

# PRIOR AUTHORIZATION FORM

(Date of last Revision: 05/18/2011)

**INSTRUCTIONS: Prepare this form, scan and attach to your SMART Purchase Requisition as a LINE ITEM comment.**

Amount: \$ 500,000

Prior Auth. Code:  
SMART Vendor ID:  
Vendor:  
Address:

Has the vendor ever been an employee of the State of Kansas? Yes \_\_\_\_\_ No X  
If yes, please explain the nature of the employment and period of service.

Note: The higher the dollar amount of the transaction, the higher the expectation for **complete and thorough documentation** by the Division of Purchases. **Incomplete documentation will result in SMART workflow back to the agency.**

1. Description of Material or Service / Contract Period: Period of work 10/01/2011 thru 9/30/2012  
City of Wichita - Lincoln Street River Portage Project
2. Explain why the recommended vendor is the only one qualified to provide the requested services at the exclusion of all others, i.e., what makes this vendor uniquely qualified?  
Unique project being done in conjunction with City bridge replacement + low water dam relocation.
3. Describe the research that has been completed to insure that no other competition exists (nature of work to be completed, names of vendors contacted who are unable to perform service, etc.):  
Multiple year discussion with City of Wichita, + details of work verified + approved through US Coast Guard Grant Staff.

Grant specifically to City of Wichita

**AGENCY USE ONLY**

Agency Name: KDWPT Agency Number: 710  
Contact Person: Deb A. Simon, Procurement Officer III Telephone: 620-672-0715  
Email Address: deb.simon@ksoutdoors.com Fax: 620-672-6020

**REVISED PRIOR AUTHORIZATIONS:** IF YOU NEED TO REVISE A PREVIOUSLY SUBMITTED PRIOR AUTHORIZATION, PLEASE INCLUDE THE ORIGINAL AMOUNT, THE AMOUNT OF ANY AND ALL SUBSEQUENT REVISIONS, AND THE NEW TOTAL AMOUNT REQUESTED. **YOU WILL ALSO NEED TO ATTACH A BRIEF EXPLANATION FOR THE NEED TO REVISE THE PRIOR AUTHORIZATION.**

Examples:  
Original PA Amount: \$ \_\_\_\_\_  
Revision #1: \$ \_\_\_\_\_  
Revision #2: \$ \_\_\_\_\_  
Revised Total \$ \_\_\_\_\_

Other Details:  
No Increase in Cost, Change in Term of Contract:   
SMART Purchase Requisition Number: \_\_\_\_\_  
SMART Purchase Order Number: \_\_\_\_\_  
SMART Contract Number: \_\_\_\_\_

Division of Purchases Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Office of the Secretary  
1020 S Kansas Ave., Suite 200  
Topeka, KS 66612-1327



phone: 785-296-2281  
fax: 785-296-6953  
www.kdwp.state.ks.us

Robin Jennison, Secretary

Department of Wildlife and Parks

Sam Brownback, Governor

October 3, 2011

Gary Janzen, P.E.  
City of Wichita  
Department of Public Works – Engineering Division  
455 North Main  
Wichita, Kansas 67202

Dear Gary:

Enclosed is a copy of the executed project agreement for the City of Wichita's Recreational Boating Safety grant from the Kansas Department of Wildlife, Parks and Tourism. Please contact Sheila Wells, our Federal Aid Auditor, when you want to apply for reimbursement. Her email is [Sheila.wells@ksoutdoors.com](mailto:Sheila.wells@ksoutdoors.com).

Thanks again for your efforts to work this out. I will be out of the office from October 5 – 17, but will be happy to answer any additional questions that might come up when I return. Until then, best wishes with all of your projects.

Sincerely,

  
Carl Magnuson  
Federal Aid Coordinator

Pc: file  
Dan Heket

## PROJECT AGREEMENT

### 1. Introduction

The Local Recreational Boating Safety Program (LRBSP) is a federal grant program from the United States Coast Guard (USCG), which is administered in Kansas by the Kansas Department of Wildlife, Parks and Tourism (KDWP). This program provides funds to be used for programs to enhance recreational boating safety and education.

This agreement, effective from the October 1, 2010 through November 21, 2012 by and between the City of Wichita, City Hall, 13th floor 455 North Main Wichita, KS 67202, (hereinafter referred to as subgrantee) and the Kansas Department of Wildlife and Parks (hereinafter referred to as KDWP) is made under the following terms. Additionally, this agreement is authorized under K.S.A. 75-3739(h). Funding is provided by the KDWP and the USCG under CFDA 97.012, the Recreational Boating Safety Program (RBS) and Agreement #CG-2011-01. The subgrantee shall carry out its grant-funded activities in accordance with "Recreational Boating Safety State Guide" prepared by the USCG, and all relevant federal regulations. The work will be performed under the direction of Gary Janzen. The contact person for KDWP shall be Dan Heskett, Boating Law Administrator.

### 2. Scope of Work

Funds provided through this grant agreement shall be used to assist the subgrantee in the construction of boating portage on the Arkansas River as identified in Attachment A. The subgrantee shall advise KDWP immediately of any problems that arise that will impair its ability to meet its obligations under this agreement. Following are the construction categories that will be eligible for funding under this agreement:

#### Vessel Portage System

- ✦ Parking area improvements
- ✦ Portage docks including railings
- ✦ All pedestrian pathways connecting portage docks, parking areas and existing walks
- ✦ East retaining wall of the boat passage (Wall E), including pedestrian railing
- ✦ Portage walkway abutting east retaining wall (connecting portage docks)
- ✦ Gravity retaining walls on bank between portage path and Palisade Street (excluding the portion around the proposed cul-de-sac)
- ✦ Site restoration, grading and lighting along east river bank between portage walkway and Palisade Street
- ✦ River signage and buoys
- ✦ Information and safety kiosk adjacent to upstream portage dock
- ✦ Miscellaneous storm sewer relocation

The subgrantee shall not change the scope of work identified in this agreement without prior written approval from the KDWPT Office of Federal Aid. Work will be performed as indicated in the City of Wichita's construction drawings as indicated in attachment A.

3. Schedule and Duration

All work eligible for reimbursement under the terms of this agreement shall occur between October 1, 2010 and November 21, 2012. The funding is obligated annually on the federal fiscal year as of October 1 through September 30, pending approval of the Recreational Boating Safety grant application by the U.S. Coast Guard. Should the project not be complete by September 30, 2011, the remaining funds not expended may be used in the period of October 1, 2011 through September 30, 2012 to complete the scope of work. Funds not expended by September 30, 2012 may be carried forward and employed for the duration of the contract, contingent upon the appropriation of the necessary funds by Congress and of approval of the work in the annual Recreational Boating Safety grant by the U.S. Coast Guard on an annual basis. KDWPT shall not be responsible for providing funds if approval is not granted by the U.S. Coast Guard.

4. Costs

(a) The total project cost is projected to be \$1,000,000.00 of which the subgrantee match will not be less than \$500,000.00 and the federal share not more than \$500,000.00. The availability of the funding is contingent on approval by the U.S. Coast Guard through its Recreational Boating Safety program. The subgrantee shall not incur expenses on this project other than those included in the project budget approved by KDWPT, as attached and identified as Attachment A. The KDWPT Office of Federal Aid must approve changes to the budget before expenses are incurred. Requests for reimbursement shall be made only as directed on forms provided by KDWPT.

(b) The federal funds shall be obtained by the subgrantee by paying the contractor and then requesting reimbursement for 50% of the cost. No billing may be reimbursed for more than 50%. Eligible requests for reimbursement will be submitted to the U.S. Coast Guard for reimbursement and will be paid when funds are received by KDWPT.

(c) The subgrantee agrees that no expenses will be incurred nor obligations assumed in excess of the total amount stated above without the prior written approval of the KDWPT.

(d) Billing shall be done as required by KDWPT and shall be directly related to the purchase of products defined in the "Scope of Work" and Attachment A. Final payment of the granted federal funds shall not be made by the KDWP until the end products have been found to meet the conditions of the grant by the KDWPT Office of Federal Aid.

(e) Copies of all project source documents, such as contracts, vouchers, payroll records, time sheets, invoices, canceled checks, etc. shall be available for review by KDWPT. This includes supporting documentation for the subgrantee's share, including in-kind services, as well as for the expenditures of the federal share. Although the subgrantee will retain documentation, copies of such records must be supplied to KDWPT, free of charge, when requested. KDWPT

may, at its own discretion, review such documentation on site prior to the reimbursement of federal funds.

(f) KDWPT shall make payments to the subgrantee upon receipt of reimbursement from the U.S. Coast Guard. The subgrantee's authorized signatory must sign all billings. The City will carry all costs until KDWPT receives funds from the Coast Guard, at which point a reimbursement payment will be issued.

(g) KDWPT reserves the right to refuse payment for work products or services not performed or completed in accordance with the Project Agreement. KDWPT is not responsible for reimbursement of additional work required to bring the subgrantee's work product to the satisfaction of KDWPT.

(h) KDWPT assumes no financial responsibility to the subgrantee other than to pass through federal funds as available for the performance of the project work.

5. Duties of the Subgrantee

(a) The subgrantee shall provide facilities and resources needed for the completion of the project.

(b) The subgrantee shall retain project records on-site as directed by KDWPT, which must be available for inspection by authorized representatives of KDWPT.

(c) The subgrantee shall provide KDWPT an invoice quarterly that covers the actual expenses incurred. The final invoice is to be submitted with the final report. The invoice provided shall be only on forms provided by KDWPT.

(d) All records for non-expendable property acquired with KDWPT funds shall be retained for three years after final disposition of the property.

(e) The subgrantee shall maintain all records pertaining to costs and expenditures incurred under this agreement for a period of three years following the final disbursement of federal funds. If any litigation, claim or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings have been resolved.

(f) A Final Financial Status Report and a Final Performance Report will be submitted within forty-five (45) days after the ending date of the grant project

6. Audit

(a) The subgrantee agrees that KDWPT, or its duly authorized representative, and governmental auditors shall have access to any of the books, documents, papers, and records which are pertinent to this agreement at any reasonable time during the contract and retention periods to make an audit, examination, excerpts, or transcript.

(b) The subgrantee further agrees that any audit exceptions for this agreement, which are noted by governmental or KDWPT auditors shall be the sole responsibility of the subgrantee. It is the sole responsibility of the subgrantee to reimburse KDWPT for the total of all disallowed costs for which subgrantee has received payment from KDWPT.

(c) The subgrantee will ensure that the federal funds received through this grant will be included in an audit base subject to the single audit requirements if required of the subgrantee. A copy of such audit results pertaining to this grant will be supplied to KDWPT upon completion of the audit.

7. Nature of Relationship

KDWPT and the subgrantee shall act in their individual capacity and not as agents, employees, subgrantees, in a joint venture, or as associates of one another. The employees or agent of one party shall not be deemed or construed to be the employees or agent of the other party for any purpose whatsoever. Neither the subgrantee nor KDWPT shall enter into any agreement nor incur any obligations on behalf of the other party nor commit the other party in any manner without the prior written consent of the other party.

8. Publicity

KDWPT will not use directly or by implication the name of subgrantee or the name of any employee of the subgrantee in any statements, information, publicity or advertising of any nature, unless copy is submitted and written approval of the subgrantee is obtained prior to the disclosure of any such statement, information, publicity or advertising.

9. Termination, Breach or Recession

Either party may terminate this agreement provided the other party receives written notification by United States Postal Service mail 30 days prior to the proposed termination date. In the event of early termination, the subgrantee shall be reimbursed for all non-cancelable obligations prior to the effective date of termination. Material breach of any provision of this agreement shall be grounds for recession of this agreement with opportunity to cure the breach as below. Failure on the part of the subgrantee to observe the conditions of this agreement, and by reference, the requirements of the U.S. Coast Guard and KDWPT, will constitute just cause for terminating the project. A complete stoppage of work without prior approval from KDWPT will be grounds for termination of the project. KDWPT or the subgrantee's failure at any time to require strict performance by the other party of any provision of this agreement shall not waive or diminish the demanding party's right thereafter to demand strict compliance therewith or with any provision. Waiver of any default shall not waive any other default. Upon receipt of written notice, the demanding party shall give the other party 30 days to cure such breach or default.

10. Material Breach

Material breach shall be defined as a failure of the applicant to comply with the terms of conditions of the contract, and any relevant federal regulations.

11. Severability Clause

In the event of any of the provisions of this contract are deemed to be invalid or

unenforceable, the same shall be deemed severable from the remainder of the contract. If such provisions shall be deemed invalid due to its scope and breadth, such provision shall be deemed valid to the extent of the scope and breadth permitted by law.

12. Assignment

The subgrantee shall not assign or transfer this contract or any interest therein to any party.

13. Choice of Law

This agreement is subject to the laws of the State of Kansas.

14. Debarment and Suspension

In accepting this agreement, the subgrantee certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any State or Federal department or agency. Any change in the debarred or suspended status of the subgrantee during the life of this agreement must be reported immediately to KDWPT. This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participant's Responsibilities. The regulations were published as Part VII of the May 26, 1988, Federal Register.

15. Competitive Procurement

The subgrantee shall retain and, if requested, provide KDWPT with evidence that competitive procurement requirements for services and subcontracts have been met. The awarding of any contract to fulfill work under this grant shall be done competitively as required by OMB Circulars A-87, A-102, A-110, A-122, A-133, FARS and 43 CFR.

16. Claims are the Responsibility of the Subgrantee

The subgrantee agrees that the KDWPT and all of its officers, agents and employees shall not be liable for claims on account of personal bodily injuries or death or on account of property damages arising out of the work to be performed by the subgrantee hereunder and resulting solely from the negligent acts or omissions of the subgrantee, its agents, employees and subcontractors.

Such claims may be pursued in accordance with the provision of the Kansas Tort Claims Act, KSA 75-6101 et seq.

17. Other Attachments

The form DA-146a is attached and identified as Attachment B and hereby incorporated into the terms of this agreement. The form containing the OMB Assurances is attached and identified as Attachment C and hereby incorporated into the terms of this agreement. The Federal General Provisions for Financial Assistance form is attached and identified as Attachment D and hereby incorporated into the terms of this agreement.

18. Lobbying

The Subgrantee agrees to complete, sign, and return to KDWPT the DI-2010 form and (if applicable) Standard Form LLL, "Disclosure of Lobbying Activities," hereby incorporated into

this agreement as Attachment E.

19. Non-Discrimination

Equal opportunity to participate in and benefit from programs described herein is available to all individuals without regard to race, color, religion, national origin or ancestry, sex age or disability. Complaints of discrimination should be sent to the Office of the Secretary, Kansas Department of Wildlife, Parks and Tourism, 1020 SW Kansas Avenue, Suite 200, Topeka, KS 66612.

20. Maintenance

The Subgrantee agrees to assume the cost of continued maintenance of all subgrant-funded improvements for a period of no less than twenty years following the date of acceptance of the final financial statement and performance report by the KDWP Office of Financial Aid.

21. Damage or Destruction

In the event of severe damage or total destruction to the subgrant-funded improvements (defined for purposes of this agreement, as sudden damage or loss caused by fire, earthquake, inclement weather, acts of God, acts of the public enemy, riot or other similar casualty), the maintenance requirement shall terminate as of the date of such damage or destruction with written consent of the KDWPT Office of Federal Aid.

23. Inspection

KDWPT or a duly authorized representative of KDWPT shall be permitted to inspect the subgrant funded improvements at reasonable times in order to ascertain if the facilities are in compliance with this agreement's terms and conditions. This right shall extend for the entire duration of the twenty year period of the maintenance agreement.

24. Loss of Control

Should the Subgrantee fail to comply with these terms contained herein, fail to maintain the subgrant-funded improvements for the full duration of the maintenance agreement, or lose control of the subgrant funded improvements, or any part thereof, the Subgrantee will repay grant funds at the rate of \$25,000 for each year remaining in the maintenance period.

25. Fees for Use of Facilities

During the twenty year maintenance period, the Subgrantee will not charge for the use of the facilities. If during this time it is determined that a fee is needed for upkeep of the facilities, the fee will be tracked separately and used exclusively for maintenance purposes.

26. Notices

All notices shall be made in writing and deposited with the United States Postal Service,



postage prepaid, and addressed as follows:

City of Wichita:  
Director of Public Works  
City Hall  
13<sup>th</sup> Floor  
455 North Main  
Wichita, Kansas 67202

KDWPT:  
Federal Aid Coordinator  
KDWPT  
1020 SW Kansas Avenue, Room 200  
Topeka, Kansas 66612

27. Amendment

Either party may make a written request for changes in this project agreement. Changes must be agreed to in writing from both parties.

28. Entirety of Agreement

This document, together with attachments, constitutes the entire source of authority between the subgrantee and KDWPT with respect to this grant-funded project and shall control the relationship between the parties, regardless of any other relationship between the parties. Any modification of this agreement shall be in writing and shall be signed by both parties no less than thirty days before the modification is to take effect.

All signatories to this agreement hereby attest to authorization as a signatory for the respective entities involved. Further, the terms of this agreement shall be open to the public if requested.

In witness whereof, the City of Wichita and the Kansas Department of Wildlife, Parks and Tourism have executed this agreement as of the date first above written.

City of Wichita

Kansas Department of Wildlife,  
Parks and Tourism



Name: Alan King  
Title: Director of Public Works

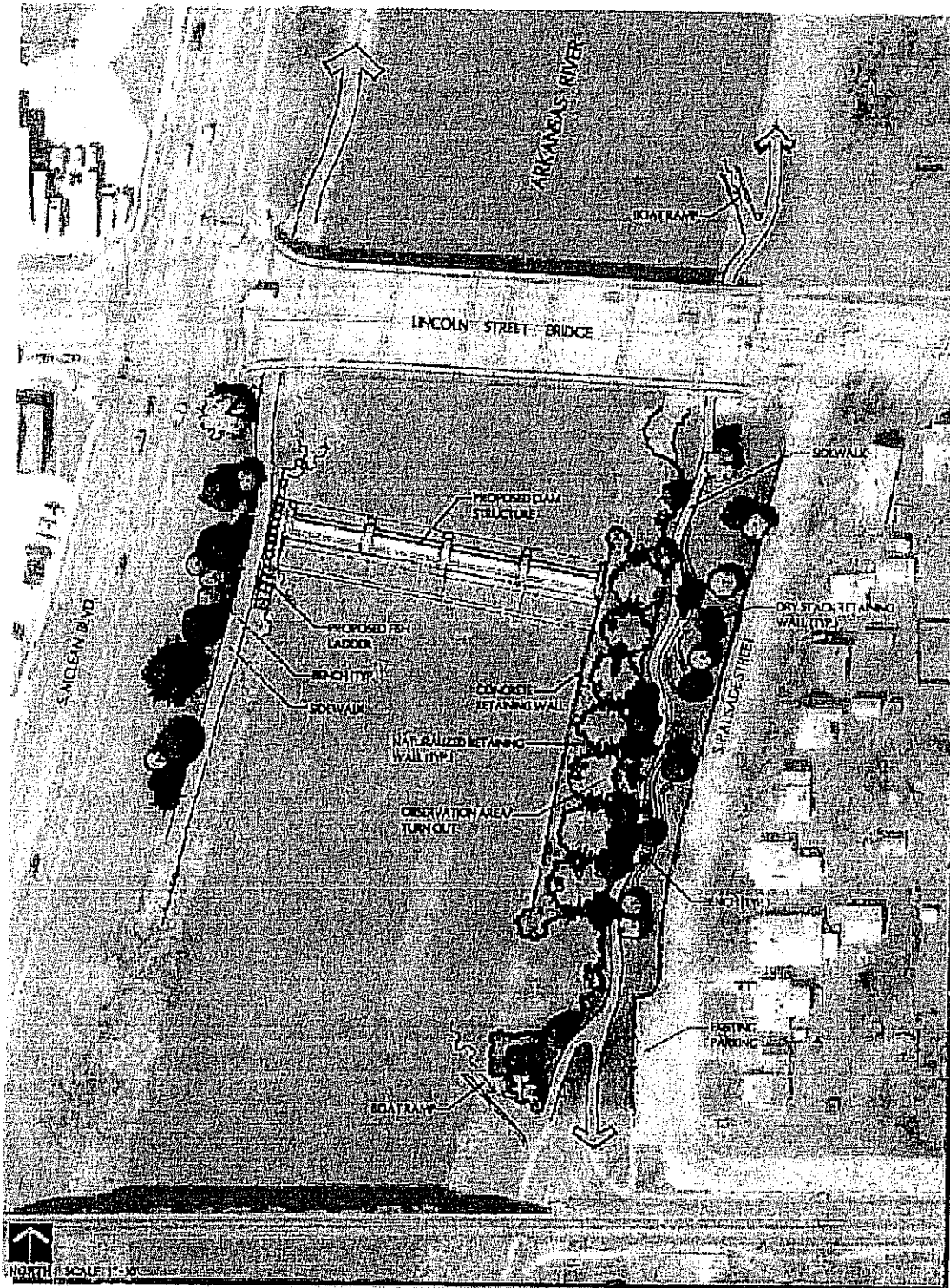


Name: Robin Jennison  
Title: Secretary

Date 9/28/2011

FEIN: 48-6000653

Date Sept 30 2011



### Lincoln Street Dam - Boat and Fish Passage



STATE OF KANSAS  
DEPARTMENT OF TRANSPORTATION

|          |              |      |    |
|----------|--------------|------|----|
| DATE     | PROJECT NO.  | DATE | BY |
| 10/11/07 | 07-N-2007-01 | 2008 | 1  |

GRADING  
BRIDGE  
DAM  
BOAT PASSAGE  
FISH PASSAGE  
SEEDING

PLAN AND PROFILE OF PROPOSED  
LINCOLN STREET BRIDGE AND LINCOLN DAM IMPROVEMENTS  
OVER ARKANSAS RIVER  
FEDERAL AID PROJECT

WICHITA, SEDGWICK COUNTY, KANSAS  
CITY OF WICHITA BRIDGE PROJECT NO. 472-84605 (OCA# )  
CITY OF WICHITA DAM PROJECT (OCA# )  
CITY OF WICHITA FISH PASS PROJECT (OCA# )  
CITY OF WICHITA BOAT PASS PROJECT (OCA# )

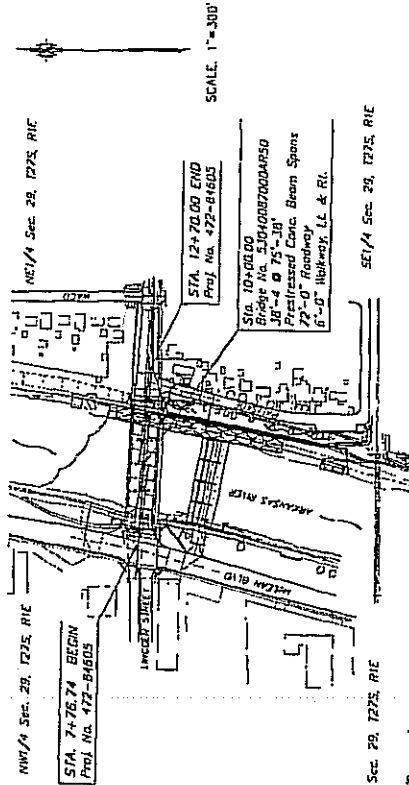
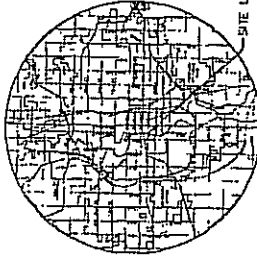
INDEX OF SHEETS

| SHEET NO. | DESCRIPTION                   |
|-----------|-------------------------------|
| 1         | R/W Sheet                     |
| 2         | from Traffic Flow (Existing)  |
| 3         | Lincoln Street Bridge Plan    |
| 4         | Project Plan                  |
| 5         | Dam Elevation and Section     |
| 6         | Fish Pass Section and Details |
| 7         | Boat Pass Section and Details |
| 8         | Boat Pass Section and Details |

DESIGN DESIGNATION  
AAOT (2008) = 10,200  
AAOT (2078) = 16,500  
D/W = 60'  
D = 24'  
V = .45 graph  
C of A = None  
Clear Zone = 5 FT.

CONSTRUCTION ITEMS

| ITEM NO. | DESCRIPTION            | QUANTITY | UNIT      |
|----------|------------------------|----------|-----------|
| 1        | REMOVE EXISTING BRIDGE | 1        | BRIDGE    |
| 2        | CONSTRUCT NEW BRIDGE   | 1        | BRIDGE    |
| 3        | CONSTRUCT DAM          | 1        | DAM       |
| 4        | CONSTRUCT FISH PASS    | 1        | FISH PASS |
| 5        | CONSTRUCT BOAT PASS    | 1        | BOAT PASS |
| 6        | CONSTRUCT ROAD         | 1        | ROAD      |
| 7        | CONSTRUCT SIDEWALK     | 1        | SIDEWALK  |
| 8        | CONSTRUCT CURB         | 1        | CURB      |



PRELIMINARY PRINT  
NOT FOR CONSTRUCTION

| DESCRIPTION             | LENGTH | FEET | MILES |
|-------------------------|--------|------|-------|
| GROSS LENGTH OF PROJECT | 493.26 | FT.  | 0.09  |
| LESS LENGTHS OF BRIDGES | 0.00   | FT.  | 0.00  |
| NET LENGTH OF PROJECT   | 493.26 | FT.  | 0.09  |
| LESS LENGTHS OF DAMS    | 378.50 | FT.  | 0.07  |
| NET LENGTH OF ROAD      | 114.76 | FT.  | 0.02  |

NOTE: PROJECT SHALL BE CLOSED FOR TRAFFIC THROUGHOUT CONSTRUCTION

PREPARED BY: SEDGWICK COUNTY  
WICHITA, KANSAS

|          |    |
|----------|----|
| DATE     | BY |
| 10/11/07 | 1  |



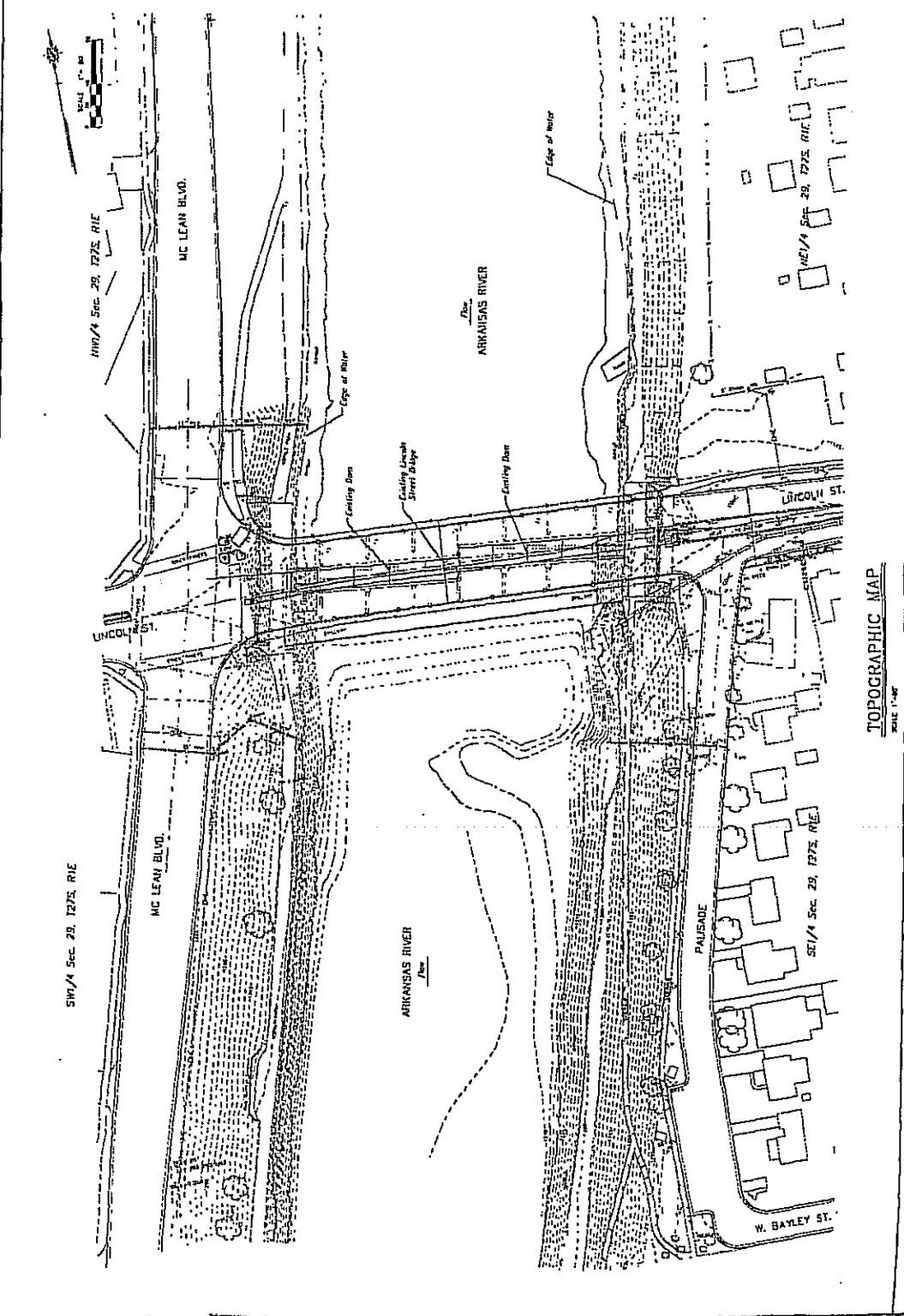
**LINCOLN STREET BRIDGE AND  
LINCOLN DAM IMPROVEMENTS  
OVER ARKANSAS RIVER**

TOPOGRAPHIC  
PLAN  
(EXISTING)  
DATE: 12/1/87  
BY: J. M. B. / J. M. B.

DATE: 12/1/87  
BY: J. M. B. / J. M. B.

PRELIMINARY  
PLAN  
NOT FOR  
CONSTRUCTION

2 of 8



**TOPOGRAPHIC MAP**  
SCALE: 1"=40'

**LINCOLN STREET BRIDGE AND  
 OVER ARKANSAS RIVER**

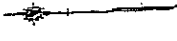
**BRIDGE PLAN**

DATE: \_\_\_\_\_  
 DRAWN BY: \_\_\_\_\_  
 CHECKED BY: \_\_\_\_\_

**PRELIMINARY  
 PLAN  
 NOT FOR  
 CONSTRUCTION**

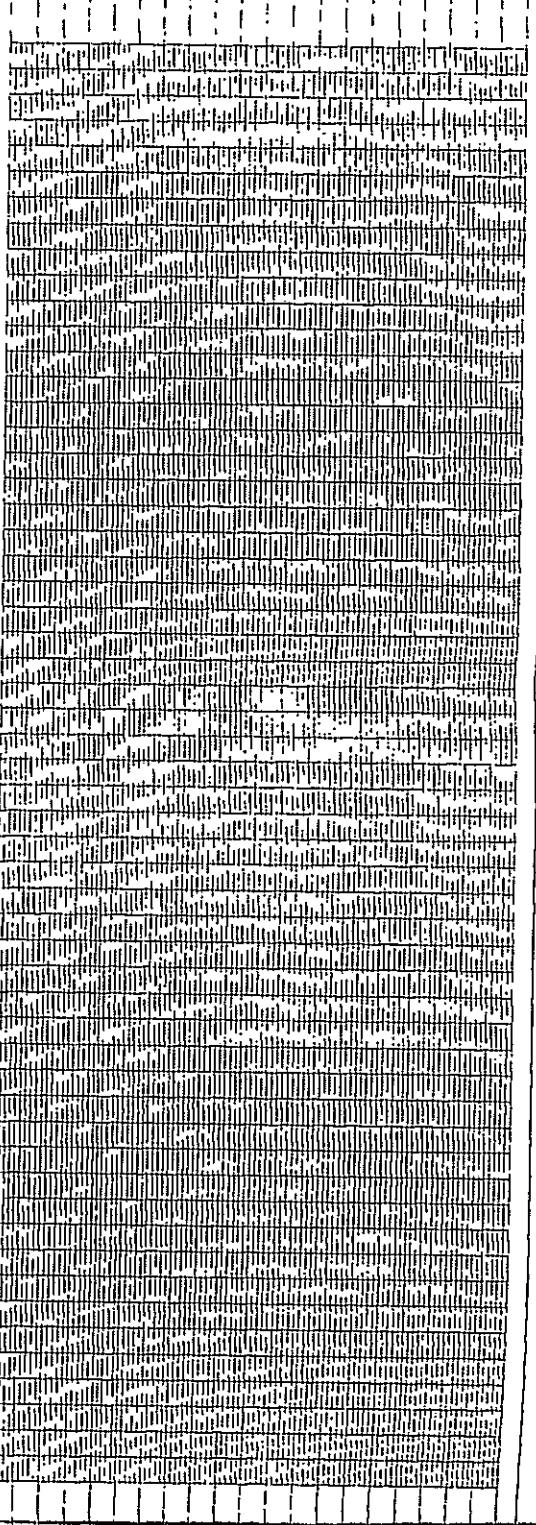
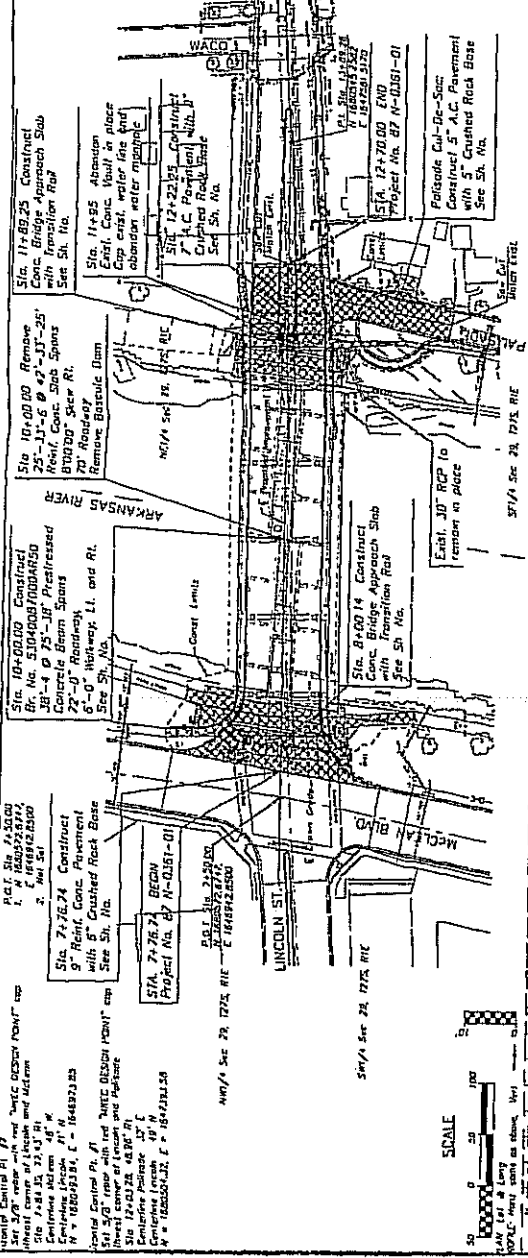
| DATE | PROJECT NO.  | SCALE | BY | CHKD | APP'D |
|------|--------------|-------|----|------|-------|
|      | BY H-0381-01 | 200'  |    |      |       |

- Horizontal Control: PI 2182  
 1. Sta. 11+80.25 - Vertex in pavement  
 2. Station and Azim. PI 1871  
 3. Entrance Azim. Station: JOT 5  
 4. Entrance Azim. Station: JOT 5  
 5. N = 1840323.1, E = 1847883.90



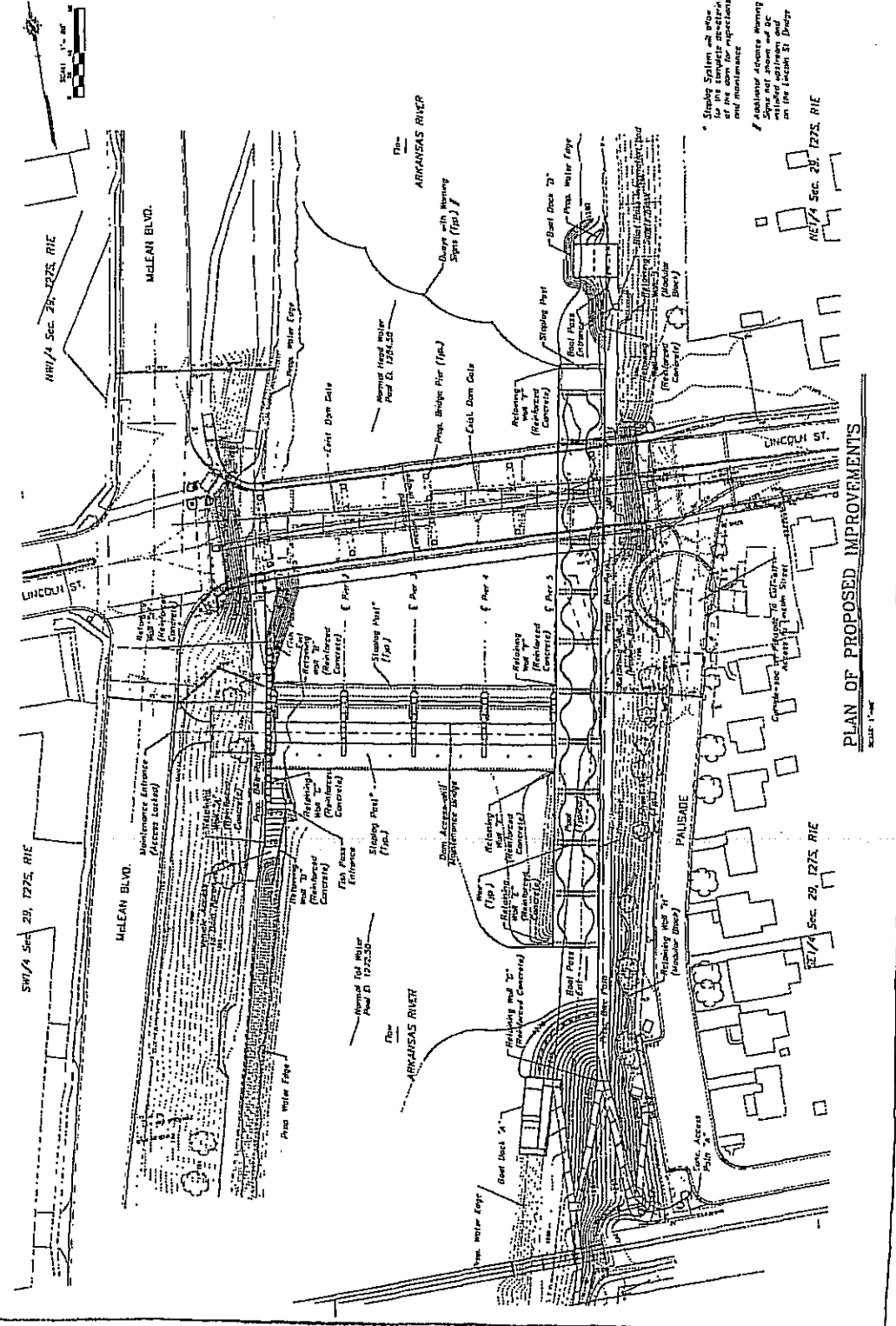
**LEGEND**

▣ Pavement Finish



Vertical Control PI 17  
 Set 3/8" vertex with and and station  
 Station: 11+80.25, 12+03.81, 12+03.81  
 Entrance Azim. Station: JOT 5  
 N = 1840323.1, E = 1847883.90  
 Station: 12+03.81, 12+03.81  
 Entrance Azim. Station: JOT 5  
 N = 1840323.1, E = 1847883.90





PLAN OF PROPOSED IMPROVEMENTS  
SCALE: 1"=20'

\* Staging System will provide temporary access at the construction site and maintenance.

† Additional Accesses shown on the Section 31 Drawings.

NE 1/4 Sec. 29, T27S, R1E

SW 1/4 Sec. 29, T27S, R1E

NE 1/4 Sec. 29, T27S, R1E

SW 1/4 Sec. 29, T27S, R1E

CONTRACTUAL PROVISIONS ATTACHMENT

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

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 04-11), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

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

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

**ASSURANCES - CONSTRUCTION PROGRAMS**

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

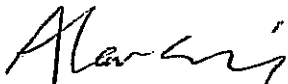
**NOTE:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.



11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

|   |  |                          |  |
|---|--|--------------------------|--|
| SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL   |  | TITLE                    |  |
|  |  | DIRECTOR OF PUBLIC WORKS |  |
| APPLICANT ORGANIZATION  |  | DATE SUBMITTED           |  |
| CITY OF WICHITA   |  | 09-27-11                 |  |

## Attachment D

### GENERAL PROVISIONS for FINANCIAL ASSISTANCE

The following OMB (Office of Management and Budget) Circulars and DOI (Department of the Interior) Regulations are hereby incorporated by reference in this agreement.

- A. NON-PROFIT ORGANIZATIONS including INSTITUTIONS OF HIGHER EDUCATION & HOSPITALS
  - 1. OMB Circular A-110 - Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations
  - 2. OMB Circular A-21 - Cost Principles for Educational Institutions
  - 3. OMB Circular A-122 - Cost Principles for Non-Profit Organizations
  - 4. OMB Circular A-133 - Audits of Institutions of Higher Education and Other Non-Profit Organizations
  
- B. STATE/LOCAL GOVERNMENT and INDIAN TRIBES
  - 1. OMB Circular A-102 - Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments
  - 2. OMB Circular A-87 - Cost Principles for State and Local Governments
  - 3. OMB Circular A-128 - Audits of State and Local Governments
  
- C. PROFIT ORGANIZATIONS and INDIVIDUALS
  - 1. 48 CFR Part 31.2 (Federal Acquisition Regulations) - Contracts with Commercial Organizations
  
- D. THE FOLLOWING DOI REGULATIONS APPLY TO RECIPIENTS as indicated:
  - 1. 43 CFR Part 12:
    - a. Subpart A - Administrative and Audit Requirements and Cost Principles for Assistance Programs. (all recipients)
    - b. Subpart B - Audit Requirements for State and Local Governments.
    - c. Subpart C - Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
    - d. Subpart D - Government wide Debarment and Suspension (Nonprocurement) and Government wide Requirements for Drug-Free Workplace (Grants). (all recipients)
    - e. Subpart E - Buy American Requirements for Assistance Programs. (all recipients)
    - f. Subpart F - Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education Hospitals, and Other Non-Profit Organizations.

NOTE: Copies of the above information can be found at your local library or on the Internet at the DOI home page located at - <http://www.doi.gov>

(March 1997)

## U.S. Department of the Interior

**Certifications Regarding Debarment, Suspension and  
Other Responsibility Matters, Drug-Free Workplace  
Requirements and Lobbying**

Persons signing this form should refer to the regulations referenced below for complete instructions:

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions - The prospective primary participant further agrees by submitting this proposal that it will include the clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. See below for language to be used or use this form certification and sign. (See Appendix A of Subpart D of 43 CFR Part 12.)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions - (See Appendix B of Subpart D of 43 CFR Part 12.)

Certification Regarding Drug-Free Workplace Requirements - Alternate I. (Grantees Other Than Individuals) and Alternate II. (Grantees Who are Individuals) - (See Appendix C of Subpart D of 43 CFR Part 12)

Signature on this form provides for compliance with certification requirements under 43 CFR Parts 12 and 18. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of the Interior determines to award the covered transaction, grant, cooperative agreement or loan.

**PART A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions**

CHECK  IF THIS CERTIFICATION IS FOR A PRIMARY COVERED TRANSACTION AND IS APPLICABLE.

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
  - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**PART B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions**

CHECK  IF THIS CERTIFICATION IS FOR A LOWER TIER COVERED TRANSACTION AND IS APPLICABLE.

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**PART C: Certification Regarding Drug-Free Workplace Requirements**

CHECK  IF THIS CERTIFICATION IS FOR AN APPLICANT WHO IS NOT AN INDIVIDUAL.

Alternate I. (Grantees Other Than Individuals)

A. The grantee certifies that it will or continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about—
  - (1) The dangers of drug abuse in the workplace;
  - (2) The grantee's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will —
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted —
  - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a) (b), (c), (d), (e) and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

City of Wichita, City Hall  
455 North Main  
Wichita, Sedgewick County, Kansas 67202

Check  if there are workplaces on files that are not identified here.

**PART D: Certification Regarding Drug-Free Workplace Requirements**

CHECK  IF THIS CERTIFICATION IS FOR AN APPLICANT WHO IS AN INDIVIDUAL.

Alternate II. (Grantees Who Are Individuals)

- (a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;
- (b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to the grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

**PART E: Certification Regarding Lobbying**  
**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

CHECK  IF CERTIFICATION IS FOR THE AWARD OF ANY OF THE FOLLOWING AND THE AMOUNT EXCEEDS \$100,000: A FEDERAL GRANT OR COOPERATIVE AGREEMENT; SUBCONTRACT, OR SUBGRANT UNDER THE GRANT OR COOPERATIVE AGREEMENT.


CHECK  IF CERTIFICATION FOR THE AWARD OF A FEDERAL LOAN EXCEEDING THE AMOUNT OF \$150,000, OR A SUBGRANT OR SUBCONTRACT EXCEEDING \$100,000, UNDER THE LOAN.

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

As the authorized certifying official, I hereby certify that the above specified certifications are true.

  
SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL

ALAN KING DIRECTOR OF PUBLIC WORKS  
TYPED NAME AND TITLE

09 -  
DATE