



DEPARTMENT OF THE ARMY  
TULSA DISTRICT, CORPS OF ENGINEERS  
2488 E. 81<sup>st</sup> Street  
TULSA, OKLAHOMA 74137

NOTICE OF AVAILABILITY FOR LEASING NO. DACW56-9-24-003  
GOVERNMENT OWNED REAL PROPERTY  
FOR HAY HARVESTING PURPOSES  
BIG HILL LAKE, KANSAS

Sealed offers subject to the terms and conditions set forth herein, for the leasing of property of the United States listed in the Notice of Leasing, will be received until the time, date, and at the place indicated below:

**SEALED OFFERS ARE TO BE MARKED AND ADDRESSED AS FOLLOWS:**

**RETURN ADDRESS:**  
(Name and address of Responder)

**TO:** A & G LEASE OFFERS  
U.S. Army Corps of Engineers  
2488 E. 81<sup>st</sup> Street  
Tulsa, OK 74137

**PROPERTY LOCATION:** Big Hill Lake, Kansas described by area numbers below.

**OFFERS DEADLINE:** 4:00 p.m., Tuesday, October 3, 2023

**TIME OF OPENING:** 2:00 p.m., Thursday, October 5, 2023

**PLACE OF OPENING:** U.S. Army Corps of Engineers, Tulsa District Office, 16<sup>th</sup> floor Room 1606, CityPlex Towers, 2488 East 81<sup>st</sup> Street, Tulsa, OK 74137. A live stream of the Pre-Bid Conference and the Bid Opening will be available on the Tulsa District Corps of Engineers Facebook page, a link to which can be found at: <http://www.swt.usace.army.mil/BusinessWithUs/NoticesofAvailability>.

**OFFER DEPOSIT:** Twenty-five percent (25%) of the annual amount offered

**ISSUED BY:** Department of the Army, Tulsa District, Corps of Engineers

**POINT OF CONTACT**

Big Hill Lake Office: Johnathen Schenk 620-658-4445

Or

Real Estate Division District Office: Tanner Thoendel 918-669-4379

**AUTHORITY:** The authority for granting these leases is Title 10, U.S.C., Section 2667. The successful respondent will be required to enter into a lease with the United States. A sample of the lease required by the Government is attached. The lease will be subject to any existing easements

for electric power transmission lines, telephone or telegraph lines, water, gas, gasoline, oil, or sewer pipelines, or other facilities located on the property covered by said lease.

**TERM:** The term of the lease will be for **Five years**, beginning **January 1, 2024**, and ending **December 31, 2028**, and is revocable at will by the Secretary of the Army. **The lease may be renewed for an additional 5-year term at the discretion of the Government and is revocable at will by the Secretary of the Army.**

**LEASE PROPERTY:**

- a. Detailed maps of the lease areas may be obtained from the Big Hill Lake Office during normal business hours.
- b. The description of the property and the map are believed to be correct, but any error or omission in the description of the property or on the map shall not constitute any ground or reason for nonperformance of the provisions and conditions of the lease or claim by the lessee for any refund or deduction from rental.
- c. Lessees will be responsible to familiarize themselves with the location of all boundary markers and survey monuments. It will be their responsibility to see that they are not disturbed during the lease operation.

**SERVICES:** The lessee may, at the discretion of the Real Estate Contracting Officer, be authorized to perform services in lieu of cash rental. Services may include, but are not limited to, erosion control, wildlife food plots, fire guards, overseeding pastures with legumes or small grain, applying fertilizer, and/or construction of boundary fences. Services in lieu of cash rental must be agreed to in advance and documented in a Supplemental Agreement signed by all parties. Services approved and performed in lieu of cash rentals must be completed and accepted by the Government prior to December 1 each year of the current lease. In the event of lease termination, the Lessee shall not be reimbursed for services performed in advance of the year in which termination occurs.

**FARM ASSISTANCE PROGRAM:** Approval through the Tulsa District, Corps of Engineers must be obtained prior to signing up the lease area under any Farm Assistance Program. If Lessee is 30 or more days **past due** on all or part of his lease **rental, and/or required services**, he will be ineligible to participate in federal financial assistance through the Farm Bill Program.

**NOTICE:** Some of the areas may have access only through privately owned property and the Government cannot guarantee ingress and egress to the land. The areas are subject to compatible wildlife management activities performed by project personnel. The land may be flooded at any time due to project operations. Prospective lessees should be prepared to move their personal property to privately-owned higher ground during periods of flooding. Lessees shall have no claim against the United States for damages of any character on account thereof.

**CASH RENT OFFERS:** Cash rent must be in whole dollars. Any offer submitted in an amount other than in whole dollars will be rounded down to the nearest whole dollar.

## INSTRUCTIONS TO RESPONDENTS

1. **OFFERS SUBJECT TO THESE TERMS.** All offers submitted shall be deemed to have been made with full knowledge of all the terms herein contained. Respondents are expected to inspect the property and form their own conclusions as to its suitability for the stated purposes. Failure to make such inspection will not constitute grounds for any claim for adjustment or for the withdrawal of the offer after the time of opening offers. The property is now subject to inspection by prospective respondents. The Government makes no guaranty or warranty, either expressed or implied, with respect to the property.

2. **OFFER FORMAT.** Offers **must** be submitted in the attached format, which is provided, on pages **19-24**. *(Page 20 must be submitted if you are submitting as a corporate entity. Page 21 must be submitted if you are submitting your offer as a governmental entity. Page 22 must be submitted if you are submitting your offer as a partnership. Page 22 must be submitted if you are submitting your offer as a limited liability company.)* **For the offer to be valid, a complete Request for Grantee Social Security Number and/or Taxpayer ID Number form on page 24 must be included with your offer.** The Corps of Engineers requires each person doing business with the agency to furnish such person's taxpayer identification number. This information is mandatory under the Debt Collection Improvement Act of 1996, Public Law 104-134, April 26, 1996, 110 Stat 1321-358. The agency intent is to use such number for purpose of collecting and reporting on any delinquent amounts arising out of such person's relationship with the Government. **Failure to provide accurate information may result in your lease request being denied.**

3. **EXECUTION OF OFFERS.** Each offer must give the full address of the responder and be signed with the responder's usual signature. Any additional sheets shall be identified with the responder's name. An offer executed by an agent on behalf of the responder shall be accompanied by an authenticated copy of the power of attorney, or other evidence of authority. If the responder is a corporation, the Certificate of Corporate Responder must be executed. If the offer is signed by the secretary of the corporation, the Certificate must be executed by another officer of the corporation. In lieu of the Certificate, records of the corporation which show the authority of the officer signing, and which the secretary or assistant secretary, under the corporate seal, certifies to be true copies, must be attached.

4. **DEPOSIT REQUIRED.** No offer will be considered without a deposit approximately equal to and not less than twenty-five percent (25%) of the annual rental offered, to guarantee that the responder will enter into a written lease and pay the balance of the rental due within thirty (30) days after receipt of written notice of acceptance of his/her offer and a draft of lease for execution. Such guarantee must be in the form of a money order or check, payable to the "FAO USAED, TULSA". The deposits of unsuccessful responders will be returned, as promptly as possible, after rejection. However, in the event of default by any responder, that responder's deposit may be applied by the Government to any Government loss, cost and expense occasioned thereby, including any incurred in leasing the property and any difference between the rental for another lease, if the latter amount is less. The responder is liable for the full amount of damages sustained by the Government because of his/her default; such liability is not limited to the amount of the responder's deposit.

5. **SUBMISSION OF OFFERS.** It will be the duty of each responder to have the offer delivered by the time and at the place prescribed in the Notice of Availability for Leasing. Offers will be securely kept, unopened. No responsibility will attach for the premature opening of an offer not properly addressed and identified.

6. **LATE OFFERS, MODIFICATION OR WITHDRAWAL OF OFFERS.** The person whose duty it is to open the offers will decide when withdrawals of an offer will be considered. Offers may be modified or withdrawn only by written requests received from respondents prior to the time fixed for opening. Negligence in preparing the offer confers no right to withdraw the offer after it has been opened. Offers, modifications, or withdrawals received after the time fixed for opening and before award is made will be considered if sent by registered mail not later than the 7<sup>th</sup> calendar day prior to the date specified for receipt of offers or if sent by mail and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation.

7. **OPENING OF OFFERS.** At the time fixed for the opening, offer contents will be made public. Any information submitted in support of the offer will, upon request, be held in strict confidence by the United States, if disclosure might tend to subject the responder to a competitive business disadvantage.

8. **AWARD OF LEASE.** Leases will be awarded to the highest and/or best responder who is responsive to this Notice of Availability for Leasing, provided that the responder is responsible, the responder is reasonable, and it is in the interest of the United States to accept it.

9. **PROCEDURE FOR AWARD.**

a. Following the opening, the Government may require any responder to furnish additional evidence of financial condition, ability to assume the obligations and responsibilities imposed by the lease, and other information the Government considers desirable. Failure to submit this information in 30 days or such other reasonable time as the Real Estate Contracting Officer specifies may be the basis for rejecting the offer.

b. The lease will be awarded to the responder who offers the highest and/or best fixed annual rental and whom the Real Estate Contracting Officer determines to be fully qualified financially, by experience, character and otherwise to furnish the facilities and services determined to be necessary to adequately serve the public demand at the proposed site.

10. **ACCEPTANCE OF OFFERS.** All offers will remain open for acceptance or rejection for 30 days from the date of opening. Notice of award will be given as soon as practicable to the successful responder personally, to a duly authorized representative, or in writing to the responder at the address indicated in the offer.

11. **REJECTION OF OFFERS.** The right is reserved, as the interests of the Government may require, to reject at any time any and all offers, to waive any informality in offers received, and to accept or reject any items of any offer unless such offer is qualified by specific limitation.

12. **DEFAULT.** In the event that the successful responder fails to enter into a lease within thirty (30) days after receipt of Government notification that his/her offer has been accepted and receipt of a draft lease for execution, or in the event that the successful responder fails to otherwise comply with the terms of this Notice of Leasing, the Government may declare the responder in default and retain the deposit as liquidated damages.

13. **ADDITIONAL INFORMATION.** Any additional information may be obtained from the Big Hill Lake Office.

## **DESCRIPTION OF AREAS**

### **THE FOLLOWING AREAS ARE AVAILABLE FOR HAY HARVESTING PURPOSES ONLY:**

#### **AREAS 1A & 1B**

These areas contain approximately **34.77** acres, of which approximately 34.77 acres are useable for the authorized purposes, located in Sections 7 & 8, T32S, R18E, Labette County, Kansas, as shown on the maps marked **Exhibits A-1 and A-2**, attached hereto.

**LAND USE REQUIREMENTS  
BIG HILL RESERVOIR  
SECTION A  
GENERAL REQUIREMENTS**

1. General

a. The Government, in striving to manage and protect environmental features on project lands has developed the following Land Use Requirements. These requirements incorporate concepts of good land management and wildlife protection to promote sustained benefits to users of project lands. Inapplicable provisions by virtue of the granting clause of the lease are hereby deleted.

b. The lessee agrees to furnish all equipment and labor and to conduct all farming operations in accordance with the lease, recognized principles of good husbandry, and the land use practices set forth herein. All operations shall be accomplished in a timely manner without further notice and at no expense to the Government unless otherwise provided.

c. These Land Use Requirements may consist of three sections:

Section A. General Requirements.

Section B. Special Project Requirements, which allow the flexibility required for each project to develop specific programs to maximize project land use benefits.

Section C. Special Lease Unit Requirements, which itemize conditions and work requirements for specific lease units which may vary from other lease units within the same projects.

2. Access

a. Access to the lease units may not be available through Government-owned property. It shall be the lessee's responsibility to secure access to the leased property.

b. Access will not be denied to lessees of adjoining leaseholds. Access will be by the most advantageous route. Any conflict will be resolved by the Lake Manager or his designee.

c. Prior to initial right-of-entry being granted to the leased property, the lessee will present, in person, his award notice to the Lake Manager or his designee so that the lessee's management plan and the conditions of leasing may be mutually discussed.

3. Control of Noxious Weeds and Other Undesirable Vegetation

a. An active and effective weed control program must be conducted on the entire leased area at the lessee's expense. The lessee may be permitted to remove undesirable vegetation from hay production areas, with prior written approval from the Lake Manager or his designee.

b. If weeds listed as noxious under the State Noxious Weed Law are present, the lessee shall prevent the spread of the noxious weeds, eliminate them from the leasehold, and prevent their reinfestation. Spray frequency and optimum dates will be those recommended by the local noxious weed specialist. Chemical treatment of noxious weeds must be approved in writing by the Lake Manager or his designee and accomplished as recommended by the local noxious weed specialist.

c. Prior to application of any chemical, the lessee will contact the Lake Manager or his designee. The lessee, accompanied by the Lake Manager or his designee, will inspect the area. If chemical treatment is needed, the lessee and Lake Manager or his designee will discuss the chemicals to be used, the rate, and method of application. Prior to the day of application of the chemicals, the lessee will contact the Lake Manager or his designee who will have the option of being present when the chemical is mixed and applied.

d. Should the lessee fail to take appropriate action, after notification by the Lake Manager or his designee of a noxious weed problem, then appropriate control measures will be initiated by the Government. The lessee will then be assessed a charge (actual expense to the Government) for all labor, equipment, and materials used in the weed control operation, and/or at the option of the Government, the lease may be revoked.

e. Herbicides, insecticides, or other agricultural chemicals will be used only when there are no other practical alternative methods. Chemicals must be used in strict accordance with the manufacturer's label. The application of restricted use pesticides requires the written permission of the Lake Manager or his designee prior to their use. The lessee will report all chemical usage by October 1 of each year on the report form furnished. Failure to report use of agricultural chemicals may result in revocation of the lease. All chemical containers must be removed from Government property for disposal.

4. Public Use and Public Health The leasehold shall be managed for agricultural and wildlife management purposes in a manner which is generally consistent with current and future public use and enjoyment, and which will preserve and enhance the scenic, scientific, aesthetic, historical, biological, and archeological resources. The lessee will not discharge or apply any substance to the leasehold or operate it in any manner which would cause pollution to the ground water, surface waters or air to the extent that it would be prejudicial to the health of human, animal, plant or aquatic life.

a. Should the lessee have knowledge of or discover any archeological site and/or artifact of any nature whatsoever on the leasehold, the lessee shall not destroy, remove, or otherwise disturb them and shall promptly notify the Big Hill Lake Project Office.

b. The construction of pit or trench silos and cutting or storage of silage on the leasehold is prohibited.

c. All seed and fertilizer bags, etc., will be removed from Government property for disposal.

d. In addition to complying with all applicable Federal, State, County, and Municipal laws, ordinances, and regulations, the lessee shall eliminate any unsanitary conditions, control rodent pests, and prevent the spread of disease.

#### 5. Grass/Legume Seeding

a. Grasslands: Areas with stands of desirable grass or legumes will not be plowed or destroyed. Minimum tillage methods will be permitted where necessary for the purpose of reseeded. On leaseholds where the use is limited to hay or hay seed production, the use of annual forage varieties requiring seasonal tillage is not permitted. Conversion of introduced cool season grasses to native warm season grasses is encouraged. Only water tolerant varieties will be considered for flood prone areas. It is desirable that marginal cropland and flood killed grasslands be restored to cover.

b. Grass Seeding: With prior written approval from the Lake Manager or his designee, the lessee may seed or reseed certain areas. The written approval must be signed by the Lake Manager or his designee and agreed to by the lessee, and shall contain a statement that the need for seeding and the variety of seed are recommended by NRCS or the local extension office and shall also contain information as to variety of seed, rate of application, and number and location of acres to be seeded.

6. Hay and Hay Seed Production. Hay production shall be conducted so as not to endanger the vegetative stand nor seriously deplete the carbohydrate root reserve, soil nutrients or organic matter.

a. Hay will not be stacked or stored on the leasehold. All cut and/or windrowed grass will be promptly baled and all bales (including broken bales) will be removed from Government property within 10 days after baling. All equipment must be removed from the leasehold immediately after baling.

b. Grasses and legumes may be grown and/or harvested for seed production. Cool season grasses and legumes cut for seed must be hayed during the cutting season set forth in Section B of these requirements.

c. Cutting dates, frequency, and other limitations for warm season and cool season grasses are stated in Section B of these requirements.

d. The grazing of cattle on lands designated for hay production is prohibited.

7. Changes in Haying Dates. The Lake Manager or his designee may approve changes in haying dates to adjust for conditions beyond the lessee's control such as flooding, drought, etc. Approval of requested changes will be dependent upon requirements of the project and the Food Security Act of 1985. Upon approval, such changes should be documented and placed in lessee's file at project office. Any changes substantially increasing the value of the lease must receive prior approval by means of a supplemental agreement to the lease.

8. Burning. Upon request of the lessee, the Lake Manager or his designee may, under justifiable conditions, approve burning for sound agricultural or wildlife management practices. Burning operations must be in a manner which will not adversely affect wildlife food and cover and other environmental considerations and in accordance with applicable laws or ordinances. All necessary permits must be obtained in advance. The Lake Manager or his designee may also request the lessee to cooperate in burning programs for improved agricultural or wildlife management practices. In either case, the Lake Manager or his designee and the lessee will agree to the manner and time of burning, and the Lake Manager or his designee will confirm the agreement, in advance, by a letter to the lessee. The lessee will notify the Lake Manager or his designee and the appropriate local authorities just prior to actual commencement of burning operations. Should the Lake Manager or his designee determine that a burn of grassland is needed during the spring of the year (normally in April), the Lake Manager or his designee may authorize burning of the grassland by project personnel. The lessee will be responsible for any or all damages that are incurred by any and all parties as a result of any burning performed by the lessee.



9. Special Land Management Practices. In accordance with the project's Operation Management Plan, additional soil and water conservation and wildlife habitat practices may be implemented on the leasehold by the Government. Subject to Condition 19 of the lease and paragraph 17 of these requirements, the lessee agrees to cooperate in the above-stated practices. The Operations Manager will work closely with the lessee and make the lessee aware of any anticipated management activities that may be implemented by the Government.

10. Land Use Requirements Violations In the event the lessee violates one or more of the Land Use Requirements contained herein the lessee will pay the Government upon demand \$100 administrative costs plus actual cost, in satisfaction of liquidated damages, an amount to be documented by the said officer and a bill for same will be presented to the lessee.

11. Highly Erodible Land Conservation and Wetland Conservation Programs. The Food Security Act of 1985, Title XII, provides for highly erodible land conservation and wetland conservation. After January 1, 1990, all highly erodible land must have an approved conservation plan. An approved conservation plan for highly erodible cropland, if applicable, will be furnished to the lessee for correction of any existing erosion problems. However, in the event the FSA, NRCS and/or Conservation District make revisions in the approved conservation plan, the government will not be held liable for said revisions nor the implementation of said revisions or for any damages suffered by the lessee therefrom.

## **SECTION B SPECIAL REQUIREMENTS HAY LEASES**

CONTROL OF Johnsongrass: The lessee will be required to use approved herbicides to control the invasion of Johnsongrass, a state-listed noxious weed, in the lease unit(s). Johnsongrass should be sprayed with Outrider when it reaches 2 feet in height. All questions on this should be directed to the Operations Manager. Below is a list of approved chemical and application rates.

Outrider herbicide – Treat when Johnsongrass is at least 24” tall. Apply 1oz per acre. Use a nonionic surfactant at 2 qts/100 gals spray. Minimum 10 gals of water per acre.

Note: Application of chemicals shall be in accordance with label directions for the material used. When it is the opinion of the lessee that the use of different chemicals, other than those listed above, can provide equal to or superior control of Johnsongrass the lessee must contact the Lake Manager.

Use of aquatic labeled herbicides is required, if application is on lands below the top of the flood control pool. The application of aquatic labeled herbicides requires the written permission of the Lake Manager or his designee for permission prior to use. A label for the requested chemical shall be furnished with the lessee’s request. “Restricted Use” pesticides will not be used on the lease unit.

LIMITATIONS ON AREAS TO BE MOWED – The lessee will not expand any hay field or mow any area that was not mowed last year unless Project personnel has approved the extra areas.

GATES – Entrance gates to hay cutting areas will be kept closed at all times by the lessee to keep the public from entering. If access to the lease unit is through a locked gate, the lessee will provide a padlock that will be used in conjunction with the Government padlock to secure the area.

HAY CUTTING DATES – Cutting of native warm season grass will not commence prior to 1 July and must be completed by 31 July. Hay removal; including cleanup, site restoration and removal of personal equipment must be completed no later than 7 August for native warm season grass. The hay offered for lease will be for one cutting per year. Acres listed are approximate and may vary due to shape of the hay area.

## **Cultural Resources Special Conditions – Vegetation Clearing, Tree Cutting, and Fencing**

Fence and gate maintenance, repair, or construction must be conducted by hand (to avoid further compliance requirements). Vegetation clearing or old fencing removal may be accomplished by lifting and piling with small equipment such as a skid steer or bobcat (see below).

In order to avoid ground disturbance, fencing, trees, or debris should not be removed by pushing or pulling. **Any tree clearing must be done by hand, with stumps left in place (may be cut as low to the ground as possible or ground down). Trees should not be pushed over, as this causes significant ground disturbance. Should trees need be removed with heavy equipment or dragged/pushed across the ground, additional review will be required.**

**Acceptable equipment:** Drum mulcher on a skid steer or tractor (used from top down only- no driving with it down), hand clearing with chainsaw, skid steer or tractor with tree shear attachment or tree cutter head that cuts at ground surface, skid steer or tractor with grapple attachment, brush cutter, brush hog, or buncher/feller.

Machines should only be operated on dry ground with rubber tires and driven in wide turns to avoid soil churning.

Setting of fence posts (following fencing specifications provided) should be done by hand (or with gas-powered augers, handheld or skid steer-mounted).

The following actions are **prohibited UNLESS** additional compliance requirements are met: grubbing, grading, pushing over, pulling out/over, ripping, dragging, dozing, driving with drum head down, or any other ground disturbance activity. Ground disturbance is defined as any disturbance of the ground regardless of depth. If ground disturbing methods are required, contact the project office for guidance.

Approval contingent upon adherence to Cultural Resources Vegetation Clearing, Tree Cutting, and Fencing Specifications as set out in **Exhibit B**, attached hereto.



0 0.1 0.2  
mi

### Legend

- Outgranted Area
- Gov Easements
- Gov Fee Lands



**Map Projection: WGS 1984 Web Mercator (Auxiliary Sphere)**

**Contract Number: DACW56-9-24-003**

**Location Description:** Area 1A, containing approximately 27.05 acres, of which approximately 27.05 acres are usable, located in Section 8, T32S, R18E, Labette County, Kansas

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Tulsa District

**EXHIBIT A-1**

**Date Created: 7/20/23**





0 0.1 0.2  
mi

### Legend

- Outgranted Area
- Gov Easements
- Gov Fee Lands



**Map Projection:** WGS 1984 Web Mercator (Auxiliary Sphere)

**Contract Number:** DACW56-9-24-003

**Location Description:** Area 1B, containing approximately 7.72 acres, of which approximately 7.72 acres are usable, located in Section 7, T32S, R18E, Labette County, Kansas

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of Engineers®**  
Tulsa District

**EXHIBIT A-2**

**Date Created:** 7/20/23

## **FENCING SPECIFICATIONS**

### **INSTALLATION**

1. Fence Location. All boundary fences shall be offset approximately 1 foot onto Government property and shall become the property of the U.S. Government.

2. Setting Post. All wooden posts shall be set with the large end down in true line on the side to which wire is to be attached. Posts shall be imbedded in the ground to the depth shown on the drawings and shall be well tamped and firmly set. End, corner, and gate posts shall be set in concrete as indicated in the drawings. Posts and brace panels shall be securely braced, as indicated on the drawings, by a timber brace gained into the post and securely spiked. Double No. 9 gauge wire shall be twisted taut between poles in accordance with drawings. Line posts shall be set not more than 16 feet center to center. Metal and wood posts shall be set as shown on the drawings.

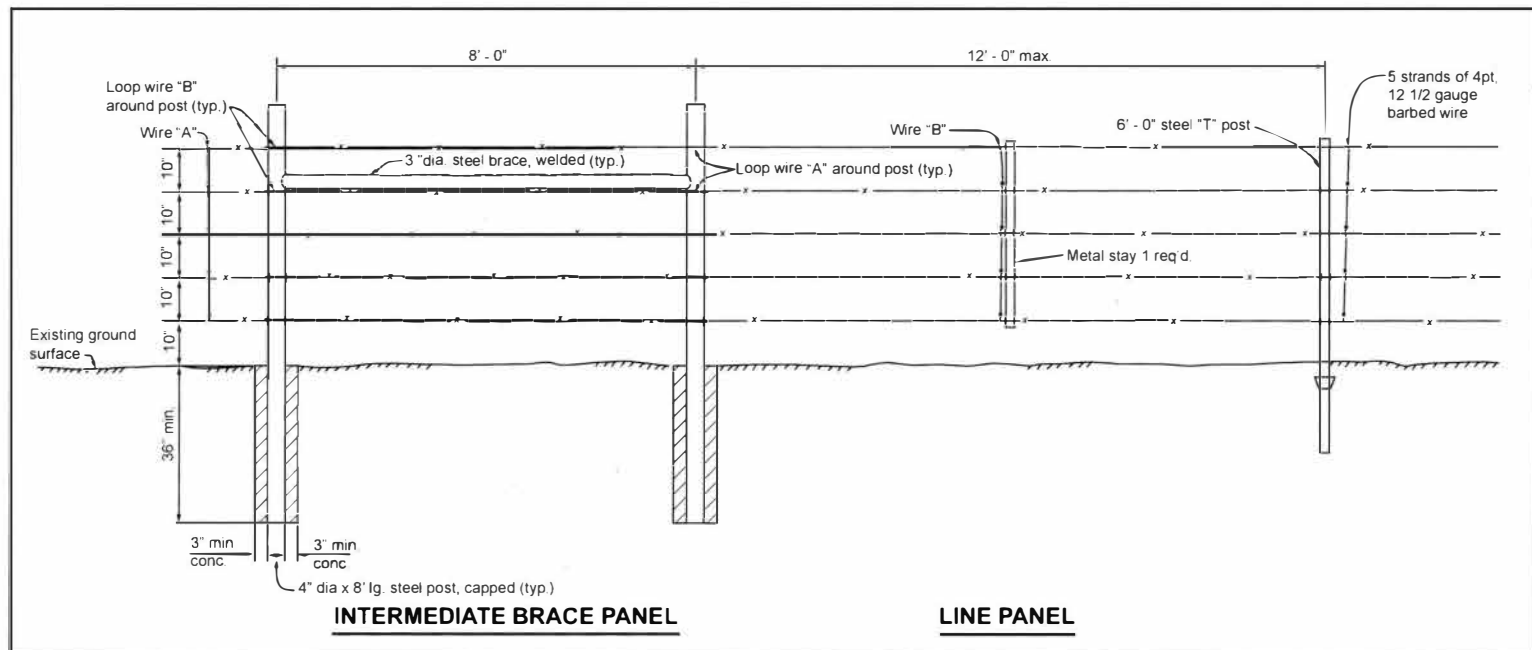
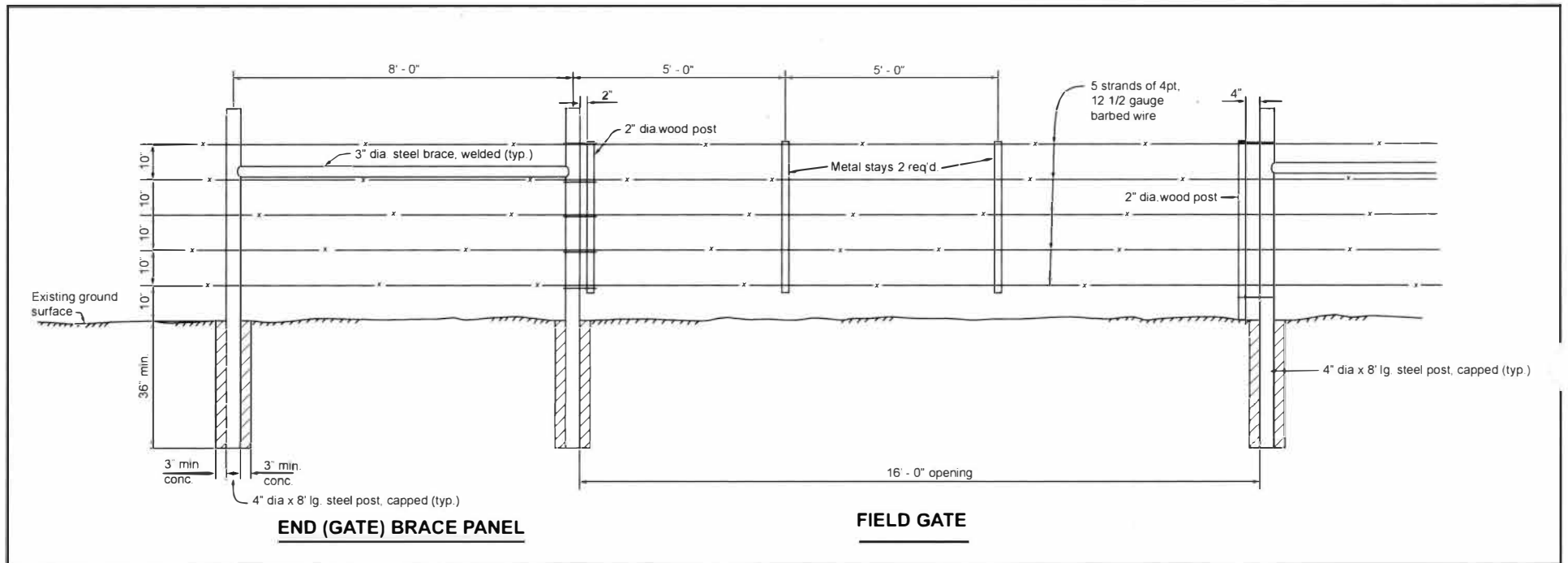
3. Stretching Barbed Wire. Barbed wire shall be stretched uniformly tight, spaced as indicated on the drawings, and attached to the wooden post with one staple, except the top wire, which shall be double stapled. Staples shall be set diagonally with the wood grain and driven tight. Standard wire fasteners will be used to attach the wire to all steel posts. Wire shall be made by the side of the post away from the area enclosed. Splices shall be made by bolt clamp of an approved type or a wire splice made in the following manner: the ends of the wire shall be carried three (3) inches past the splicing tools and wrapped around both wires backward from the tool for at least five (5) turns and, after the tool is removed, the space occupied by it shall be closed by pulling the ends together. Intermediate stay wires shall be installed where indicated on the drawings.

4. Intermediate brace panels shall be located at any major division in horizontal or vertical alignment or on straight runs over ¼ mile (1,320') in length.

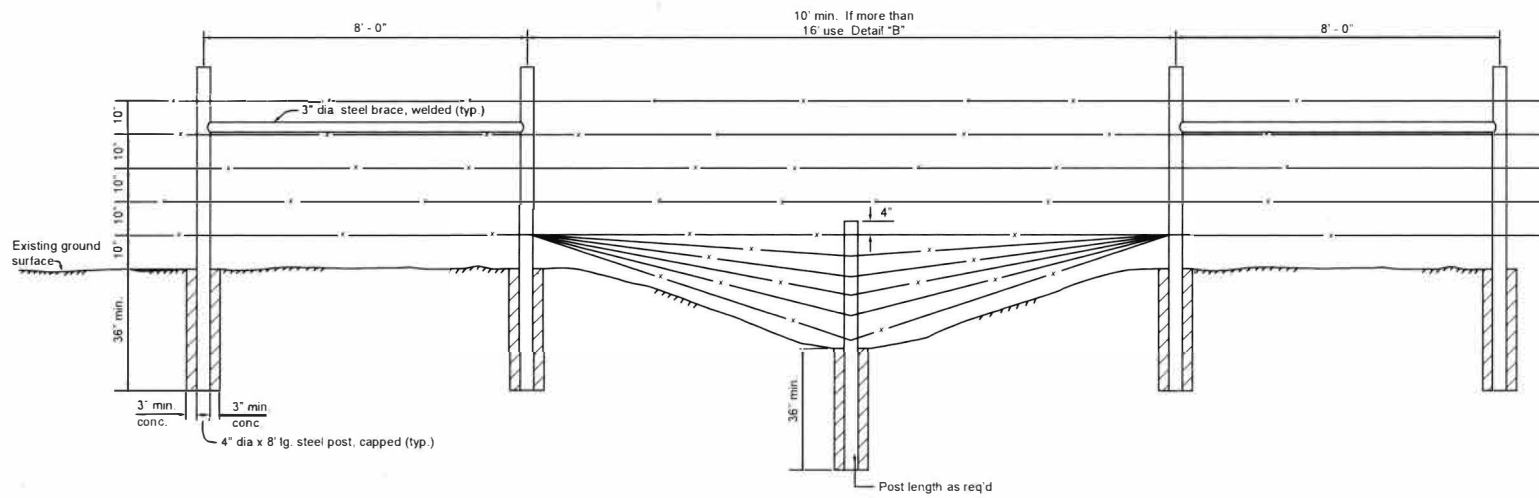
5. Fence measurement shall be made by the total linear feet of fence installed.

### 6. Materials List.

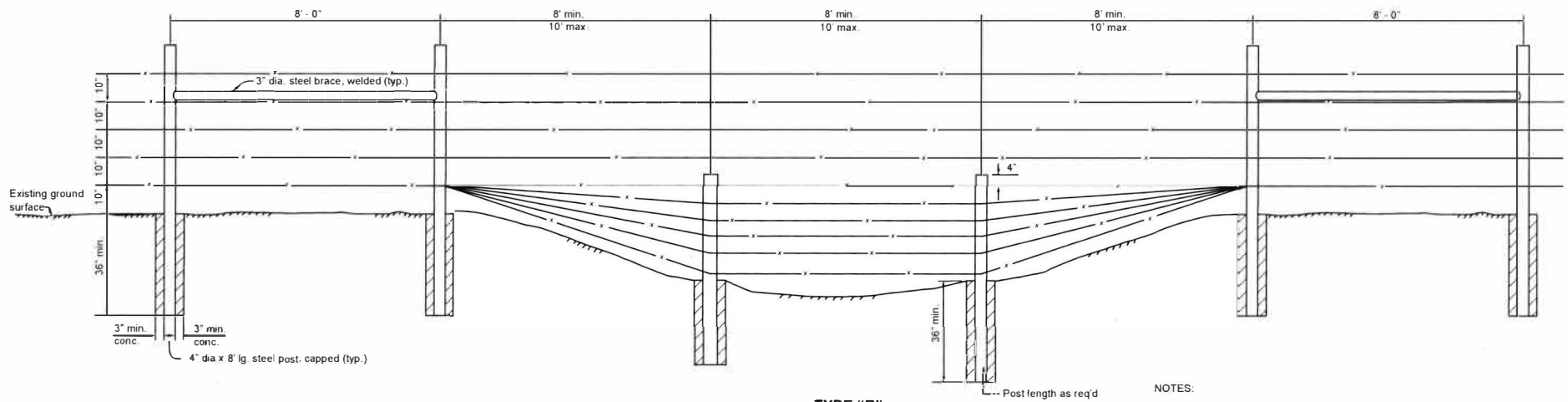
- a. Barbed Wire, 4 Pt, 12½ gauge
- b. Steel "T" Post (6½ ft)
- c. Fasteners
- d. Wire Stays
- e. Wooden Post (5" Dia x 8 ft)
- f. Staples, 1¼ inch, 9 gauge
- g. Nails
- h. Smooth Wire, 9 gauge soft wire



**EXHIBIT B**



**TYPE "A"**



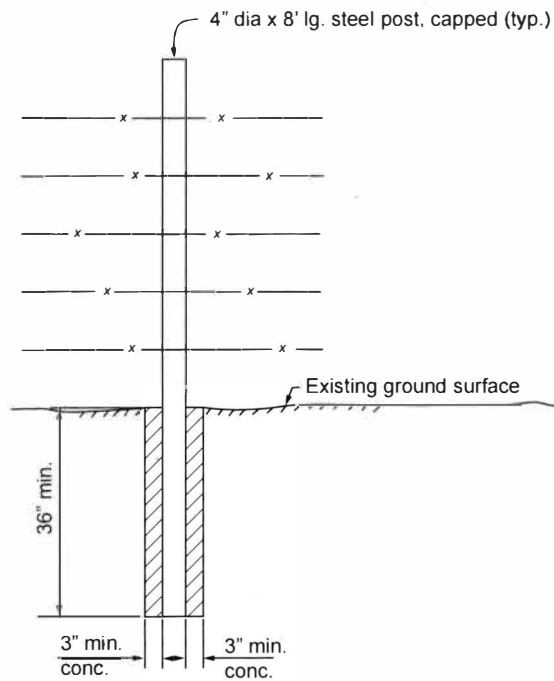
**TYPE "B"**

**WATER GAP DETAILS**

**NOTES:**

1. Used where fence alignment changes are 5 degrees or greater, but less than 10 degrees.
2. Used at bottom of sharp vertical breaks to prevent uplift from removing normally set post.

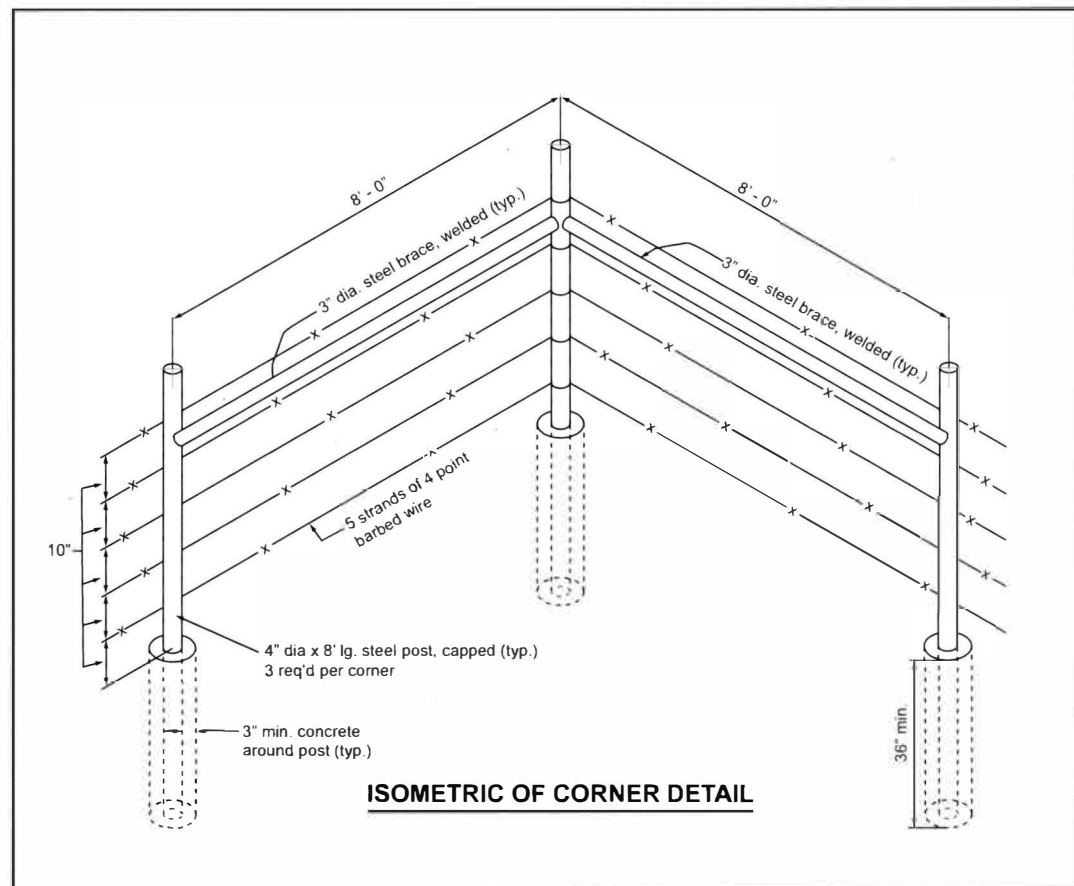




### **ANCHOR POST**

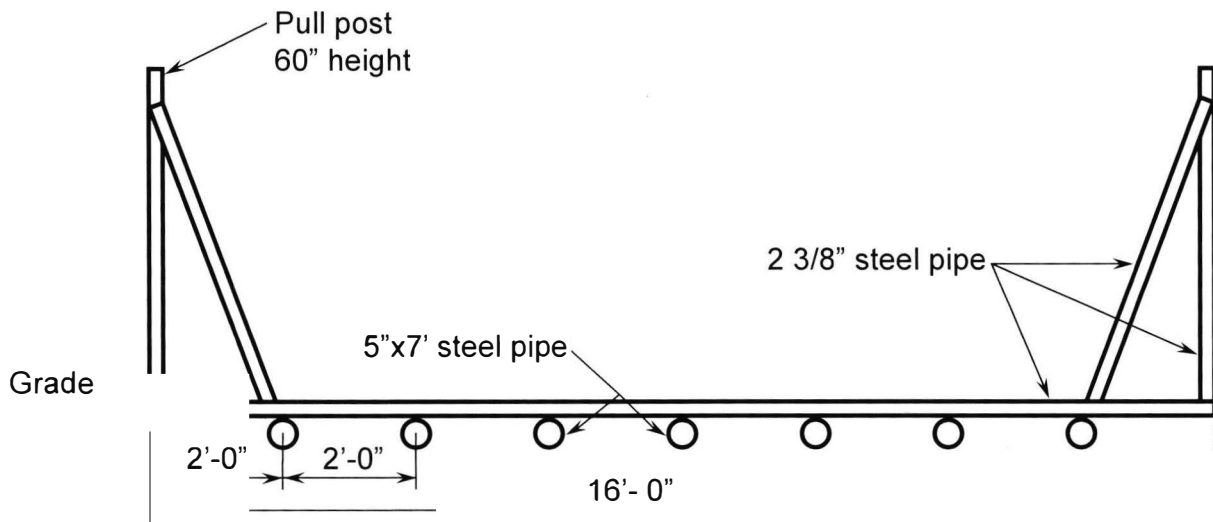
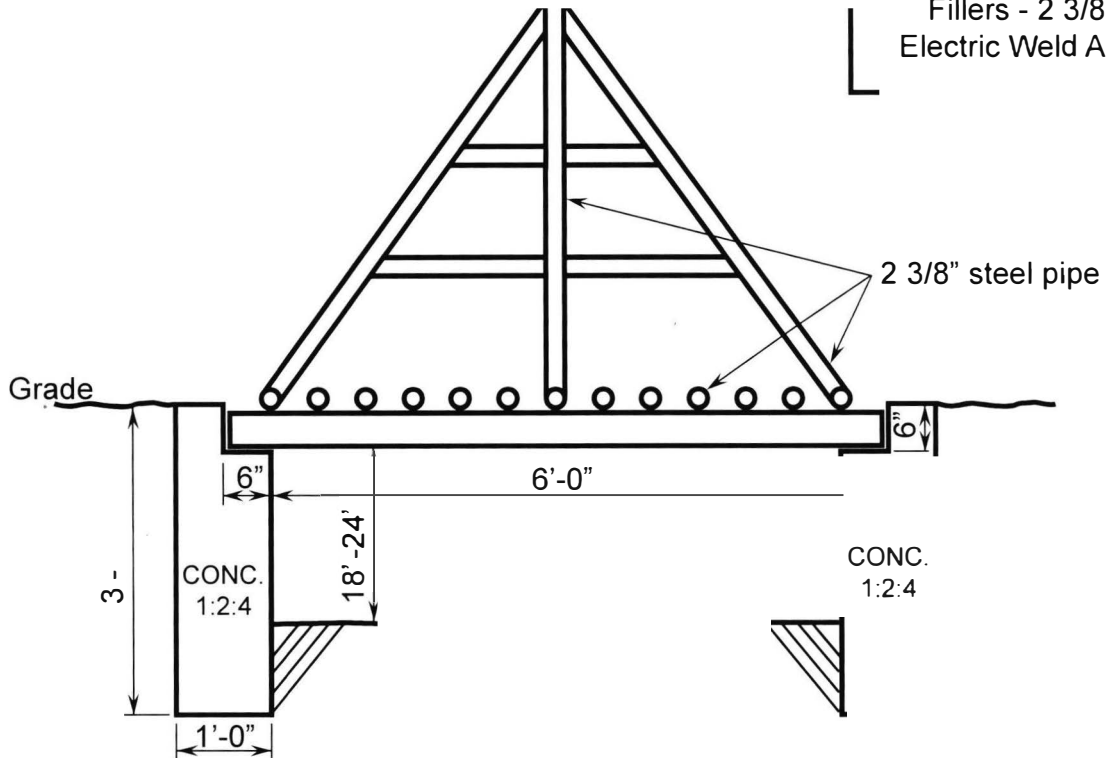
#### **NOTES:**

1. Used where fence alignment changes are 5 degrees or greater, but less than 10 degrees.
2. Used at bottom of sharp vertical breaks to prevent uplift from removing normally set post.



### **ISOMETRIC OF CORNER DETAIL**

**SPECIFICATIONS**  
 Steel Pipe Cattle Guard  
 Stringers - 5 inch x 7 foot  
 Fillers - 2 3/8 inch  
 Electric Weld All Joints



**EXHIBIT B**

## NOTICE FOR A&G LEASE OFFERS - BIG HILL LAKE

### Notice of Availability for Leasing No. DACW56-9-24-003

**TO: A&G LEASE OFFERS**  
**U.S. Army Corps of Engineers**  
**ATTN: Real Estate Division**  
**2488 E. 81<sup>st</sup> Street**  
**Tulsa, OK 74137**

This offer is subject to all conditions and requirements in the Notice Availability for Leasing. I agree to enter into a written lease within 30 days of notice of acceptance. Enclosed is my offer deposit in the form of a check or money order made payable to the "FAO, USAED, TULSA" for one-fourth (1/4) of my annual offer or more. Note, rent must be bid in whole dollars.

AREA	ANNUAL RENTAL OFFER	
1A & 1B	\$	
	\$	
	\$	\$
	\$	\$

**NOTE: ANY REQUIREMENTS LISTED IN LAND USE REGULATIONS IN THE NOTICE OF AVAILABILITY FOR LEASING ARE REQUIRED IN ADDITION TO THE CASH RENT OFFER.** The annual rent is billed January 1 of each year and is due within 30 days.

**Full Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **Telephone:** (\_\_\_\_) \_\_\_\_\_  
(Street, Rural Route P.O. Box, etc.) w/ area code

\_\_\_\_\_  
(City, State) **Zip Code:** \_\_\_\_\_

**NOTE: By signing this offer I agree to and understand all requirements as stated and set out in this Notice of Availability for Leasing.**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

-----  
**BIDDER REPRESENTS:** (Check appropriate box)

A lease, if awarded, shall be drafted to the name of:

\_\_\_ An individual or individuals. Name other individual(s) to be included on lease: \_\_\_\_\_

\_\_\_ A joint tenancy as husband and wife with right of survivorship - **If joint tenancy, please print spouse's name** \_\_\_\_\_

\_\_\_ A legal partnership Name of Partnership: \_\_\_\_\_  
Name of General Partner: \_\_\_\_\_

\_\_\_ A corporation, incorporated in the state of \_\_\_\_\_

**COMPLETE THIS FORM IF YOU ARE SUBMITTING THIS OFFER AS A CORPORATE ENTITY.**

**CORPORATE CERTIFICATE**

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_  
(Name) (Secretary or Attesting Officer)

of the \_\_\_\_\_, named as grantee/lessee/licensee herein;  
(Corporation Name)

that \_\_\_\_\_, who signed this Agreement on behalf  
(Officer Name)

of said \_\_\_\_\_, was then \_\_\_\_\_  
(Corporation Name) (Officer Title)

of the Corporation; and that said Agreement was duly signed for and on behalf of

the \_\_\_\_\_ by authority of its governing body and is within the  
(Corporation Name)

scope of its corporate powers.

Signed, \_\_\_\_\_  
Secretary or Attesting Officer (AFFIX CORPORATE SEAL)

**This form certifies that the person signing the attached instrument has the authority to do so. The signature of the Secretary/Attesting Officer and the Individual signing the attached instrument cannot be the same.**

**\*COMPLETE THIS FORM IF YOU ARE SUBMITTING THIS OFFER AS A GOVERNMENTAL ENTITY.**

## CERTIFICATE OF AUTHORITY

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_  
(Name) (Secretary or Attesting Officer)

of the \_\_\_\_\_, named as Grantee/Lessee/Licensee herein;  
(Agency Name)

that \_\_\_\_\_, who signed this Agreement on behalf of said  
(Officer Name)

\_\_\_\_\_, was then \_\_\_\_\_  
(Agency Name) (Officer Title)

Of the Agency; and that said Agreement was duly signed for and on behalf of the

\_\_\_\_\_ by authority of its governing body and is within scope of its  
(Agency Name)

statutory powers.

Signed, \_\_\_\_\_ Date \_\_\_\_\_

**This form certifies that the person signing the attached instrument has the authority to do so. The signature of the Secretary/Attesting Officer and the Individual signing the attached instrument cannot be the same.**

**\*COMPLETE THIS FORM ONLY IF YOU ARE SUBMITTING YOUR OFFER AS A PARTNERSHIP.**

**PARTNERSHIP CERTIFICATE**

I, \_\_\_\_\_, certify that I am the General Partner  
**(Name of Partner - 1)**

in the Partnership named as Grantee in the attached outgrant, I certify further that

\_\_\_\_\_, who signed said outgrant on behalf of the  
**(Name of Partner - 2)**

Partnership, is also a General Partner and has the authority to bind the Partnership by  
virtue of the powers vested in him/her in the Partnership agreement.

\_\_\_\_\_  
**PARTNER'S NAME**

**(The Partner that signed attached instrument cannot sign Certificate)**

**This form certifies that the person signing the attached instrument has the authority to do so.  
The signature of the Partner signing this form and the Partner signing the attached instrument  
cannot be the same.**

# LIMITED LIABILITY COMPANY CERTIFICATE

I, \_\_\_\_\_, certify that I am a (member/manager) of  
Name

\_\_\_\_\_, a limited liability company organized and existing under  
LLC Name

the laws of the State of \_\_\_\_\_, that \_\_\_\_\_,  
LLC Name

is run by (members/managers) and \_\_\_\_\_ is currently the  
Name

(member/manager) of \_\_\_\_\_; and as such, \_\_\_\_\_  
LLC Name Name

is not prohibited or limited by the articles of organization from binding the LLC.

**IN WITNESS WHEREOF**, the undersigned has affixed his/her signature and the seal  
of the LLC this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(AFFIX LLC SEAL HERE)

Signed: \_\_\_\_\_

**Use paragraph below if LLC has no seal and a public notary is used.**

**IN WITNESS WHEREOF**, the undersigned has affixed his/her signature this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_.

Signed: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

My Commission Number: \_\_\_\_\_

**REQUEST FOR GRANTEE**  
**SOCIAL SECURITY NUMBER AND/OR TAXPAYER IDENTIFICATION NUMBER**

**Nature of Outgrant:** Notice of Leasing  
(EASEMENT, LEASE, LICENSE, PERMIT, RIGHT OF WAY, ETC.)

**Number of Outgrant:** DACW56-9-24-003

**Name of Grantee:** \_\_\_\_\_  
(PRINT NAME)

**Address of Grantee:** \_\_\_\_\_  
\_\_\_\_\_

**Grantee's Social Security Number:** \_\_\_\_\_

**Grantee's Taxpayer Identification Number:** \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**PRIVACY ACT STATEMENT**

**Purpose of Form:** This information is mandatory under the Debt Collection Improvement Act of 1996, Public Law 104-134, April 26, 1996, 110 Stat 1321-358. The head of each Federal Agency must require each person doing business with that agency to furnish to that agency such person's taxpayer identification number. The agency intent is to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such person's relationship with the Government. OMB Circular A-129, App. A, part V, and DOD Financial Regulation 7000.14-R, Vol. 4, chapter 3, states that any close-out of accounts receivable procedures will include reporting the close-out amount on IRS Form 1099-C. IRS Form 1099-C is an income form which requires a taxpayer identification number and means that the agency will report the uncollectible debt to IRS as income to the person who failed to pay the uncollectible debt owed to the agency under the outgrant. The 1099-C reports the uncollectible debt as income to the debtor, which may be taxable at the debtor's current tax rate. Failure to provide this information may result in your outgrant request being denied.

**U.S. Army Corps of Engineers, Tulsa District**



DEPARTMENT OF THE ARMY LEASE  
FOR **GRAZING, HAY HARVESTING, AND/OR AGRICULTURAL** PURPOSES  
LOCATED ON \_\_\_\_\_ PROJECT  
<<\_\_\_\_\_>> COUNTY, <<STATE>>

**THIS LEASE**, made on behalf of the United States, between the **SECRETARY OF THE ARMY**, acting by and through the Real Estate Contracting Officer, Real Estate Division, U.S. Army Engineer District, Tulsa, hereinafter referred to as the Lessor, and <<Grantee Name>>, with its principal address at <<ADDRESS>>, <<CITY, STATE, ZIP>>, hereinafter referred to as the Lessee.

**WITNESSETH:**

That the Lessor finds that this Lease is advantageous to the United States, that the terms and conditions are considered to promote the national defense or to be in the public interest; that the Premises are under the control of the Lessor; that the Premises are not needed for the Term below for public use by the Lessor; and that the property is not excess property.

That the Lessor, by the authority of Title 10, United States Code, Section 2667, and for the consideration hereinafter set forth, hereby leases to the Lessee the property referred to as **AREA \*\*\***, containing **\*\*\* acres**, more or less, in **\*\*\*\* County, \*\***, identified in **EXHIBIT A - Map** attached hereto and made a part hereof, hereinafter referred to as the Premises, for \_\_\_\_\_ purposes.

**THIS LEASE** is granted subject to the following conditions:

**1. TERM**

Said Premises are hereby leased for a term of \_\_\_\_\_ (#) years, beginning Month Day#, Year and ending Month Day#, Year, [and may be renewed for an additional 5 years in accordance with Condition \*\*], unless earlier terminated pursuant to the condition on **TERMINATION**.

**2. CONSIDERATION**

a. The Lessee shall pay rental in advance to the Lessor in the amount of \_\_\_\_\_ **AND NO/100 DOLLARS** (\$\_\_\_\_\_) payable annually to the order of the **FAO, USACE Finance Center** and delivered to **USACE Finance Center, Tulsa District (M5), 5722 Integrity Drive, Millington, TN 38054-5005**.

**b.** All rent and other payments due under the terms of this Lease must be paid on or before the date payments are due in order to avoid the mandatory sanctions imposed by the Debt Collection Act of 1982 (31 U.S.C. Section 3717). This statute requires the imposition of an interest charge for the late payment of debts owed to the United States; an administrative charge to cover the costs of processing and handling delinquent debts; and the assessment of an additional penalty charge on any portion of a debt that is more than 90 days past due. The provisions of the statute will be implemented as follows:

**(1)** The United States will impose an interest charge, the amount to be determined by law or regulation, on late payment of rent. Interest will accrue from (the due date) (the later of the due date or the date notification of the amount due is mailed to the Lessee). An administrative charge to cover the cost of processing and handling each late payment will also be imposed.

**(2)** In addition to the charges set forth above, the United States will impose a penalty charge of six percent (6%) per annum on any payment or portion thereof, more than ninety (90) days past due. The penalty shall accrue from the date of delinquency and will continue to accrue until the debt is paid in full.

**(3)** All payments received will be applied first to any accumulated interest, administrative and penalty charges, and then to any unpaid rental or other payment balance. Interest will not accrue on any administrative or late payment penalty charge.

### **3. SUPERVISION BY THE LESSOR AND DISTRICT ENGINEER**

**a.** The use and occupation of the Premises incident to the exercise of the privileges and purposes hereby granted shall be subject to the supervision and approval of the Lessor and to such general rules and regulations as the Lessor may from time to time prescribe.

**b.** The Premises shall be under the general supervision and subject to the approval of the District Engineer, who is the officer with operational control over the Premises, hereinafter referred to as said officer. The Lessee's use of the Premises shall be accomplished in such manner as not to endanger personnel or property of the said officer or obstruct travel on any road or other thoroughfare.

### **4. COST OF UTILITIES**

The Lessee shall pay the cost, as determined by the said officer, of producing and/or supplying any utilities and other services furnished by the Government or through Government-owned facilities for the use of the Lessee, including the Lessee's proportionate share of the cost of operation and maintenance of the government-owned

facilities by which such utilities or services are produced or supplied. The Government shall be under no obligation to furnish utilities or services. Payment shall be made in the manner prescribed by the said officer.

## 5. NOTICES

a. All notices and correspondence to be given pursuant to this Lease shall be addressed, if to the Lessee, to <<NAME>>, <<ADDRESS>>, <<CITY>>, <<STATE>>, <<ZIP CODE>>; and if to the Lessor, to the **Real Estate Contracting Officer, Attention: Chief, Real Estate Division, U.S. Army Corps of Engineers, Tulsa District, 2488 East 81<sup>st</sup> Street, Tulsa, OK 74137-4290**; or as may from time to time otherwise be directed by the parties.

b. Notices shall be mailed by certified mail, postage prepaid, return receipt requested, addressed to the addresses listed in 6.a. above. The effective date of the notice shall be the earlier of the actual date of receipt or the date the addressee is notified of the attempted delivery of the certified mail, whether or not the addressee actually accepts delivery. Use of an express delivery service will not substitute for this requirement.

c. Communications other than notices required under this Lease may be sent by means other than certified mail, return receipt requested, including electronic mail." Such communications include routine matters of coordination and informal exchange of information.

## 6. AUTHORIZED REPRESENTATIVES

Except as otherwise specifically provided, any reference herein to "Secretary of the Army", "Real Estate Contracting Officer", "Lessor", "said officer", or "Chief, Real Estate Division" shall include their duly authorized representatives. Any reference to "Lessee" shall include sublessees, licensees, assignees, transferees, successors, and their duly authorized representatives.

## 7. IDENTIFICATION OF GOVERNMENT AGENCIES, STATUTES, PROGRAMS, AND FORMS

Any reference in this Lease, by name or number, to a government department, agency, statute, regulation, program, or form shall include any successor, amendment, or similar department, agency, statute, regulation, program, or form.

## 8. APPLICABLE LAWS AND REGULATIONS

a. The Lessee shall comply with all applicable Federal, State, county, and municipal laws, ordinances, and regulations wherein the Premises are located.

b. The Lessee shall be solely responsible for obtaining at its cost and expense any permits or licenses required for its operations under this Lease, independent of any existing permits or licenses held by the Lessor.

c. The Lessee understands and acknowledges that the granting of this Lease does not eliminate the necessity of obtaining any Department of the Army permit which may be required pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. § 403), Section 404 of the Clean Water Act (33 U.S.C. § 1344) or Section 408 (33 U.S.C. § 408) or any other permit or license which may be required by Federal, State, interstate, or local laws, regulations, and ordinances in connection with the Lessee's use of the Premises.

d. The Lessee shall promptly report to the Lessor any incident for which the Lessee is required to notify a Federal, State, or local regulatory agency or any citation by a Federal, State, or local regulatory agency of non-compliance with any applicable law, ordinance, or regulation.

e. The Lessee shall comply with the Land Use Regulations attached hereto as **EXHIBIT B.**

## **9. DISCLAIMER**

This Lease is effective only insofar as the rights of the United States in the Premises are concerned; and the Lessee shall obtain such permission as may be required on account of any other existing rights.

## **10. TRANSFERS AND ASSIGNMENTS**

Without prior written approval of the Lessor, the Lessee shall not transfer or assign this Lease, sublet the Premises or any part thereof, or grant any interest, privilege, or license whatsoever in connection with this Lease. Failure to comply with this paragraph shall constitute a breach for which the Lessor may immediately terminate the Lease.

## **11. CONDITION OF PREMISES**

The Lessee acknowledges that it has inspected the Premises, knows its condition, and understands that the same is leased without any representations or warranties whatsoever and without obligation on the part of the United States to make any alterations, repairs, or additions thereto.

## **12. SUBJECT TO EASEMENTS**

This Lease is subject to all existing easements, whether of record or not, or those subsequently granted as well as established access routes for roadways and utilities located, or to be located, on the Premises, provided that the proposed grant of any new easement or route will be coordinated with the Lessee, and easements will not be granted which will, in the opinion of the Lessor, interfere with the use of the Premises by the Lessee.

## **13. SUBJECT TO MINERAL INTERESTS**

This Lease is subject to all outstanding mineral interests. As to federally-owned mineral interests, the Lessee understands and acknowledges that such interests may be included in present or future mineral leases issued by the Bureau of Land Management (BLM), Department of the Interior which has responsibility for mineral development on federal lands. The Lessor will provide lease stipulations to BLM for inclusion in said mineral leases that are designed to protect the Premises from activities that would interfere with the Lessee's operations or would be contrary to local law.

## **14. PROTECTION OF PROPERTY**

**a.** For the purposes of this condition, the term "Lessee" shall include Lessee's employees, officers, agents, invitees, contractors and subcontractors, assigns, licensees, sublesees, subgrantees, and other affiliates.

**b.** The Lessee shall keep the Premises in good order and repair and in a decent, clean, sanitary, and safe condition by and at the expense of the Lessee. The Lessee shall be responsible for any damage that may be caused to property of the United States by the activities of the Lessee under this Lease, and shall exercise due diligence in the protection of all property located on the Premises against fire or damage from any and all other causes. Any property of the United States damaged or destroyed by the Lessee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Lessee to a condition satisfactory to the Lessor, or at the election of the Lessor, reimbursement made therefore by the Lessee in an amount necessary to restore or replace the property to a condition satisfactory to the Lessor.

**c.** The Lessee shall immediately notify the Lessor upon discovery of any hazardous conditions on the Premises that present an immediate threat to health and/or danger to life or property. The Lessor, upon discovery of any hazardous conditions on the Premises that present an immediate threat to health and/or danger to life or property, will so notify the Lessee. In addition to the rights of termination for noncompliance or at will (for any reason at any time), upon discovery of any hazardous conditions on the Premises by the Government, or upon notice of Lessee's discovery of such conditions, the Government shall close, or cause the Lessee to close the affected

part or all of the Premises to the public until such condition is corrected and the danger to the public eliminated. If the condition is not corrected, the Lessor will have the option to: (1) correct the hazardous conditions and collect the cost of repairs and any other resulting damages, including consequential damages and loss in value to the premises from the Lessee, if the conditions were caused by Lessee; or, (2) revoke the Lease for noncompliance or at will (for any reason at any time) and the Lessee shall restore the Premises in accordance with the Condition on **RESTORATION**. The Lessee shall have no claim for damages against the United States, or any officer, agent, or employee thereof on account of action taken pursuant to this condition on **PROTECTION OF PROPERTY**. Hazardous conditions not caused by the Lessee will be dealt with at the discretion of the Lessor, but the Lessee will nonetheless be responsible for closing the area as directed by the Lessor or complying the Lessor's closing of the area, as applicable, in accordance with this condition.

#### **15. RIGHT TO ENTER AND FLOOD**

The right is reserved to the United States, its officers, agents, and employees to enter upon the Premises at any time and for any purpose necessary or convenient in connection with government purposes; to make inspections, to remove timber or other material, except property of the Lessee, <<to flood the Premises, to manipulate the level of the lake or pool in any manner whatsoever>> and/or to make any other use of the Premises or portion(s) thereof as may be necessary in connection with government purposes, and the Lessee shall have no claim for damages on account thereof against the United States or any officer, agent, or employee thereof.

#### **16. TITLE TO IMPROVEMENTS**

The demolition, renovation, and construction of improvements by the Lessee are private undertakings, and during the term of this Lease title to all such improvements vest and remain in Lessee. The improvements shall remain real property for the duration of this Lease. All structures and equipment furnished by the Lessee shall be and remain the property of the Lessee during the term of the Lease. Upon expiration, revocation, or termination of the Lease, disposition of such improvements shall be accomplished in accordance with the condition on **RESTORATION**.

#### **17. DESTRUCTION BY UNAVOIDABLE CASUALTY**

If the Premises or improvements thereon shall be destroyed or be so totally damaged by fire or other unavoidable casualty so as to render the Premises untenable, wholly or in part, then payment of rent shall cease and either party may forthwith terminate this Lease by written notice to that effect, notwithstanding the condition on **TERMINATION**. If part of the Premises or the improvements were rendered untenable, rental payment may be apportioned to reflect the part remaining usable to

Lessee. In the event the Lease is not terminated, the Lessor shall diligently proceed to return the Premises and improvements to operation and resume payment of rent in a manner and in a timeframe satisfactory to the Lessor.

## **18. RENTAL ADJUSTMENT**

In the event the Lessor revokes this Lease or in any other manner materially reduces the Premises or materially affects its use by the Lessee prior to the expiration date, an equitable adjustment will be made in the rental paid or to be paid under this Lease. Any adjustment of rent shall be evidenced by a written supplemental agreement, executed by the Lessor; PROVIDED, however, that none of the provisions of this condition shall apply in the event of revocation because of noncompliance by the Lessee with any of the terms and conditions of this Lease.

*[Editorial Note: Alternative Clause: Use the following clause when the Lease is for agricultural purposes involving crop production.]*

## **18. RENTAL ADJUSTMENT**

In the event the Lessor revokes this Lease or in any other manner materially reduces the Premises or materially affects its use by the Lessee prior to the expiration date, an equitable adjustment will be made in the rental paid or to be paid under this Lease. Where the Premises are being used for farming purposes, the Lessee shall have the right to harvest, gather and remove such crops as may have been planted or grown on said Premises, or the Lessor may require the Lessee to vacate immediately and, if funds are available, compensation will be made to the Lessee for the value of the remaining crops. Any adjustment of rent or the right to harvest, gather and remove crops shall be evidenced by a written supplemental agreement, executed by the Lessor; PROVIDED, however, that none of the provisions of this paragraph shall apply in the event of revocation because of noncompliance by the Lessee with any of the terms and conditions of this Lease and in that event any remaining crops shall become property of the United States upon such revocation.

## **19. PROHIBITED USES**

a. The Lessee shall not permit gambling on the Premises or install or operate, or permit to be installed or operated thereon, any device which is illegal; or use the Premises or permit them to be used for any illegal business or purpose. There shall not be conducted on or permitted upon the Premises any activity which would constitute a nuisance. The Lessee shall not sell, store or dispense, or permit the sale, storage, or dispensing of beer or other intoxicating liquors on the Premises.



b. The Lessee shall not construct or place any structure, improvement, or advertising sign on the Premises, or allow or permit such construction or placement without prior written approval of the Lessor.

## 20. ENVIRONMENTAL PROTECTION

a. The Lessee, including the Lessee's sublessees, successors, or assigns, and the employees, agents, contractors and invitees of any of them, will use all reasonable means available to protect the environmental and natural resources and where damage nonetheless occurs from activities of the Lessee, including the Lessee's subtenant/successors or assigns, employees, agents, contractors and invitees of any of them, the Lessee shall be liable to restore the damaged resources.

b. The Lessee, including the Lessee's sublessees, successors, or assigns, and the employees, agents, contractors, and invitees of any of them, shall protect the <<NAME OF CIVIL WORKS PROJECT>> against pollution of its air, ground, and waters by complying, at its sole cost and expense, with all Environmental Laws that are or may become applicable to the Premises or the Lessee's activities on the Premises, including but not limited to all applicable federal, State, and local laws, regulations, United States Army Corps of Engineers policies, and other requirements. The disposal of any toxic or hazardous materials within the Premises is specifically prohibited.

c. The term "Environmental Law", as used herein, means any statute, law, act, ordinance, rule, regulation, order, decree, or ruling of any Federal, State, and/or local governmental, quasi-governmental, administrative or judicial body, agency, board, commission, or other authority relating to the protection of health and/or the environment or otherwise regulating and/or restricting the use, storage, disposal, treatment, handling, release, and/or transportation of Hazardous Substances, including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act, the Federal Water Pollution Control Act, the Clean Air Act, the Hazardous Materials Transportation Act, the Toxic Substances Control Act, the Emergency Planning and Community Right To Know Act, and the environmental control laws of the State of <<STATE NAME>>, each as now or hereafter amended, and all regulations and interpretive guidelines respectively promulgated thereunder. Compliance with such regulations, conditions, or instructions in effect or prescribed by the Environmental Protection Agency, or any Federal, State, interstate or local governmental agency, are hereby made a condition of this Lease.

d. The Lessee is required to participate in all aspects of an environmental assessment, including but not limited to pre-briefings, the Outgrant Pre Visit Questionnaire, the assessment, exit briefings, of its outgranted area. The Lessee shall promptly initiate and complete all necessary corrective actions, as determined and directed by the said officer, in order to fully resolve those findings contained in Environmental Assessment Report(s) that the said officer determines must be



implemented. Failure of the Lessee to take the required corrective action(s) identified in the Environmental Assessment Report(s) may be referred to the appropriate enforcement agency, which will render final determinations with respect to compliance with relevant laws or regulations. Continued non-compliance by the Lessee may also serve as grounds for revocation of this Lease.

e. The use of any pesticides or herbicides within the Premises shall be in conformance with all applicable Federal, State, interstate, and local laws and regulations. The Lessee must obtain approval in writing from the said officer before any pesticides or herbicides are applied to the Premises.

## **21. ENVIRONMENTAL BASELINE SURVEY**

An Environmental Baseline Survey (EBS) documenting the known history of the property with regard to the storage, release, or disposal of hazardous substances thereon, is attached hereto and made a part hereof as **EXHIBIT \_\_\_\_**. Upon expiration, revocation, or relinquishment of this Lease another EBS shall be prepared which will document the environmental condition of the property at that time. A comparison of the two reports will assist the Lessor in determining any environmental restoration requirements. Any such requirements will be completed by the Lessee in accordance with the condition on **RESTORATION**.

## **22. HISTORIC PRESERVATION**

The Lessee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural or other cultural artifacts, relics, remains, or objects of antiquity. In the event such items are discovered on the Premises, the Lessee shall immediately notify the Lessor and protect the site and the material from further disturbance until the Lessor gives clearance to proceed.

## **23. SOIL AND WATER CONSERVATION**

The Lessee shall maintain, in a manner satisfactory to the Lessor, all soil and water conservation structures that may be in existence upon said Premises at the beginning of or that may be constructed by the Lessee during the term of this Lease, and the Lessee shall take appropriate measures to prevent or control soil erosion within the Premises. Any soil erosion occurring outside the Premises resulting from the activities of the Lessee shall be corrected by the Lessee as directed by the Lessor, at the Lessee's sole cost and expense.

## **24. NATURAL RESOURCES**

The Lessee shall cut no timber; conduct no mining operations; remove no sand, gravel, or kindred substances from the ground; commit no waste of any kind; or in any

manner substantially change the contour or condition of the Premises except as authorized in writing by the Lessor.

## 25. FORCE PROTECTION STANDARDS

Any facilities constructed on the Premises may be constructed using commercial standards in a manner that provides force protection safeguards appropriate to the activities conducted in, and the location of, such facilities.

## 26. RESTORATION

a. Upon expiration, revocation, or termination of this Lease, the Lessee shall vacate the Premises, remove its real property improvements and personal property (Lessee's property) from the Premises unless otherwise agreed by the Lessor, and restore the Premises to a condition satisfactory to the Lessor. Such restoration shall include restoration of all property of the United States on the Premises and environmental restoration as determined based on the condition on **ENVIRONMENTAL BASELINE SURVEY**.

b. In the event this Lease is terminated or revoked by the Lessor for any reason, the Lessor may grant the Lessee a non-exclusive revocable license to use the Premises to vacate, remove Lessee's property therefrom, and restore the Premises to the required condition. Such license shall generally be for a period not to exceed ninety (90) days.

c. If the Lessee shall fail or neglect to remove Lessee's property and restore the Premises as required in this condition on **RESTORATION**, the Lessor may cause restoration work to be performed, including but not limited to removal of Lessee's property from the Premises. The Lessee shall have no claim for damages against the United States or its officers or agents related to or resulting from any removal of Lessee's property or any restoration work. The Lessee shall pay the United States on demand any sums which may be expended by the United States after expiration, revocation, or termination of the Lease to remove Lessee's property and to restore the Premises.

d. Upon written agreement by the Lessor, any or all of the Lessee's property may be surrendered to the United States in lieu of removal, with title vesting in the United States without additional consideration therefore. The Lessee grants the Lessor power of attorney to execute any deed, bill of sale, or other documents to clear title to such real property improvements or personal property which the Lessor has agreed shall not be removed from the Premises. The Lessor may provide appropriate evidence of title in the Lessee to all property being removed by Lessee.

## 27. TERMINATION

a. The Lessor may terminate this Lease at any time (i) if the Lessee fails to comply with any term or condition of this Lease, or (ii) at will (i.e. at any time for any reason).

b. The Lessee may terminate this Lease at any time by giving the Lessor at least thirty (30) days' notice in writing, provided that no refund by the United States of any rent due and paid shall be made, and provided further, that Lessee shall be responsible to pay any and all rent set forth in the condition on **CONSIDERATION** that becomes due and payable prior to the effective date, as defined in the condition on **NOTICES**, of such notice.

## 28. FAILURE OF LESSOR TO INSIST UPON COMPLIANCE

a. The failure of the Lessor to insist, in any one or more instances, upon performance of any of the terms, covenants, or conditions of this Lease shall not be construed as a waiver or relinquishment of the Lessor's right to the current or future performance of any such terms, covenants, or conditions and the Lessee's obligations in respect to such performance shall continue in full force and effect.

b. No remedy herein or otherwise conferred upon or reserved to Lessor shall be considered to exclude or suspend any other remedy but the same shall be cumulative and shall be in addition to every other remedy given hereunder, or now or hereafter existing at or in equity, regulation, or by statute. Every power and remedy given by this Lease to Lessor may be exercised from time to time and so often as occasion may arise or as may be deemed expedient.

## 29. DISPUTES

a. Except as provided in the Contract Disputes Act of 1978 (41 U.S.C. §§ 7101-7109) (the Act), all disputes arising under or relating to this Lease shall be resolved under this clause and the provisions of the Act.

b. "Claim", as used in this clause, means a written demand or written assertion by the Lessee seeking, as a matter of right, the payment of money in a sum certain, the adjustment of interpretation of Lease terms, or other relief arising under or relating to this Lease. A claim arising under this Lease, unlike a claim relating to this Lease, is a claim that can be resolved under a Lease clause that provides for the relief sought by the Lessee. However, a written demand or written assertion by the Lessee seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph c.(2) below. The routine request for rental payments that is not in dispute is not a claim under the Act. The request may be converted to a claim

under the Act, by this clause, if it is disputed either as a liability or amount or is not acted upon in a reasonable time.

**c.**

**(1)** A Claim by the Lessee shall be made in writing and submitted to the Lessor for a written decision. A claim by the Government against the Lessee shall be in the form of a written decision by the Lessor.

**(2)** For Lessee claims exceeding \$100,000, the Lessee shall submit with the claim a certification that—

**(i)** the claim is made in good faith;

**(ii)** supporting data are accurate and complete to the best of the Lessee's knowledge and belief; and

**(iii)** the amount requested accurately reflects the Lease adjustment for which the Lessee believes the Government is liable.

**(iv)** the certifier is authorized to certify the claim on behalf of the Lessor.

**(3)** The individual signing on behalf of the Lessee must be authorized to certify the claim on behalf of the Lessee and shall be:

**(i)** If the Lessee is an individual, the certificate shall be executed by that individual.

**(ii)** If the Lessee is not an individual, the certification shall be executed by an individual authorized to certify on behalf of the entity who is –

**(A)** a senior company official in charge of the Lessee's location involved; or

**(B)** an officer or general partner of the Lessee having overall responsibility of the conduct of the Lessee's affairs.

**d.** For Lessee claims of \$100,000 or less, the Lessor must, if requested in writing by the Lessee, render a decision within sixty (60) days of receipt of the request. For Lessee-certified claims over \$100,000, the Lessor must decide the claim or notify the Lessee of the date by which the decision will be made within sixty (60) days of receipt of the request.

**e.** The Lessor's decision shall be final unless the Lessee appeals or files a suit as provided in the Act.

f. At the time a claim by the Lessee is submitted to the Lessor or a claim by the Government is presented to the Lessee, the parties, by mutual consent, may agree to use alternative means of dispute resolution. When using alternate dispute resolution procedures, any claim, regardless of amount, shall be accompanied by the certificate described in paragraph c.(2) of this clause, and executed in accordance with paragraph c.(3) of this clause.

g. The Government shall pay interest on the amount found due and unpaid by the Government from (1) the date the Lessor received the claim (properly certified if required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Lessor receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim. Rental amounts due to the Government by the Lessee will have interest and penalties as set out in the condition on **CONSIDERATION**.

h. The Lessee shall proceed diligently with the performance of the Lease, pending final resolution of any request for relief, claim, or action arising under the Lease, and comply with any decision of the Lessor.

### **30. INDEMNITY**

The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the Lessee, or for damages to the property or injuries to the person of the Lessee's officers, agents or employees or others who may be on the Premises at their invitation or the invitation of any one of them, and the Lessee shall hold the United States harmless from any and all such claims not including damages due to the fault or negligence of the United States or its contractors. Notwithstanding any other provision of this Lease, any provision that purports to assign liability to the United States Government shall be subject to and governed by Federal law, including but not limited to the Contract Disputes Act of 1978 (41 U.S.C. Sections 7101-7109 (2012)), the Anti-Deficiency Act (31 U.S.C. Sections 1341 and 1501), and the Federal Tort Claims Act (28 U.S.C. Section 2671, et seq.).

### **31. NO INDIVIDUAL LIABILITY OF UNITED STATES OFFICIALS**

No covenant or agreement contained in this Lease shall be deemed to be the covenant or agreement of any individual officer, agent, employee, or representative of the United States, in his or her individual capacity and none of such persons shall be subject to any personal liability or accountability by reason of the execution of this Lease, whether by virtue of any constitution, statute, or rule of law or by the enforcement of any assessment or penalty, or otherwise.

### **32. ANTI-DEFICIENCY ACT**

Nothing in this Lease shall obligate the Lessor to obligate appropriated funds in violation of the Anti-Deficiency Act 31 U.S.C. §§ 1341-1351. Notwithstanding the foregoing, nothing contained in this Lease shall limit, diminish, or eliminate any rights that the Lessee or its successors or assigns may have against the Lessor under applicable statutes, rules, or regulations.

### **33. TAXES**

Any and all taxes imposed by the State or its political subdivisions upon the property or interest of the Lessee in the Premises shall be paid promptly by the Lessee. If and to the extent that the property owned by the Government is later made taxable by State or local governments under an Act of Congress, the Lease shall be renegotiated.

### **34. COVENANT AGAINST CONTINGENT FEES**

The Lessee warrants that no person or selling agency has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or established commercial or selling agencies maintained by the Lessee for the purpose of securing business. For breach or violation of this warranty, the Lessor shall have the right to annul this Lease without liability or, in its discretion, to require the Lessee to pay to the Lessor, in addition to the Lease rental or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

### **35. SEVERAL LESSEES**

If more than one Lessee is named in this Lease the obligations of said Lessees herein contained shall be joint and several obligations.

### **36. MODIFICATIONS AND CONSENTS**

a. This Lease contains the entire agreement between the parties hereto with regard to the Lease, and no modification of this agreement, or waiver, or consent hereunder shall be valid unless the same be in writing and signed by the parties to be bound or by a duly authorized representative. This provision shall apply to this condition as well as all other conditions of this Lease.

b. The provisions of this Lease may only be superseded, modified, or repealed pursuant to a written amendment or supplemental agreement to this Lease.

### **37. MERGER**

This Lease and any other agreement shall not merge. In the event the terms and conditions of this Lease conflict with the terms and conditions of any other agreement, the terms and conditions of the Lease shall prevail.

### **38. NOT PARTNERS**

Nothing contained in this Lease will make, or will be construed to make, the Lessor and the Lessee hereto partners or joint venturers with each other, it being understood and agreed that the only relationship between the Lessor and the Lessee under this Lease is that of landlord and tenant with respect to the Premises.

### **39. NON-DISCRIMINATION**

The Lessee shall not discriminate against any person or persons or exclude them from participation in the Lessee's operations, programs or activities conducted on the Premises, because of race, color, religion, sex, sexual orientation, gender identity age, handicap, or national origin. The Lessee shall comply with the Americans with Disabilities Act and attendant Americans with Disabilities Act Accessibility Guidelines (ADAAG) published by the Architectural and Transportation Barriers Compliance Board.

### **40. LABOR, MATERIAL, EQUIPMENT, AND SUPPLIES**

Lessee shall bear the sole responsibility for furnishing and paying for all labor, materials, equipment, and supplies used in conjunction with the exercise by the Lessee of any right granted hereunder, unless specifically absolved from said responsibilities elsewhere within this Lease.

### **41. DETERMINATION REGARDING EXECUTIVE ORDER 13658**

Any reference in this section to "prime contractor" or "contractor" shall mean the Lessee and any reference to "contract" shall refer to the Lease.

**a.** It has been determined this contract is not subject to Executive Order 13658 or the regulations issued by the Secretary of Labor in 29 CFR Part 10 pursuant to the Executive Order.

**b.** If a duly authorized representative of the United States discovers or determines, whether before or subsequent to executing this contract, that an erroneous determination regarding the applicability of Executive Order 13658 was made, contractor, to the extent permitted by law, agrees to indemnify and hold harmless the United States, its officers, agents, and employees, for and from any and all liabilities, losses, claims, expenses, suites, fines, penalties, judgments, demands or actions, costs, fees, and damages directly or indirectly arising out of, caused by, related to,



resulting from or in any way predicated upon, in whole or in part, the erroneous Executive Order 13658 determination. This includes contractor releasing any claim or entitlement it would otherwise have to an equitable adjustment to the contract and indemnifying and holding harmless the United States from the claims of subcontractors and contractor employees.

#### **42. DETERMINATION REGARDING EXECUTIVE ORDER 13706**

It has been determined this contract is not subject to Executive Order 13706 or the regulations issued by the Secretary of Labor in 29 CFR part 13 pursuant to the Executive Order.

#### **43. HUNTING AND FISHING ENTRY**

That the Lessee will cooperate in programs for the management and improvement of fish and wildlife, and in furtherance thereof, the leased premises will be subject to free public use for fishing and hunting.

#### **44. CEMETERY FENCES**

That the Lessee shall construct and maintain fences, enclosing all cemeteries or graves within the leased area, and shall permit ingress and egress thereto.

#### **45. RIGHT OF RENEWAL WITHOUT COMPETITION**

The Lessor may renew this lease by mutual agreement with the current Lessee if the lease term stated above expressly authorizes renewal, the Lessee's performance is satisfactory, and the value as determined by the Lessor, is acceptable.

**THIS LEASE** is not subject to Title 10, United States Code, Section 2662, as amended.

**IN WITNESS WHEREOF**, I have hereunto set my hand by authority of the Secretary of the Army, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

---

Terry D. Rupe  
Chief, Real Estate  
Real Estate Contracting Officer



**THIS LEASE** is also executed by the Lessee this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Company, Corp, etc.**

SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DRAFT