

KANSAS CITY TITLE

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Rebecca L. Davis, Register of Deeds, Johnson County, Kansas

REGISTER OF DEEDS COVER SHEET

TYPE OF DOCUMENT: *Quitclaim Deed*

1ST PARTY: *United States of America*

2ND PARTY: *Sunflower Redevelopment, LLC*

LEGAL DESCRIPTION: *See Attached Exhibit "A"*

11 South Cherry Street, PO Box 700, Olathe, Kansas 66051-0700
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QUITCLAIM DEED

PARCEL ID NO.

3F211325-3001

August 5, 2005

STATE OF KANSAS

KNOW ALL BY THESE PRESENTS:

COUNTY OF JOHNSON

THIS Quitclaim Deed is made this the 3rd day of August by and between the **UNITED STATES OF AMERICA**, acting by and through the Department of the Army, (hereinafter referred to as the Grantor the United States, the Army, and Government), under and pursuant to authority of that special legislation enacted into law covering the conveyance of the Sunflower Army Ammunition Plant, Johnson County, Kansas, found at PL-108-375, Title XXVIII, Subtitle D, Part 1, Section 2841 (118 STAT. 2135) ("Sunflower Act"), and **SUNFLOWER REDEVELOPMENT, LLC**, a Kansas limited liability company, as Grantee.

NOW, THEREFORE, Grantor and Grantee make the following respective conveyances, grants, assignments, reservations, restrictions, covenants, exceptions, notifications, conditions, and agreements hereinafter set forth.

I. Conveyance of the Fee Estate

Grantor, for and in consideration of: (1) all good and valuable consideration specified in the separate written MEMORANDUM OF AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, ACTING BY AND THROUGH THE ARMY, AND SUNFLOWER REDEVELOPMENT, LLC FOR THE CONVEYANCE OF LAND AND PROPERTY COMPRISING THE FORMER SUNFLOWER ARMY AMMUNITION PLANT JOHNSON COUNTY KANSAS, dated AUGUST 3RD 2005, and recorded by abstract in the records of the Johnson County, Kansas Clerk in Book 200508, at Page 003601; and, (2) the specific agreements hereinafter made by Grantee, for itself and its successors and assigns, to abide by and take subject to all reservations, restrictions, covenants, exceptions, notifications, conditions and agreements hereinafter set forth in this Quitclaim Deed, does hereby grant, convey, remise, release and forever quitclaim to the Grantee, its successors and assigns, under and subject to all of the reservations, restrictions, covenants, exceptions, notifications, conditions and agreements hereinafter set forth, all of that certain real property situate, lying, and being in Johnson County, State of Kansas, and described in detail in **Attachment 1**, which is attached hereto and made a part hereof (hereinafter referred to as the "Property").

TO HAVE AND TO HOLD the Property, together with: (1) all mineral rights, (2) all improvements, hereditaments, tenements, and appurtenances therein; and (3) all reversions, remainders, issues, profits and other rights belonging or related thereto, either in law or in equity, for the use and benefit of the Grantee, its successors and assigns forever.

Except with respect to the requirements of 42 U.S.C. § 9620(h)(3)(A), it is further understood and agreed by and between the parties hereto that the Grantee, by its acceptance of this Deed, agrees that, as part of the consideration for this Deed, the Grantee covenants and agrees for itself, its successors and assigns, forever, that this Deed is made and accepted upon each of the following covenants, which covenants shall be binding upon and enforceable against the Grantee, its successors and assigns, in perpetuity by the United States and other interested parties as allowed by federal, state or local law; that the notices, use restrictions, terms, conditions, agreements and covenants set forth here are a binding servitude on the Property herein conveyed and shall be deemed to run with the land in perpetuity; and that the failure to include


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the notices, use restrictions, terms, conditions, agreements and in subsequent conveyances does not abrogate the status of these restrictions as binding upon the parties, their successors and assigns.

II. CERCLA Reservations to Conveyance

(A) CERCLA Notice

For the Property, the Grantor provides the following notice, description, and covenant:

1. Pursuant to Section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(I) and (II)), notice is provided that the Grantor has determined that no hazardous substances were stored, released, or disposed of on the Property.

2. Pursuant to Section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)), notice is provided that the Grantor has determined that no remedial action was taken on the Property.

(B) Deferred CERCLA Covenant.

1. The Property is hereby conveyed under CERCLA's early transfer authority, 42 USC § 9620(h)(3)(C). Subject to the Army's successful performance of its obligations under the remediation contract for Sunflower between the Grantor and Grantee _____ ("Remediation Contract") Sunflower Remediation Agreement _____ between the Grantor and the Grantee, Grantee warrants that it shall take any additional response action found to be necessary after the date of this conveyance regarding hazardous substances located on the Property on the date of this conveyance. In the event that the Grantee does not take all required response action, the Army recognizes and affirms that it is ultimately responsible for causing the completion of environmental remediation of contamination necessary to provide the CERCLA covenant as required by 42 USC § 9620(h)(3)(A)(ii)(I) (the "CERCLA Covenant").

2. Once all additional response actions found to be necessary [WXPS] after the date of this conveyance regarding hazardous substances located on any of the Property has been fully completed, the Grantor will thereafter issue and file in the records of the Johnson County Clerk its warrant that all remedial action necessary to protect human health and the environment has been taken as required by 42 USC § 9620(h)(3)(A)(ii)(I).

3. This warranty shall not apply in any case in which the person or entity to whom the Property is transferred is a "Potentially Responsible Party", as defined under CERCLA, with respect to the Property prior to the date of this Deed. For purposes of this warranty, Grantee shall not be considered a potentially responsible party solely due to the presence of a hazardous substance remaining on the Property on the date of this instrument, provided that Grantee has not caused or contributed to a release of such hazardous substance. Nothing in this deed will be construed to modify or negate the terms and conditions of the Remediation Contract. Army/Developer Contract.

(C) Right of Access Easement.


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(C) Right of Access Easement.

1. Pursuant to Section 120(h)(3)(A)(iii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § [9620(h)(3)(A)(iii)]), the United States retains and reserves a perpetual and assignable easement and right of access on, over, and through the Property, to enter upon the Property in any case in which an environmental response action or corrective action is found to be necessary on the part of the United States ("ER Easement"). This ER Easement exists without regard to whether such environmental response action or corrective action is on the Property or on adjoining or nearby lands. This Access Easement includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, test-pitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this instrument. The ER Easement shall be binding on the Grantee, its successors and assigns, and shall run with the land.

2. In exercising the ER Easement, the United States shall provide the Grantee or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the Property and exercise its rights under this covenant, which notice may be severely curtailed or even eliminated in emergency situations. The United States shall use reasonable means to avoid and to minimize interference with the Grantee's and the Grantee's successors' and assigns' quiet enjoyment of the Property and to limit damage or injury to improvements to the Property. The ER Easement includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the Property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the Grantee nor its successors and assigns, for the exercise of the ER Easement hereby retained and reserved by the United States.

3. In exercising the ER Easement, neither the Grantee nor its successors and assigns, as the case may be shall have any claim of law or equity against the United States or any officer, employee, agent, contractor of any tier, or servant of the United States based on actions taken by the United States, or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this ER Easement or the CERCLA Covenant.

4. Notwithstanding the foregoing, nothing contained in the Access Easement shall be construed to limit and/or prohibit the Grantee, its successors and assigns, from seeking appropriate legal recourse from the Government in the event that any response results in a permanent Government taking of any portion of or injury to the Property arising under federal or state law.

(D) Non-Disturbance Clause. Grantee covenants and agrees for itself, its successors and assigns and every successor in interest to the Property, or part thereof, not to disrupt and/or prevent the United States of America, its officers, employees, agents, contractors and subcontractors, and any other authorized party or entity from conducting any required response, including, but not limited to any necessary investigation, survey, treatment, remedy, oversight activity, construction, upgrading, operating, maintaining and monitoring of any groundwater treatment facilities or groundwater monitoring network on the Property.


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III. Land Use Restrictions

The Grantor and Grantee have agreed that the Grantee will conduct all necessary environmental remediation and munitions responses on the adjacent Sunflower Early Transfer Property. Pending completion of remediation of the adjacent Sunflower Early Transfer Property, the Property will be subject to the land use restrictions set forth below. The Grantee, its successors or assigns, shall not undertake nor allow any activity on or use of this portion of the Property that would violate the land use restrictions contained herein. A map depicting the Sunflower Early Transfer Property is provided as Attachment 2.

(A) **Groundwater Use Restrictions**

Grantee is hereby informed and acknowledges that there is the potential that groundwater contamination may have migrated from the Sunflower Early Transfer Property on to the Property. Grantee, for itself and its successors and assigns, covenants and agrees not to access or use groundwater underlying the Property for drinking water purposes unless the groundwater has been tested and found to meet applicable standards for human consumption by the KDHE and any other state and local regulatory authorities. The costs associated with obtaining use of such water, including, but not limited to, the costs of permits, studies, or analysis shall be the sole responsibility of the Grantee, its successors and assigns.

(B) **Modifying or Terminating Restrictions**

Upon completion of all necessary environmental remediation and munitions responses on the adjacent Sunflower Early Transfer Property, the Grantee, its successors or assigns, may request modification or termination of the land use restrictions. Prior to requesting modification or termination of the land use restrictions, Grantee, its successor and assigns, shall consult with and obtain the approval of the Grantor and the KDHE. Upon the Grantee's obtaining the approval of the Grantor and KDHE, the Grantor agrees to record an amendment hereto. This recordation shall be the responsibility of the Grantee and at no additional cost to the Grantor.

IV. Notice of Adjacent Munitions Response Sites ("MRS") and Potential Presence of Munitions and Explosive of Concern ("MEC")

(A) **Notice of Adjacent MRS and Related Restrictions**

1. The Grantee, its successors and assigns are hereby notified that munitions response sites ("MRS") on the adjacent Sunflower Early Transfer Property are known to contain munitions constituents in concentrations high enough to pose a potential explosive hazard. These MRS are being investigated and remediated by the Grantee. A map depicting the location of the Sunflower Early Transfer Property is provided as Attachment 2.

2. The Grantee, its successors and assigns, agree to take necessary actions as directed by the Grantee to protect human health and to minimize interference with investigation and remediation of adjacent MRS. In the event the explosive safety arc of an MRS is determined to extend on the Property, the Grantee, its successors and assigns will restrict access to the Property and take other appropriate measures necessary to protect the public.


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3. Upon completion of the investigation and remediation of the MRS on the adjacent property, the Grantee, its successors and assigns may request in writing for the Grantor to modify or, if appropriate, release this Notice of Adjacent MEC and Related Restrictions by executing and recording, in the same land records of the State of Kansas as the deed, a Partial Release of Covenant or other appropriate real estate document. Grantee shall bear the cost of recording and reasonable administrative fees.

(B) Notice of Potential of MEC

1. The Grantee is hereby notified and acknowledges that the Property was formerly part of Sunflower Army Ammunitions Plant. The Sunflower Army Ammunition Plant was used primarily for the production of military propellants from 1943 until 1992. To the best knowledge and belief of Grantor, the Property was not used for production, storage, or disposal of military propellants and, therefore, no MEC are known or suspected to be present on the Property. The term MEC means specific categories of military munitions that may pose unique explosives safety risks and includes: (1) unexploded Ordnance ("UXO"), as defined in 10 U.S.C. §101(e)(5); (2) discarded military munitions ("DMM"), as defined in 10 U.S.C. §2710(e)(2); or (3) munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. §2710(e)(3), present in high enough concentrations to pose an explosive hazard.)

2. Given the former use of the Property as an ammunition plant, there is a remote possibility that MEC may be encountered on the Property. Should such a discovery occur, the Grantee, its successor or assigns, shall immediately stop any intrusive or ground disturbing work in the area of discovery and any adjacent areas and shall not attempt to disturb, remove or destroy the discovered munition. The Grantee, its successors and assigns, shall immediately notify the on-site Army representative or, if there is no on-site Army representative, local law enforcement so that appropriate explosive ordnance disposal personnel can be dispatched to address such discoveries as required under applicable law and regulations.

(C) MR Easement and Access Rights.

1. The Grantor reserves a perpetual and assignable right of access on, over, and through the Property, to access and enter upon the Property in any case in which a munitions response action is found to be necessary or such access and entrance is necessary to carry out an action under the ESS on adjoining property ("MR Easement"). The MR Easement includes, without limitation, the right to perform any explosive or munitions emergency response actions, munition response actions (e.g., investigation, sampling, testing, test-pitting, surface and subsurface removal operations), or any other actions necessary for the United States to meet its responsibilities under applicable laws and as provided for in this Deed. The MR Easement shall be binding on the Grantee, its successors and assigns, and shall run with the land.

2. In exercising the MR Easement, the Grantor shall give the Grantee or the then record owner, reasonable notice of the intent to enter on the Property, except in emergency situations. Grantor shall use reasonable means to avoid and/or minimize interference with the Grantee's and the Grantee's successors' and assigns' quiet enjoyment of the Property and to limit damage or injury to improvements to the Property. The MR Easement includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications


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services available on the Property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the Grantee nor its successors and assigns, for the exercise of the MR Easement hereby retained and reserved by the United States.

3. In exercising the MR Easement, neither the Grantee nor its successors and assigns, as the case may be shall have any claim of law or equity against the United States or any officer, employee, agent, contractor of any tier, or servant of the United States based on actions taken by the United States, or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with the MR Easement. In addition, the Grantee, its successors and assigns, shall not interfere with any response, action or corrective action conducted by the Grantor on the Property pursuant to and in accordance with the MR Easement.

4. Notwithstanding the foregoing, nothing contained in the MR Easement shall be construed to limit and/or prohibit the Grantee, its successors and assigns, from seeking appropriate legal recourse from the Government in the event that any Response results in a permanent Government taking of any portion of or injury to the Property arising under federal or state law.

V. Other Environmental Notices, Exceptions, Restrictions and Covenants Affecting the Property

This Quitclaim Deed covering the Property is expressly made subject to the following environmental notices, exceptions, restrictions and covenants affecting the Property to the extent and only to the extent the same are valid and affect the Property:

(A) As-Is, Where Is.

Except as otherwise provided in the Conveyance Agreement as a material part of the consideration for the Property being conveyed, the Grantee is taking the Property "AS IS, WHERE IS" with any and all latent and patent defects and that there is no warranty by the Grantor that the Property has a particular financial value or is fit for a particular purpose. Except as otherwise provided in the Conveyance Agreement, the Grantee further acknowledges and stipulates that the Grantee is not relying on any representation, statement, or other assertions with respect to the condition of the Property. The Grantee takes the Property with the express understanding stipulation that there are no express or implied warranties except as otherwise provided for in the Conveyance Agreement.

(B) Notice of the Presence of Asbestos and Covenant.

1. The Grantee is hereby informed and does acknowledge that non-friable asbestos or asbestos-containing material ("ACM") has been found on the Property and that the Grantor presumes all building on the Property contain ACM which constructed prior to 1979 or modified after 1979. The Property contains improvements, such as buildings, facilities, equipment, and pipelines, above and below the ground, that contain non-friable asbestos or ACM. The Occupational Safety and Health Administration and the Environmental Protection Agency have determined that such unprotected or unregulated exposure to airborne asbestos fibers increases


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the risk of asbestos-related diseases, including certain cancers that can result in disability or death.

2. The Grantee covenants and agrees that its use and occupancy of Sunflower will be in compliance with all applicable laws relating to asbestos. The Grantee agrees to be responsible for any remediation or abatement of asbestos found to be necessary on the Property to include ACM in or on buried pipelines that may be required under applicable law or regulation.

3. The Grantee acknowledges that it has inspected or has had the opportunity to inspect the Property as to its asbestos and ACM condition and any hazardous or environmental conditions relating thereto. The Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any asbestos or ACM hazards or concerns.

(C) Notice of the Presence of Lead-Based Paint and Covenant Against the Use of the Property for Residential Purposes.

1. The Grantee is hereby informed and does acknowledge that all buildings on the Property, which were constructed or rehabilitated prior to 1978, are presumed to contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that there is a risk of exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning.

2. The Grantee covenants and agrees that it shall not permit the occupancy or use of any buildings or structures on the Property as residential property, as defined under 24 CFR Part 35, without complying with this Section and all applicable federal, state, and local laws and regulations pertaining to LBP hazards. Prior to permitting the occupancy of any buildings or structures on the Property where its use after the Closing is intended for residential habitation, the Grantee agrees to perform, at its sole expense, the Army's abatement requirements under Title X of the Housing and Community Development Act of 1992 (Residential Lead-Based Paint Hazard Reduction Act of 1992).

3. The Grantee acknowledges that it has inspected or has had the opportunity to inspect the Property as to its lead-based paint content and condition and any hazardous or environmental conditions relating thereto. The Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any lead-based paint hazards or concerns.

(D) Notice of Wetlands Area. Portions of the Property contain wetlands. Grantee, for itself and its successors and assigns, agrees and covenants that any development of any portion of the Property containing wetlands will be subject to all applicable wetlands regulations and other applicable federal, state and local statutes, and ordinances relating to wetlands. To the extent required under Section 404 of the Federal Clean Water Act, the successors and assigns of Grantee agree to obtain prior authorization from the United States Army Corps of Engineers before engaging in any ground disturbance activity which would adversely affect the extent, condition and function of a wetlands area.


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(E) **Notice of 100 Year Floodplain.** Portions of the Property are located in a 100 year floodplain. Grantee, for itself and its successors and assigns, agrees and covenants that any development located within any portion of the above described Property will be subject to the applicable 100 year floodplain regulations and other applicable Federal, state and local statutes, and ordinances relating to flood hazard.

(F) **Notice of FAA Restrictions.** Grantee, for itself and its successors and assigns, agrees and that any construction or alteration is prohibited on any portion of the Property unless a determination of no hazard to air navigation is issued by the Federal Aviation Administration in accordance with Title 14 Code of Federal Regulations, Part 77, entitled "Objects Affecting Navigable Airspace," or under the authority of the Federal Aviation Act of 1958, as amended.

(G) **Post-Transfer Discovery of Contamination.**

1. Any actual or threatened release of a hazardous substance or petroleum product discovered on the Property after the date of conveyance shall be the responsibility of the Grantee to the extent required by the Remediation Contract. If the Grantee, its successors or assigns believe the discovered hazardous substance constitutes an Army Retained Obligation (as defined in the Remediation Contract), Grantee will not disturb the material, immediately secure the site, and notify the Grantor in accordance with the Remediation Contract

2. Grantee, its successors and assigns, as consideration for the conveyance of the Property, agree to release Grantor from any liability or responsibility for any claims arising solely out of the release of any hazardous substance or petroleum product on the Property occurring after the date of the delivery and acceptance of this Deed, where such substance or product was placed on the Property by the Grantee, or its successors, assigns, employees, invitees, agents or contractors, after the conveyance. This paragraph shall not affect the Grantor's responsibilities to conduct response actions or corrective actions that are required by applicable laws, rules and regulations.

VI. **Notice of Historic Property/Specific Conditions, Restrictions, Limitations and Covenants.**

(A) Grantee is hereby informed and acknowledges that portions of the Property may have been determined to be of historic significance. Grantee, for itself and its successors and assigns, and every successor in interest to the Property hereby conveyed, covenants and agrees to be bound by the conditions, covenants, restrictions, limitations, and covenants set forth in the MEMORANDUM OF AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, ACTING BY AND THROUGH THE U.S. GENERAL SERVICES ADMINISTRATION, U.S. ARMY ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND THE KANSAS STATE HISTORIC PRESERVATION OFFICER REGARDING THE SUNFLOWER ARMY AMMUNITION PLANT DISPOSAL ACTION NEAR DeSOTO, KANSAS, dated March 13, 2003, ("MOA") which is recorded in the Office of the Johnson County Clerk, in Book ~~200508~~ at Page ~~003601~~. Further, Grantee, for itself and its successors and assigns, and every successor in interest to the Property hereby conveyed, covenants and agrees that in the event the Property is sold or otherwise disposed of, these covenants and restrictions shall be inserted in all instruments of conveyance.


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(B) In addition to the covenants and agreements contained in Article VII(A), above and in consideration of the conveyance of the Sam E. Roberts House (Roberts House) situated on the Sunflower property (NW ¼ of the NE ¼ of Section 25, Range 21 East, Township 13 South) in the County of Johnson, State of Kansas, the Grantor, its successors and assigns hereby covenants on behalf of itself, its heirs, successors, and assigns at all times to the Kansas State Historic Preservation Officer (Kansas SHPO) to protect said historical properties as follows:

1. The acceptance of the delivery of a Deed conveying title to the property shall constitute conclusive evidence of the agreement of the Grantee to be bound by the conditions, restrictions, and limitations, and to perform the obligations herein set forth.
2. The Roberts House will be preserved and maintained by the Grantee in accordance with plans made in consultation with the Kansas SHPO. The U.S. Army Corps of Engineers, Fort Worth District, prepared a report entitled, "Roberts House Existing Conditions Survey," dated April 3, 2002. The report contains for roof repair, structural stabilization, and rehabilitation, which will be carried out by the Grantee, within 5 years of the executed date of transfer.
3. At the time of transfer out of Federal ownership, a land surveyor that is registered in the state of Kansas will define the boundaries of the historic property (Sam E Roberts House) and will recorded the boundaries with the Kansas SHPO and the Johnson County Register of Deeds.
4. Any development, alterations, or substantial repairs to the property shall be in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and shall be made in consultation with the Kansas SHPO. The Kansas SHPO will have 30 days to review and comment on any proposed work once complete and adequate notice is received in writing.
5. No physical or structural changes will be made to the exterior or interior of the structure without prior written consultation with the Kansas SHPO.
6. Representatives of the Kansas State Historic Preservation Office shall have the right to inspect the premises from time to time, upon reasonable notice, to determine whether the purchaser is in compliance with the terms of the MOA.
7. These restrictions shall be binding on the Parties hereto, their successors, and assignees in perpetuity; the Kansas SHPO may, for good cause, modify or cancel any or all of the foregoing restrictions upon written application of the Grantee, its successors or assignees.
8. In the event of a violation of this covenant, and in addition to any remedy now or hereafter provided by law, the General Services Administration, Kansas SHPO, or other interested party may, following reasonable notice to the Grantee, institute suit to enjoin said violation, or to require the restoration of the condition of the improvements on the Roberts House property in accordance with the standards specified in this covenant. The successful party shall be entitled to recover all costs or expenses incurred in connection with such a suit, including all court costs and attorney fees.


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9. Grantor agrees that the Kansas SHPO may, at its discretion and without prior notice to Grantor, convey and assign this covenant to a similar local, state, or national organization whose purposes, interalia, are to promote historic preservation, and which is a qualified organization under Section 170(h)(3) of the Internal Revenue Code, provided that any such conveyance or assignment requires that the conservation purposes for which this covenant was granted will continue to be carried out.

VII. Hold Harmless

(A) The Grantee, its successors and assigns, covenant and agree to indemnify and hold harmless the Grantor, its officers, agents, and employees from: (1) any and all claims, damages, judgments, losses, and costs, including fines and penalties, arising out of the violation of the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in this Deed by the Grantee, its successors and assigns; and (2) any and all any and all claims, damages, and judgments arising out of, or in any manner predicated upon, exposure to asbestos, lead-based paint, or other condition on any portion of the Property after the date of conveyance.

(B) The Grantee, its successors and assigns, covenant and agree that the Grantor shall not be responsible for any costs associated with modification or termination of the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in this Deed, including without limitation, any costs associated with additional investigation or remediation of asbestos, lead-based paint, or other condition on any portion of the Property.

(C) Nothing in this Hold Harmless provision will be construed to modify or negate the Grantor's obligation under the CERCLA Covenant or any other statutory obligations.

VIII. Anti-Deficiency Act

The Grantor's obligation to pay or reimburse any money under this Deed is subject to the availability of funds appropriated for this purpose to the Department of the Army, and nothing in this Deed shall be interpreted to require obligations or payments by the Grantor in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

IX. No Waiver

The failure of the Government to insist in any one or more instances upon complete performance of any of the said notices, covenants, conditions, restrictions, or reservations shall not be construed as a waiver of a relinquishment of the future performance of any such covenants, conditions, restrictions, or reservations; but the obligations of the Grantee, its successors and assigns, with respect to such future performance shall continue in full force and effect.

X. Put

Grantor hereby agrees and acknowledges that Grantee has a right to reconvey to Grantor its interest in the Property ("Put Option"). The Put Option may be exercised by Grantee at any time after the date first above written, only in connection with, and until such time as all claims


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of the Shawnee Tribe in the matter of *Shawnee Tribe, et al., v United States of America, et al., United States Court of Appeals for the 10th Circuit, Case No. 04-3256* have been adjudicated to be invalid, or non-appealable, and may not be further litigated. In the event: (a) the Grantor is ordered by a federal court of competent jurisdiction to reacquire the Property on behalf of the Shawnee Tribe; or (b) the Grantee, in its sole discretion, determines that it is unwilling to wait until a federal court of competent jurisdiction has issued a final non-appealable decision on the Shawnee tribal claim and the Grantee is not in default on the Conveyance Agreement at the time of the exercise of this Put Option, then, in such event, the Grantee agrees to reconvey and the Grantor hereby agrees to accept a reconveyance of the Property by Grantee in the form of a quitclaim deed which reconveyance shall not include those portions of the Property that Grantee has conveyed to the following parties pursuant to the Real Estate Transfer Agreements between Grantee and the following parties, each dated as of July 29, 2005, and which reconveyance shall be subject to the rights held by the following parties pursuant to such Real Estate Transfer Agreements (i) Kansas State University, (ii) The University of Kansas, (iii) Johnson County Park and Recreation District, (iv) City of DeSoto and (v) DeSoto Unified School District No. 232, Johnson County, State of Kansas. This reconveyance shall be at no cost to the Grantor.

Upon such reconveyance under subsection (a) above, Grantee, on behalf of itself and its successors, assigns, transferees and any other successor party in interest to the Property (collectively "Successor Parties"), agree that in the event the Grantee or any Successor Parties files a claim against the Government for damages, the sole recourse and total aggregate amount available to Grantee's and/or any Successor Parties shall not exceed twenty-two million dollars (\$22,000,000).

IN WITNESS WHEREOF, the **United States of America**, by and through its authorized representatives, has caused these presents to be executed this 30 day of August 2005.

UNITED STATES OF AMERICA
Acting by and through the
Secretary of Department of the Army

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


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COMMONWEALTH OF VIRGINIA)

COUNTY OF ARLINGTON)

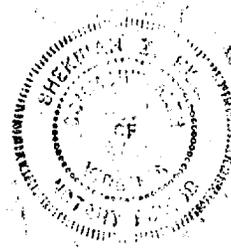
On August 3rd, 2005

I, the undersigned, a Notary Public in and for the Commonwealth of Virginia, County of Arlington, do hereby certify that this day personally appeared before me in the Commonwealth of Virginia, County of Arlington, Joseph W. Whitaker, Deputy Assistant Secretary of the Army (I & H), whose name is signed to the foregoing instrument and who acknowledged the foregoing instrument to be his free act and deed on the date shown, and acknowledged the same for and on behalf of the UNITED STATES OF AMERICA.

My Commission Expires: *30 September 2008*

Shekinah Z. Hill

Notary Public
SHEKINAH Z. HILL



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ATTACHMENT 1

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 13 SOUTH, RANGE 21 EAST OF THE SIXTH P.M. IN JOHNSON COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE ON ASSUMED BEARINGS SOUTH 88°03'11" EAST, ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 347.09 FEET; THENCE SOUTH 13°34'34" WEST, 47.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 13°34'34" WEST, 407.12 FEET; THENCE SOUTH 02°40'10" WEST, 458.84 FEET; THENCE SOUTH 84°50'52" EAST, 1148.61 FEET; THENCE NORTH 16°14'33" WEST, 1006.37 FEET; THENCE SOUTH 89°18'39" WEST, 745.60 FEET TO THE POINT OF BEGINNING. CONTAINING 20.056 ACRES, MORE OR LESS, AND SUBJECT TO ANY EASEMENTS, COVENANTS, AND RESTRICTIONS OF RECORD, IF ANY.

SEE ATTACHMENT 2, 3 AND 4 TO THE QUITCLAIM DEED DATED AUGUST 3, 2005 RECORDED IN BOOK 200508, PAGE 003605


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