M/WBE participation; if feasible, establish delivery schedules which will encourage M/WBE participation; and use services of the U.S. Dept. of Commerce's Minority Business Development Agency and the U.S.

Small Business Administration to identify M/WBE's. M/WBE's certified by the City of Wichita will count towards the goals described above. Subgrantee shall document efforts taken to meet these goals, maintain such documentation for a period of no less than three (3) years and provide true and accurate copies of same to Subgrantor upon request. Compliance herewith is a condition to Subgrantor's advance of the Subgrant funds.

VII. Representations of Subgrantee

The Subgrantee hereby jointly and severally certify to the Subgrantor and EPA that:

1. Subgrantee has not suffered an unremediated, substantial adverse change in its financial condition since the date of this proposed project.
2. There are no tax liens attaching to any of the Property nor are there any judgments against Subgrantee or its principals which would result in a lien against the Property.
3. Subgrantee and its principals are current on all federal, state and local taxes;
4. If currently the owner of the Property, Subgrantee acquired no interest therein until after January 11, 2002.
5. Subgrantee is not potentially liable under Sec. 107 of CERCLA for the Property.
6. Subgrantee is not a viable responsible party for any petroleum contamination at the Property.
7. The Property is not subject to any Resource Conservation and Recovery Act (RCRA) section 9003(h) order.
8. The Property is not listed, or proposed for listing, on the National Priorities List of the U.S. Environmental Protection Agency;
9. The Property is not subject to unilateral administrative orders, court order, administrative orders or consent or judicial consent decrees issued under CERCLA;
10. The Property is not subject to the jurisdiction, custody or control of the United States Government.
11. The Subgrantee is not a generator or transporter of the contamination at the Property and is not now and has never been subject to any penalties resulting from environmental noncompliance at or on the Property;
12. The Subgrantee's acquisition of the Property has occurred after the time of disposal or placement of hazardous substances and Subgrantee has not caused, contributed to, permitted, or exacerbated the release of a hazardous substance on, or emanating from that property;

13. The Subgrantee has no direct or indirect familial, contractual, corporate or financial relationship with any person or entity potentially responsible for the contamination at the Property.
14. The Subgrantee has procured, or caused to be procured (or will do so), a comprehensive Phase I and Phase II environmental site assessment of the Property performed consistent with generally accepted practices;
15. Subgrantee is in compliance and will remain in compliance with any applicable land-use restrictions and institutional controls relating to the environmental condition of the Property and has provided and will continue to provide any and all legally required notices relating to said environmental condition;
16. Subgrantee has taken, and will take, all reasonable steps with respect to the environmental contamination on the Property including cooperating, assisting and allow access to authorized governmental representatives, complying with CERCLA information requests and subpoenas;
17. Subgrantee has injected (or will inject) equity funds of at least 20% of this Subgrant amount into "eligible" costs for the Project; Subgrantee has or will fully pay all costs in excess of the currently anticipated costs in order to complete the Project; Subgrantee will cooperate fully with Subgrantor and the EPA in the closing of this Subgrant including the obtaining and execution of necessary documents; and any and all bankruptcy, insolvency and legal proceeding against Subgrantees or any of their respective principals have been fully disclosed to Subgrantor in writing.

VII. Default, Remedies & Miscellaneous

1. In addition to any Events of Default as defined in the Subgrant Documents, the occurrence of any one of the following shall constitute a default ("Event of Default") by the Subgrantee under this Agreement and the Subgrant Documents: If Subgrantee shall fail or refuse to satisfy express conditions and/or default in the performance or observance of any of Subgrantee's obligations under this Agreement, or the Subgrant Documents, monetary, non-monetary or otherwise; If any representation, warranty or covenant as set forth herein is not true and correct in any material respect when made or deemed made; If Subgrantee shall become insolvent, not be paying its debts generally as such become due, make an assignment for the benefit of creditors or cause of suffer any of its assets to come within the possession of any receiver, trustee or custodian, have a bankruptcy petition filed by or against it, have any asset attached, seized or levied upon or otherwise become the subject of any insolvency or creditor enforcement proceedings; If one or more judgments or decrees shall be entered against Subgrantee of at least \$10,000 and such judgments or decrees shall not have been vacated discharged or stayed pending appeal;
2. Upon the occurrence of an Event of Default, Subgrantor shall have no further obligation to make advances and all advances already made shall be immediately due and payable

without any notice to Subgrantee and may be accelerated by Subgrantor and Subgrantor may exercise any other right or remedy available under this Agreement and the Subgrant Documents.

3. Moreover and in addition, in the event of any default which Subgrantor deems, in its sole unrestricted discretion, to be one which jeopardizes the completion of the VCP, then upon instruction by Subgrantor, Subgrantee shall undertake any and all actions reasonable and necessary, at its sole cost and expense, to secure the site (as such term is or shall be defined by EPA). Should Subgrantee fail to do so, Subgrantor may do so and Subgrantee hereby gives, grants and conveys unto Subgrantor full right, license and access to enter the Property, unrestricted, for such purpose. Subgrantee shall be obligated to Subgrantor for the full cost and expense of undertaking such efforts. Subgrantee hereby agrees to fully and completely indemnify Subgrantor, EPA and their respective officers, agents, employees, commissioners, directors and officials from any and all liability, obligation, judgment, suit, claim, attorneys fee, decree, order arising or related to the exercise of the contractual and/or property rights granted hereby. Subgrantee shall not cause to be suffered any claim, lien, deed of trust, lease, occupancy or other encumbrance against the Property which would tend to interfere with the rights granted hereunder. Any and all cost and expense incurred by Subgrantor in exercising its rights hereunder shall be added to the outstanding balance owed under the Note and shall be secured by the Subgrant Documents.
4. This Agreement and the Subgrant Documents may not be modified, altered or amended except in a writing signed by the Subgrantee and Subgrantor. Nor may Subgrantee assign any right or obligation under this Agreement or the Other Documents without the express written consent of Subgrantor.
5. The parties agree that the internal laws of the State of Kansas shall govern the interpretation and construction hereof unless reference is specifically made to a federal law or regulation in which case federal law shall apply.
6. Subgrantor's failure, at any time, to require strict performance by Subgrantee or failure to enforce Subgrantor's rights shall not be deemed or construed as a waiver, release, diminishment or relinquishment of those rights or to strictly enforce same and demand strict performance.
7. If any provision of this Agreement or the Subgrant Documents or the application is held invalid or unenforceable, the remainder of the Agreement and the application of such provision to Subgrant Persons or circumstances will not be affected thereby and the provisions of this Agreement and the Subgrant Documents shall be several in any such instance.
8. Should it become necessary at any time for Subgrantor to retain the services of an attorney, whether an in-house attorney or outside counsel, to enforce this Agreement, the Subgrant Documents or any provision thereof, Subgrantee shall be liable to Subgrantor for the full cost and expense of all such legal fees and expenses including court costs, expert witness fees etc.

9. Should it be necessary for one party to give another notice under the terms hereof, such notice shall be deemed effective if sent by first class, U.S. Mail, postage prepaid to the following addresses unless the party giving notice has knowledge or a different address:

TO THE SUBGRANTOR: The Kansas Department of Health and Environment
Attn: Doug Doubek, P.G.
Remedial Section/Brownfields Program
1000 SW Jackson Street, Suite 410
Topeka, Kansas 66612

TO THE SUBGRANTEE:
The City of Wichita
Attn: Shawn Maloney, P.G.
Environmental Services
1900 E. 9th Street
Wichita, Kansas 67214

10. Oral Agreements or commitments to grant money, extend credit or to forbear from enforcing repayment of a debt including promises to extend or renew such debt are not enforceable. To protect Subgrantee and Subgrantor from misunderstanding or disappointment, any agreements we reach covering such matters are contained in this Agreement and the Subgrant Documents constitute the complete and exclusive statement of the agreement between us, except as we may later agree in writing to modify it.

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be executed in the name and on behalf of each of them (acting individually or by their respective officers or appropriate legal representatives, as the case may be, hereunto duly authorized) as of the day and year first written above.

DATE: June 8, 2010



ATTEST:

BY: Karen Sublet
Clerk

Karen Sublet
TYPE OR PRINT NAME

SUBGRANTEE:
City of Wichita, Kansas

BY: [Signature]
Mayor

Carl Brewer
TYPE OR PRINT NAME

APPROVED AS TO FORM:

BY: [Signature]
Director of Law

Gary E. Rebenstorf
TYPE OR PRINT NAME

SUBGRANTOR:
Kansas Department of Health and Environment

BY: _____
Roderick L. Bremby, Secretary

DATE: _____

6-8-10
12-15

Redbud Bike Path Project

Property Description:

The proposed Redbud Bike Path Project is located on the former Burlington Northern Santa Fe (BNSF) rail road that is located beginning on the west at I-135 in alignment with Pine Street and extends to the east – northeast until the project ends near the intersection of 17th Street and Oliver.

This former BNSF rail road corridor was rail banked in 2006 for future use as a pedestrian bike trail.

The actual orientation of the Redbud Bike Path Project is shown on the attached map.

Redbud Trail Location

