

## AGREEMENT

This Agreement, is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between the Secretary of the Kansas Department of Transportation (KDOT), hereinafter referred to as the "Secretary," and the City of Lawrence, Kansas, hereinafter referred to as the "City." Collectively referred to as the "Parties."

**WHEREAS**, Secretary has authorized a project to financially assist City with repairs to the Bowersock Dam, a dam immediately downstream from the US-40 bridges crossing the Kansas River located within the city limits of Lawrence, Kansas, hereinafter referred to as the "Project," and

**WHEREAS**, if the Bowersock Dam were to fall into disrepair the Federal Energy and regulatory Commission may require removal which could potentially negatively impact several KDOT and City bridges, and

**WHEREAS**, in consideration of the financial assistance, City has agreed to provide the Secretary information regarding the geologic profile of the US-40 Kansas River bridge pier foundations.

**NOW, THEREFORE**, in consideration of the premises, the Parties hereto mutually agree as follows:

1. The Secretary will pay a maximum of \$100,000.00 to financially assist in the repair costs of the dam to the City. The Secretary shall not be responsible for any costs of the repairs that exceed \$100,000.00 for the Project. The Secretary shall make a one time, lump sum payment to the City when the work is complete, has been notified by the City the work is complete, and has verified completion.

2. City shall let, construct, and administer the Project. During the course of the Project the City will provide the Secretary information regarding the geologic profile of the US-40 Kansas River bridge pier foundations. Specifically, the City shall provide KDOT's Geotechnical Unit a geologic profile of the limestone "break off" in the area between pier no. 3 of the US-40 northbound bridge and the dam by providing information from four to five borings between the pier and the dam.

3. City agrees to the following (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, 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 (a) through (c) in every Agreement, subcontract or purchase order so that they are binding upon such contractor, subcontractor or vendor; (e) that a failure to comply with any applicable requirements of (a) through (d) above or if the City is found guilty of any violation by federal or state agencies having enforcement jurisdiction for those Acts, such violation shall

constitute a breach of the Agreement; (f) if the Secretary determines that the City has violated applicable provisions of ADA, that violation shall constitute a breach of the Agreement; (g) if (e) or (f) occurs, the Agreement may be cancelled, terminated or suspended in whole or in part.

4. City will indemnify, defend and hold the Secretary and his or her authorized representatives harmless from any and all costs, liabilities, expenses, damages to persons or property, suits, judgments, and claims of any nature whatsoever arising out of or in connection with the provisions or performance of this Agreement by City, or his or her authorized representatives, agents or employees or subcontractors when acting under the provisions of this Agreement.

5. When the Project is completed, City will, at its own cost and expense, maintain the Project and will make ample provision each year for such maintenance

6. If the Secretary or City decided to terminate this Agreement before the Project is completed, the extent of participation in the Agreement costs, including final settlement, will depend upon the merits of the individual case.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be signed by their duly authorized officers. It is further understood this Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon all Parties to this Agreement and their successors in office.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR OF LAWRENCE

\_\_\_\_\_  
(Date)

(SEAL):

Debra L. Miller  
Secretary of Transportation

BY: \_\_\_\_\_

Jerome T. Younger, P. E.  
Deputy Secretary for Engineering and  
State Transportation Engineer

\_\_\_\_\_  
(Date)