

REGISTER OF DEEDS COVER SHEET

TYPE OF DOCUMENT: MEMORANDUM OF AGREEMENT –
CONVEYANCE AGREEMENT

1ST PARTY: THE UNITED STATES OF AMERICA

2ND PARTY: SUNFLOWER REDEVELOPMENT, LLC

LEGAL DESCRIPTION: SEE ATTACHED EXHIBIT “A”

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**MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA,
ACTING
BY AND THROUGH
THE UNITED STATES ARMY
AND
THE GENERAL SERVICES ADMINISTRATION,
AND
SUNFLOWER REDEVELOPMENT, LLC
FOR THE CONVEYANCE
OF
LAND AND PROPERTY
COMPRISING
THE FORMER SUNFLOWER ARMY AMMUNITION PLANT
IN JOHNSON COUNTY, KANSAS**

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JOHNSON COUNTY, KANSAS**

THIS MEMORANDUM OF AGREEMENT is made as of the 3rd day of August, 2005, by and between the **United States of America**, acting by and through the United States Army and the General Services Administration and pursuant to authority of § 2841 of P.L. 108-375 (118 STAT. 2135) and the **Sunflower Redevelopment, LLC**, a limited liability company qualified to do business in the State of Kansas.

R E C I T A L S

WHEREAS:

The Government is the owner of certain real property, improvements and other rights appurtenant thereto hereinafter described, located in Johnson County, Kansas, and commonly referred to as the former Sunflower Army Ammunition Plant.

The Department of the Army has determined that it no longer needs Sunflower (as hereinafter defined) and has reported Sunflower to GSA as being excess to the needs of the Army.

The Army, in consultation with GSA, has determined that Sunflower is available for disposal as surplus to the needs of the United States and has agreed to convey Sunflower to the Developer, at its fair market value, under the authority of § 2841 of P.L. 108-375 (118 STAT. 2135) pursuant to this Conveyance Agreement.

The Army recognizes and acknowledges that it has certain explosive removal and environmental remediation obligations associated with Sunflower that must be completed by the Developer prior to the Army providing the CERCLA Covenant (as defined below) for Sunflower.

The completion of the Parties' obligations under the Remediation Contract (as defined below) will result in the fulfillment of the requirements necessary for the Army to grant the CERCLA Covenant; and

In accordance with the § 2841 of P.L. 108-375 (118 STAT. 2135), and Section 120(h) of CERCLA, the Government desires to convey and the Developer desires to acquire Sunflower subject to the terms and conditions set forth herein.

A G R E E M E N T S

NOW, THEREFORE, in consideration of the foregoing premises and the respective representations, agreements, covenants and conditions herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Government and the Developer agree as follows:

ARTICLE 1. DEFINITIONS

When used herein, the following terms shall have the respective meanings set forth opposite each such term:

1.1 “Army” means the United States Army.

1.2 “Army Development Disruption” means a material interference with redevelopment of Sunflower which can not be mitigated through reasonable means by the Developer due to any of the following:

(a) Any suspension by the Army, pursuant to the Remediation Contract, of the Work (as defined in Section B(38) of the Remediation Contract);

(b) Any unilateral modification by the Army, pursuant to the Remediation Contract, of the Work (as defined in Section B(38) of the Remediation Contract) not arising solely from the Developer’s performance under the Remediation Contract that would otherwise constitute a termination for default;

(c) Any Army Funding Delay, as defined in Section B(2) of the Remediation Contract; or

(d) The failure of Army to carry out any Army-Retained Obligations (as defined in Section B(3) of the Remediation Contract).

1.3 “Army-KDHE Agreement” means the agreement between KDHE and the Army, dated August 3, 2005 and attached hereto as Exhibit 1.

1.4 “Asbestos” means any asbestos containing materials.

1.5 “Building Drawings and Specifications” means, as to Sunflower: (a) building drawings and specifications; (b) process piping drawings, and specifications; (c) site infrastructure drawings and specifications including, without limitation, gas, sewer, well, septic, water, telephone, and electric service cables; and (d) original construction drawings, reports, and documents regarding as-built conditions of any improvement.

1.6 “CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § § 9601 et seq.

1.7 “CERCLA Covenant” means the covenant granted by the Army in accordance with 42 U.S.C. § 9620(h).

1.8 “Claims” means any and all losses, costs, liabilities, judgments, claims, proceedings, demands, actions, fines, penalties, expenses, damages, or other fees.

1.9 “Closing” means the transaction during which the Closing Documents are executed and delivered by the Government and the Developer to each other, and the Government transfers all of Sunflower to the Developer.

1.10 “Closing Agent” means the entity selected by the Parties to hold the Purchase Price, and the Closing Documents pursuant to the Closing Instructions.

1.11 “Closing Documents” means those documents required to be delivered by the Parties at the Closing as required herein.

1.12 “Closing Instructions” means the agreement between the Government and the Developer whereby the Closing Documents are deposited with a Closing Agent in order to facilitate the Closing in substantially the form attached hereto as Exhibit 2.

1.13 “Consent Order” means the consent order filed before the KDHE “In the Matter of Pollution at Sunflower Army Ammunition Plant,” Case No. 05-E-0111, entered by and among KDHE and the Developer, dated July 29, 2005, in the form attached hereto as Exhibit 3, and any supplements or amendments thereto.

1.14 “Constituents of Concern” means any toxic, dangerous, corrosive, or otherwise hazardous substance which is or becomes regulated by local, state, or Federal government authority including, without limitation, any substance that is: (a) defined or designated as a “hazardous substance” pursuant to 42 U.S.C. § 9601 or § 9602 and K.S.A. 65-3452a; (b) defined as a “contaminant” pursuant to 42 U.S.C. § 9601; (c) defined as a “regulated substance” pursuant to 42 U.S.C. § 6903; (d) defined as a “hazardous waste” pursuant to 41 U.S.C. § 6903 and K.S.A. 65-3430; (e) petroleum; (f) PCBs; (h) defined as “pollution” in K.S.A. 65-171d; and (g) non-explosive concentrations of nitrocellulose, nitroguanidine, and nitroglycerine; provided, however, that the term “Constituents of Concern” does not include any “Biological Warfare Materiel”, “Chemical Warfare Materiel”, “Radiological Materiel”, or “Unexploded Ordnance” as each of those terms is defined in the Remediation Contract.

1.15 “Conveyance Agreement” means this Memorandum of Agreement, including the exhibits attached hereto, incorporated herein by reference, and made a part of this Conveyance Agreement.

1.16 “Covenant Deed” means a recordable quitclaim deed in the form of Exhibit 4.

1.17 “DDESB” means the Department of Defense Explosive Safety Board.

1.18 “Deeds” means the Covenant Deeds and Deferred Covenant Deeds.

1.19 “Deferred Covenant Deed” means a recordable quitclaim deed either in the form of Exhibit 5 or Exhibit 6.

1.20 “Developer” means the Sunflower Redevelopment L.L.C., a limited liability company qualified to do business in Kansas.

1.21 “EBS” means the investigative report entitled “Environmental Baseline Survey for Sunflower Army Ammunition Plant” dated October 1998, prepared by the Army, together with all attachments and settlements thereto.

1.22 “Environmental Insurance” means the insurance policy/policies more fully described in Exhibit 7.

1.23 “Environmental Reports” means the reports, studies or analyses which contain information regarding Constituents of Concern or MEC at, on, or effecting Sunflower including, without limitation, any which contain any of the following; (a) soil boring logs, test pit logs, monitoring logs, construction detail/logs, and test results; (b) chemical analytical data for all media, data validation reports; (c) information regarding soil boring, monitoring well, removal action, and other pertinent physical locations; (d) field log books, meeting minutes, relevant regulatory agency correspondence; and (e) documents required to compile administrative records pursuant to CERCLA, 42 U.S.C. §§ 6901 et seq., or Army regulations.

1.24 “Explosive Munitions Constituents” means any propellant, explosive, pyrotechnic, or other military munitions-related substance that may be present in high enough concentrations to pose an explosive hazard and which:

(a) does not contain any Radiological Materiel, Biological Warfare Materiel, or Chemical Warfare Materiel (as those terms are defined in the Remediation Contract); and

(b) is not: (i) an Unexploded Ordnance, as defined in Section B(37) of the Remediation Contract; or (ii) a Discarded Military Munition, as defined in Section B(16) of the Remediation Contract.

1.25 “Explosive Plan” means: (a) the explosives safety submission for Sunflower approved by the DDESB in June, 2000; and (b) the amendment to that submission approved by the DDESB on May 13, 2005.

1.26 “Government” means the United States of America acting by and through the Army and the GSA.

1.27 “GSA” means the General Services Administration of the United States of America established pursuant to the authority of the Property Act (40 U.S.C. §§ 101, et seq.) and pursuant to the terms of the § 2481 of P.L. 108-375 (118 STAT. 2135).

1.28 “Historic Preservation Agreement” means the Historic Preservation Memorandum of Agreement dated March 13, 2003, in the form attached hereto as Exhibit 8 and any supplements or amendments thereto.

1.29 “KDHE” means the Kansas Department of Health and Environment, an executive agency of the State of Kansas.

1.30 “LBP” means lead-based paint.

1.31 “MEC” means munitions and explosives of concern consisting of the categories of military munitions that may pose unique or explosives safety risks and include: (a) Unexploded Ordnance, as defined in Section B(37) of the Remediation Contract; (b) Discarded Military Munitions, as defined in Section B(16) of the Remediation Contract; and (c) Explosive Munitions Constituents.

1.32 “Mortgage” means that real estate mortgage to be executed by the Developer in favor of the Government in the form attached to this Agreement as marked Exhibit 9, which is fully incorporated into this Agreement and made a part hereof.

1.33 “Parties” means the Government and the Developer.

1.34 “Permits” means all of the permits presently held or required to be held by the Army pursuant to any state, Federal or local law, statute, or regulation relating to Sunflower, including, but not limited to, permits for environmental cleanup, utilities, communications, and other systems which the Developer will accept.

1.35 “Permitted Exceptions” means:

(a) Those existing leases, licenses, permits, facility use contracts, approved by the Developer and as described on the attached Exhibit 10;

(b) Notices, pending litigation, and restrictions established pursuant to Exhibit 10;

(c) Existing building or zoning laws, as applicable;

(d) Those existing subtenants or licensees approved in writing by the Developer and described in Exhibit 10; and

(e) Such other easements, reservations, leases, licenses, permits, facility use contracts or restrictions as may be mutually agreed upon in writing by the Developer and the Government.

1.36 “Remediation Contract” means the Remediation Services Contract between the Army and the Developer, to be executed on or before the date of Closing, in the form attached hereto as Exhibit 11, together with any supplements or amendments thereto.

1.37 “Sunflower” means the approximately nine thousand thirty-five (9,035) acres of real property situated in Johnson County, Kansas, more particularly described in the attached Exhibit 12, together with all: (a) mineral rights and (b) improvements, hereditaments, easements appurtenant and benefiting Sunflower, appurtenances and tenements therein, and all reversions, remainders, issues, profits and other rights belonging or related thereto; LESS AND EXCEPT the specific reservations and exceptions retained by the Government described in the Covenant Deeds and the Deferred Covenant Deeds.

1.38 "Tract" means the 100 ft. by 100 ft. portions (or parts thereof) of the real property included in Sunflower as reflected in the map set out in Exhibit 13.

ARTICLE 2. AGREEMENT TO PURCHASE

2.1 In accordance with § 2841 of P.L. 108-375 (118 STAT. 2135), this Conveyance Agreement represents a contract whereby the Government agrees to convey to the Developer, and the Developer agrees to acquire Sunflower in fee simple, in consideration of the Developer's explosive removal and environmental remediation obligations under the Remediation Contract in excess of the contract price as more fully described in Section C(3) of the Remediation Contract, the environmental remediation obligations under the Consent Order of the parties thereto, and all other good and valuable consideration in the form of the covenants, terms, conditions, reservations, exceptions and agreements set forth in this Conveyance Agreement.

2.2 The Developer and the Government will execute the Mortgage to secure the Developer's obligation as set out in Section C(3) of the Remediation Contract.

2.3 The Army agrees to use its best efforts to encourage and to cooperate with the United States Department of Justice to oppose and to defeat any claims by the Shawnee Indians for Sunflower.

ARTICLE 3. CLOSING

3.1 Closing. The Parties will consummate the Closing by no later than 30 days after the Governor of Kansas concurs with the Army's Finding of Suitability for Early Transfer pursuant to 42 U.S.C. § 9620 concerning Sunflower, or such other mutually agreeable dates. The Closing shall be consummated at such place as the Parties may mutually agree.

3.2 Closing Documents. The Government and the Developer shall deliver to the Closing Agent, on or prior to the Closing, the following Closing Documents which will be held pursuant to the terms of the Closing Instructions:

(a) The following Closing Documents shall be provided by the Government, be reasonably satisfactory to the Developer, and in a form previously reviewed and approved by the Developer:

(i) The Covenant Deeds and Deferred Covenant Deed executed by the Army for the Tracts as described in Exhibit 13;

(ii) The executed Closing Instructions;

(iii) The Remediation Contract executed by the Army;

(iv) The Explosive Plan approved by the DDESB;

(v) A certificate executed by the SHPO confirming that the Archeological Survey has been completed make an attachment in the form of Exhibit 14;

(vi) The Agreement for the Conveyance of Certain Railroad Trackage Easements in Johnson County, Kansas dated August 3, 2005, executed by the Government;

(vii) All existing Reports and Building Drawings and Specifications, in hard copy and electronic format, in the possession or control of the Government;

(viii) Written evidence that all leases and licenses containing any rights in or to any of Sunflower have been properly terminated;

(ix) Copies of all contracts of management, maintenance, or site security relating to any of Sunflower which remain in effect after the Closing and set out in Exhibit 15;

(x) An Affidavit of Non-Production executed by the Government regarding all oil or gas leases affecting Sunflower in the form of Exhibit 16;

(xi) An Affidavit of Seller executed by the Government in the form of Exhibit 17;

(xii) Executed certificate providing that all representations of the Government in the Conveyance Agreement, to the best of the Government's knowledge and belief, are true and correct as of the date of the Closing; and

(xiii) Such additional documents as are required of the Government by Federal law or Kansas law, if applicable.

(b) The following Closing Documents shall be provided by the Developer, be reasonably satisfactory to the Army and in a form previously received and approved by the Army:

(i) Certificate executed by the Developer that all representations of the Developer in the Conveyance Agreement, to the best of the Developer's knowledge and belief, are true and correct as of the date of the Closing;

(ii) The Remediation Contract executed by the Developer;

(iii) The issued Environmental Insurance;

(iv) The Consent Order executed by the Developer and KDHE;

(v) The Agreement For the Conveyance of Certain Railroad Trackage Easements in Johnson County, Kansas dated August 3, 2005, executed by the Developer;

(vi) Written evidence that Kansas State University, the University of Kansas, Johnson County Parks Department, the City of DeSoto, and the DeSoto, Kansas School District have each withdrawn their respective public benefit

conveyance requests from any further official Government consideration pursuant to Federal screening requirements; and

(vii) Such additional documents as are required of the Developer by Federal law or Kansas law.

3.3 Closing Condition. As a condition precedent to the Closing, the Developer shall have obtained from a title insurer an Extended Coverage ALTA Policy of Title Insurance and all endorsements thereto requested by the Developer insuring the Developer's title to Sunflower in fee simple subject only to the Permitted Exceptions, which policy shall be acceptable to the Developer, in the Developer's sole and absolute discretion.

(a) Any title insurance or survey which may be desired by the Developer will be procured at no cost or expense to the Government. The Government will, however, cooperate with the Developer, its successors or assigns, or any authorized agent thereof, and will permit examination and inspection of any documents relating to the title of Sunflower as it may have available. It is understood that the Government will not be obligated to pay for any expense incurred in connection with title matters or survey for Sunflower.

(b) The Government prepared a boundary survey of most of Sunflower and the Developer used this survey to have a metes and bounds description for the Deeds prepared for use by the Army to convey Sunflower to the Developer.

ARTICLE 4. EFFECT OF TRANSFER OF TITLE AND CONTINUING OBLIGATIONS OF THE GOVERNMENT

4.1 Effects of Deeds. The delivery of the executed Deeds pursuant to this Conveyance Agreement from the Government to the Developer shall be deemed full performance by the Government of its obligations hereunder other than any additional obligations of the Government under this Conveyance Agreement, the Army-KDHE Agreement, the Deeds, the Remediation Contract, or by law including without limitation any obligations under CERCLA Section 120(h) to be performed after the delivery of each such Deed, except as otherwise required by the Developer under the Consent Order and the Remediation Contract.

4.2 As-Is, Where Is. Except as provided herein as a material part of the consideration for all Sunflower being conveyed hereunder, the Government and the Developer agree that the Developer is taking Sunflower "AS IS, WHERE IS" as set out in Section VI(A) of the Covenant Deed.

4.3 CERCLA Covenant. The Army will have a continuing responsibility, as to each Deferred Covenant Deed delivered pursuant to this Agreement, to provide the CERCLA Covenant in accordance with the provisions of Section E(4) of the Remediation Contract. If the Remediation Contract is terminated for convenience before all of the Tracts have received the CERCLA Covenant, the Army agrees to provide the CERCLA Covenant in accordance with the terms of Section II(B) of the Deferred Covenant Deed.

4.4 Exercise of Puts. In the event that the Developer exercises the puts contained in the Deeds, the Developer shall be entitled to receive all amounts paid into the Developer trust account established pursuant to the Developer Trust Agreement between Commerce Bank and the Developer

dated as of August 3, 2005 as a result of “budgeted profits” earned by the Developer pursuant to the Remediation Contract.

ARTICLE 5. REPRESENTATIONS OF GOVERNMENT

The Government hereby represents to the Developer that, as of the Closing:

5.1 Execution of Agreement. The Government has full capacity, right, power and authority to execute, deliver and perform this Conveyance Agreement and all documents to be executed by the Government pursuant hereto, and all required action and approvals therefor have been duly taken and obtained. This Conveyance Agreement and all documents to be executed pursuant hereto by the Government are and shall be binding upon and enforceable against the Government in accordance with their respective terms.

5.2 Complete Information. To the best knowledge, information, and belief of the Government, the information included in the exhibits hereto and the documents to be delivered to the Developer pursuant to this Conveyance Agreement or previously delivered to the Developer are true, correct and complete in all material respects, and the same do not omit any material information required to make the submission thereof fair and complete.

5.3 Possession. To the best knowledge, information, and belief of the Government, the information included in the Exhibits hereto and the documents to be delivered to the Developer pursuant to this Conveyance Agreement or previously delivered to the Developer acknowledge any leases or licenses in existence or persons who have possessory rights or any claims in respect to Sunflower that will survive the Closing.

5.4 Claims. Except as set out in Exhibit 18, to the best knowledge, information, and belief of the Government, there are no claims, causes of action, notice of violation, compliance order or other litigation or proceedings pending or threatened with respect to: (a) the ownership or operation of Sunflower or any part thereof (including disputes with mortgagees, governmental authorities, utilities, contractors or adjoining landowners); or (b) of any legal requirements with respect to Sunflower which have not been entirely corrected at the Closing. The Army is not aware of any finally unresolved, formal written notice of any claims or liabilities or threatened claims or threatened liabilities associated, directly or indirectly, with the existence of a Pollutant or MEC on Sunflower from any third party, adjoining land owner, environmental interest group, former owner or operators of Sunflower, former employees, contractors, agents, or other persons.

5.5 Screening. The Army has adequately addressed all expressions of interest for Sunflower in accordance with applicable Federal law.

5.6 Environmental Reports. To the best knowledge, information, and belief of the Government, Exhibit 19 contains a complete list of the Environmental Reports.

5.7 Environmental Concerns. To the best knowledge, information, and belief of the Government, the Environmental Reports identify all: (a) underground storage tanks which exist or have existed at or under Sunflower; (b) wells which exist or have existed on Sunflower; (c) releases or the existence of Constituents of Concern or MEC on Sunflower; (d) locations of manufacturing operations, Constituents of Concern or MEC storage, treatment, and disposal sites on Sunflower,

Constituents of Concern or MEC handling locations on Sunflower, and permitted and unpermitted landfills, whether temporary or permanent.

5.8 Permits. To the best knowledge, information, and belief of the Government, Exhibit 20 is a list of all Permits.

5.9 Permit Compliance. The Army is in material compliance with the terms of each Permit as well as applicable State, Federal, or local environmental law, statute, regulation, order or requirement at the Closing.

5.10 Current Leases. The Government hereby certifies that Exhibit 21 is a list of all licenses, leases, facility use agreements, and other contracts or arrangements affecting Sunflower to which the Army is currently a party and which provides access to or rights of possession in any portion of Sunflower (“Leases”).

5.11 Former Leases. There are no current tenant use agreements. To the best of the Army’s knowledge, Exhibit 22 is a list of all licenses, leases, facility use agreements and other contracts or arrangements to which either: (a) the Army has been a party and which provided access to or rights of possession in Sunflower since 1940, other than the Leases; or (b) any Government contractor operating Sunflower pursuant to a facility use agreement including, without limitation, Alliant TechSystems, Inc. and Hercules Aerospace Company, has been a party and which provided access or rights of possession in Sunflower since 1940 (“Old Leases”). Except as set out in Exhibit 23, the Army has provided a copy of each Old Leases to the Developer.

5.12 No Contracts. As to Sunflower, there are no contracts of employment, management, maintenance, service, supply, or rental, other than those identified in Exhibit 24, which affect any portion of Sunflower or its operation. All the contracts in Exhibit 24 are in full force and effect to the Government’s best information and belief.

5.13 Improvements. As to Sunflower, no construction, repair or improvements have been performed or are in progress by the Government and no materials have been furnished to Sunflower or any portion thereof, which might give rise to mechanic’s, materialman’s or other liens against Sunflower or any portion thereof.

5.14 Personal Property. The Personal Property includes, but is not limited to, the property set out in Exhibit 25.

5.15 Complete Delivery. The Government made available to the Developer prior to the Closing, the following:

(a) All Leases, contracts, Permits, or other instruments granting rights in or otherwise affecting Sunflower, including all amendments thereto relating to any portion of Sunflower;

(b) All Building Drawings and Specifications and Reports in the possession of the Government and its contractors and reasonably requested by the Developer; and

(c) Except as otherwise prohibited from release under the Privacy Act (5 U.S.C. § 552(a)) and Freedom of Information Act (5 U.S.C. § 552), all essential data, correspondence, documents, agreements, waivers, notices, applications, and other records

with respect to Sunflower in the possession of the Government and its contractors and reasonably requested by the Developer (including, without limitation, any records relating to transactions with taxing authorities, governmental agencies, utilities, and others with whom the Developer may be dealing following its acquisition of Sunflower).

ARTICLE 6. REPRESENTATIONS AND WARRANTIES OF THE DEVELOPER.

The Developer hereby represents and warrants to the Government that as of the date of the Closing:

6.1 Execution of Agreement. The Developer has full capacity, right, power and authority under Kansas law to execute, deliver and perform this Conveyance Agreement and all documents to be executed by the Developer pursuant hereto, and all required action and approvals therefor have been duly taken and obtained. The individuals signing this Conveyance Agreement and all other documents executed or to be executed pursuant hereto on behalf of the Developer shall be duly authorized to sign the same on the Developer's behalf and to bind the Developer thereto. This Conveyance Agreement and all documents to be executed pursuant hereto by the Developer are and shall be binding upon and enforceable against the Developer in accordance with their respective terms;

6.2 Complete Information. To the best knowledge, information, and belief of the Developer, the information included in the documents delivered and to be delivered to the Government pursuant to this Conveyance Agreement or previously delivered to the Government are true, correct and complete in all material respects, and the same do not omit any material information required to make the submission thereof fair and complete.

6.3 No Benefit to Officials. It has not provided to any member of, or delegate to the Congress, or resident commissioner, to share any part of the contract of sale, or to receive any benefit that may arise therefrom. This provision shall not be construed to extend to the contract of sale if made with a corporation for its general benefit; and

6.4 No Broker. It has not employed or retained any party under an agreement or understanding for a commission, percentage, brokerage, or contingent fee tied to the successful conveyance of Sunflower from the Government to the Developer.

ARTICLE 7. DEVELOPER ACKNOWLEDGMENTS

7.1 Explosive Hazard. The Developer acknowledges that Sunflower is known to contain Explosive Munitions Constituents. Subject to the terms and conditions of the Remediation Contract, the Developer acknowledges that it is responsible for complying with the Explosives Plan after Closing.

7.2 Constituents of Concern. The Developer acknowledges that Sunflower is known to contain Constituents of Concern. The Developer acknowledges that it is responsible for complying with the Remediation Contract, and Consent Order in order to fulfill the Army's environmental remediation requirements under CERCLA and RCRA for Sunflower.

7.3 Asbestos and LBP. The Developer acknowledges that Sunflower is known to contain: (a) Asbestos, as more fully described in Section VI(B) of the Covenant Deed, Section V(B) of the Covenant Deed for Robert's House, and Section VIII(B) of the Deferred Covenant Deed; and (b) LBP, as more fully described in Section VI(C) of the Covenant Deed, Section V(C) of the Covenant Deed for Robert's House, and Section VIII(C) of the Deferred Covenant Deed.

7.4 Inspection. No warranties, either express or implied, are given with regard to the condition of the improvements at Sunflower, including, without limitation, whether Sunflower does or does not contain Explosive Munitions Constituents, Constituents of Concern, Asbestos or LBP. Subject to the representations of the Government, the Developer shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of Sunflower, including, without limitation, any Explosive Munitions Constituents, Constituents of Concern, Asbestos or LBP. The failure of the Developer to inspect or to exercise due diligence to be fully informed as to the condition of all or any portion of Sunflower offered, will not constitute grounds for any claim or demand against the United States.

ARTICLE 8. RETAINED LIABILITIES AND RESPONSIBILITIES

8.1 Prior Exposure. The Developer assumes no liability for damages for personal injury, illness, disability, death or property damage occurring prior to the Closing and arising from any:

(a) Exposure to LBP, Asbestos, MEC, or any Constituent of Concern on any Tract arising prior to the Closing;

(b) Failure of the Army to comply with applicable legal requirements related to LBP, Asbestos, MEC, or any Constituent of Concern on any Tract arising prior to the Closing;

(c) LBP, Asbestos, MEC, or any Constituent of Concern located on a Tract at any time prior to the Closing but is no longer located thereon at the time of the Closing;

(d) Remediation or other activities at Sunflower, including the transportation, treatment or disposal of Constituents of Concern, MEC, asbestos, or LBP conducted by the Army, its agents, employees, lessees or contractors prior to the date of the Closing;

(e) Activities at Sunflower prior to the Closing except those actions of Developer, its agents, employees, contractors, licensees, or invitees that results in liability or damages for personal injury, illness, death or property damage which are unlawful, improper, or negligent; or

(f) Actions or failures to take appropriate or required action by the Army on, at, or about Sunflower prior to the Closing, except as otherwise expressly provided in this Agreement.

Upon acquiring actual knowledge thereof, the Developer shall provide written notice to the Government of its existence or occurrence and shall reasonably cooperate with the Government at no significant additional cost to the Developer, in resolving such claim or liability.

8.2 Subsequent Exposure. The Government assumes no liability for damages for personal injury, illness, disability, death or property damage arising after Closing from any:

(a) Exposures to LBP, Asbestos, Explosive Munitions Constituents, or any Constituent of Concern on any portion of a Tract arising after the Closing;

(b) Failure of the Developer to comply with any legal requirements applicable to LBP, Asbestos, Explosive Munitions Constituents, or any Constituent of Concern on any portion of a Tract arising after the Closing;

(c) LBP, Asbestos, Explosive Munitions Constituents, or any Constituent of Concern which were brought on to any Tract by the Developer at any time after the Closing;

(d) Remediation or other activities at Sunflower, including the transportation, treatment or disposal of Constituents of Concern, Explosive Munitions Constituents, asbestos, or LBP conducted by the Developer, its agents, employees, lessees or contractors prior to the date of the Closing;

(e) Activities at Sunflower prior to the Closing except those actions of Army, its agents, employees, contractors, licensees, or invitees which are unlawful, improper, or negligent; or

(f) Actions or failures to take appropriate or required actions by the Developer on, at, or about Sunflower prior to the Closing.

Upon acquiring actual knowledge of the alleged event, the Government shall provide written notice to the Developer of its existence or occurrence and shall reasonably cooperate with the Developer, at no significant additional cost to the Government, in resolving such claim or liability.

The Developer's obligations under this Section should be correspondingly limited to the extent that an Army Developer Disruption reduces the Developer's responsibility as to Explosive Munitions Constituents or any Constituents of Concern at Sunflower.

8.3 Disclosure Removal. The parties agree that the Developer, its successors or assigns may seek, at its own expense, approval of a procedure through the KDHE or other regulatory authority, whereby once the Asbestos or LBP is removed from any Tract in compliance with Federal and State standards pursuant to the applicable Deed the Asbestos and/or LBP disclosure shall be removed from the Deeds.

ARTICLE 9. FORCE MAJEURE

9.1 The Government and the Developer agree that actions arising from any lawsuits by a third party challenging the Government's or the Developer's right or ability to complete the transactions contemplated in this Agreement which delay the ability of either party to carry out obligations under this Conveyance Agreement shall each constitute a force majeure. The extent of delay of obligations to complete the delayed actions under this Agreement caused by force majeure shall extend the period equal to the delay or right resulting from such circumstances; providing,

however that in no event shall a force majeure extend the Closing to no later than September 1, 2005, unless otherwise agreed by the Parties.

ARTICLE 10. REMEDIES

10.1 Subject to Section 10.3, nothing in this Agreement shall constitute a waiver of the Developer's rights to seek any and all damages to the extent authorized by law upon the occurrence of any one or more of the following events:

(a) Any of the Government's warranties or representations set forth herein are untrue or inaccurate in any material respect;

(b) The Government shall fail to meet, comply with or perform any material covenant, agreement or obligation on its part required in the manner required in this Conveyance Agreement;

(c) A breach of the Closing Instructions by the Government;

(d) Except as otherwise provided in this Agreement, the failure of Army to issue any CERCLA Covenant in accordance with the obligations of the Developer and Army under the Remediation Contract; and

(e) The occurrence of an Army Development Disruption for which there is no remedy under the Federal Acquisition Regulations; or

(f) Termination for convenience of the Remediation Contract by the Army.

Nothing in this Agreement shall limit any defenses that the Government may have with respect to the Developer's claims for damages.

10.2 Subject to Section 10.3, nothing in this Agreement shall constitute a waiver of the Government's rights to seek any and all damages to the extent authorized by law upon the occurrence of any one or more of the following events:

(a) Any of the Developer's warranties or representations set forth herein are untrue or inaccurate in any material respect;

(b) The Developer shall fail to meet, comply with or perform any material covenant, agreement or obligation on its part required in the manner required in this Conveyance Agreement;

(c) A breach of the Closing Instructions by the Developer; or

(d) The Developer's failure to provide explosive removal and environmental remediation obligations under the Remediation Contract and Consent Order.

Nothing in this Agreement shall limit any defenses that the Developer may have with respect to the Government's claims for damages.

10.3 Right to Cure. In the event a Party hereto fails to observe or perform any of its obligations under this Conveyance Agreement, after having been provided written notice and failing to cure the default within ninety (90) days, the other Party will be entitled to exercise any and all of the remedies for breach which are provided for herein, as well as any other remedies to which the Party is entitled at law or in equity.

ARTICLE 11. NOTICES

11.1 Notices. Any notice, request, demand, instruction or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be delivered personally (including by messenger or a nationally recognized overnight delivery) or sent by the Government registered or certified mail, return receipt requested, postage prepaid or by courier, postage prepaid and addressed to the parties at their respective addresses set forth below, and the same shall be effective upon receipt if delivered personally or by messenger or two business days after deposit in the mails if mailed. A party may change its address for receipt of notices by service of a notice of such change in accordance herewith.

If to the Developer:	Sunflower Redevelopment L.L.C. 2600 Grand Boulevard Suite 700 Kansas City, MO Attn: Kise Randall
With a copy to:	Polsinelli Shalton Welte Suelthaus PC 700 West 47 th Street Suite 1000 Kansas City, MO 64112 Attn: Scott A. Young
If to the Government:	Director, Real Property Disposal GSA, 7 PR 819 Taylor Street Fort Worth, TX 76102 Phone: (817) 779-4235
and	U.S. Army BRACD Rock Island Field Office Attn: DIAM-BD-O 1 Rock Island Arsenal Rock Island, IL 61299-7050 Phone: (309) 782-1384
With a copy to:	Sunflower Army Ammunition Plant Contracting Officers Representative P.O. Box 640 DeSoto, KS 66018-0640

ARTICLE 12. GENERAL PROVISIONS

12.1 The headings and captions herein are inserted for convenient reference only and the same shall not limit or construe the paragraphs or sections to which they apply or otherwise affect the interpretation hereof.

12.2 The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms shall refer to this Agreement, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of this Agreement.

12.3 Words of the masculine, feminine or neuter gender shall mean and include the correlative words of other genders, and words importing the singular number shall mean and include the plural number and vice versa.

12.4 Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons.

12.5 The terms “include,” “including” and similar terms shall be construed as if followed by the phrase “without being limited to.”

12.6 This Conveyance Agreement and any document or instrument executed pursuant hereto may be executed in any number of counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

12.7 Whenever under the terms of this Conveyance Agreement the time for performance of a covenant or condition falls upon a Saturday, Sunday or holiday observed by the performing party, such time for performance shall be extended to the next business day. Otherwise, all references herein to “days” shall mean calendar days.

12.8 This Conveyance Agreement shall be governed by and construed in accordance with Federal law and the laws of the State of Kansas, as applicable.

12.9 Time is of the essence of this Conveyance Agreement.

12.10 If any term or provision of this Conveyance Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Conveyance Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Conveyance Agreement shall be valid and be enforced to the fullest extent permitted by applicable law.

12.11 No provision of this Conveyance Agreement is intended by the Parties to affect the interpretation of the Consent Order in any manner.

12.12 Nothing set forth in this Conveyance Agreement shall be construed to have waived any right provided under statutory law.

12.13 All disputes arising under or relating to this Conveyance Agreement shall be resolved under the jurisdiction of the Federal courts.

12.14 Nothing in this Conveyance Agreement otherwise shall be construed as creating any rights of enforcement by any person or entity that is not a Party hereto, nor any rights, interest, or third party beneficiary status for any entity or person other than the Parties hereto.

12.15 This Conveyance Agreement, together with all agreements referenced and/or attached herein, contains the entire agreement and understanding of the Parties in respect to the purchase and sale of Sunflower, and may not be amended, modified or discharged nor may any of its terms be waived except by an instrument in writing signed by the Party to be bound thereby.

ARTICLE 13. FURTHER ASSURANCES

13.1 The Government shall, upon the reasonable request of the Developer, execute, cause to be executed, acknowledged or delivered any and all such further instruments and documents as may be necessary or proper, in order to carry out the intent and purpose of this Conveyance Agreement.

ARTICLE 14. TERMINATION

14.1 Termination. This Conveyance Agreement shall terminate upon the conveyance of Sunflower to the Developer as provided herein.

14.2 Effects of Termination. The termination of this Conveyance Agreement shall have no effect on: (a) the continuing obligations of the Parties as provided for in the Deeds; or (b) the Environmental Insurance. The terms of this Conveyance Agreement shall survive its termination.

14.3 Federal Law. All disputes arising under or relating to this Conveyance Agreement shall be resolved under the jurisdiction of the federal courts.

ARTICLE 15. RESTRICTIONS

15.1 Government Restrictions. The Government's obligation to pay or reimburse any money under this Agreement is subject to the availability of appropriated funds, and nothing in this Conveyance Agreement shall be interpreted to require obligations or payments by the Government in violation of the Anti-Deficiency Act, Public Law 97-258, as amended.

In Testimony Whereof, witness the signature of the Government, acting by and through the General Services Administration, under and pursuant to the authority provided in 40 U.S.C. § 501(b)(8), this ____ day of _____.

UNITED STATES OF AMERICA

By: _____

JOSEPH W. WHITAKER
Deputy Assistant Secretary of the Army
(Installations and Housing)
OASA (I & E)

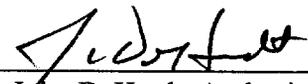
GENERAL SERVICES ADMINISTRATION

By: _____

SCOTT ARMEY
Regional Administrator Greater Southwest Region (7a)
General Services Administration

DEVELOPER: SUNFLOWER REDEVELOPMENT, LLC,
A Kansas limited liability company

By: _____


John DeHardt, Authorized Agent

In Testimony Whereof, witness the signature of the Government, acting by and through the General Services Administration, under and pursuant to the authority provided in 40 U.S.C. § 501(b)(8), this 3rd day of August 2005.

UNITED STATES OF AMERICA

By: 
JOSEPH W. WHITAKER
Deputy Assistant Secretary of the Army
(Installations and Housing)
OASA (I & E)

GENERAL SERVICES ADMINISTRATION

By: _____
SCOTT ARMEY
Regional Administrator Greater Southwest Region (7a)
General Services Administration

DEVELOPER: SUNFLOWER REDEVELOPMENT, LLC

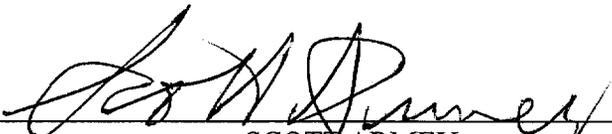
By: _____
Sunflower Redevelopment, LLC, a Kansas
Limited Liability Company its Manager JOHN DeHARDT

In Testimony Whereof, witness the signature of the Government, acting by and through the General Services Administration, under and pursuant to the authority provided in 40 U.S.C. § 501(b)(8), this ____ day of _____.

UNITED STATES OF AMERICA

By: _____
JOSEPH W. WHITAKER
Deputy Assistant Secretary of the Army
(Installations and Housing)
OASA (I & E)

GENERAL SERVICES ADMINISTRATION

By:  _____
SCOTT ARMEY
Regional Administrator Greater Southwest Region (7A)
General Services Administration

DEVELOPER: SUNFLOWER REDEVELOPMENT, LLC

By: _____
Sunflower Redevelopment, LLC, a Kansas
Limited Liability Company its Manager JOHN DeHARDT