

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

NOTICE OF AVAILABILITY FOR LEASING NO. DACW56-9-22-001
GOVERNMENT OWNED REAL PROPERTY
FOR HAY HARVESTING PURPOSES
TENKILLER FERRY LAKE, OK

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, Tulsa District
ATTN: Real Estate
2488 East 81st Street
Tulsa, OK 74137

PROPERTY LOCATION: Tenkiller Ferry Lake, OK, described by area numbers below.

TIME OF PRE-OPENING CONFERENCE: 1:30 p.m., Wednesday, October 6, 2021

OFFERS DEADLINE/TIME OF OPENING: 2:00 p.m., Wednesday, October 6, 2021

PLACE OF PRE-OPENING CONFERENCE AND OPENING: U.S. Army Corps of Engineers, Tulsa District Office, 16th floor Room 1606, CityPlex Towers, 2488 East 81st 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

Tenkiller Ferry Lake Office:	Tyler Blankenship	918-487-5252, Ext 6227
	or	
Real Estate Division District Office:	Fredderick Bompuku	918-669-7329

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 **5 years**, beginning **January 1, 2022**, and ending **December 31, 2026 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 Tenkiller Ferry 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 **15 thru 20.** *(Page 16 must be submitted if you are submitting as a corporate entity. Page 17 must be submitted if you are submitting your offer as a governmental entity. Page 18 must be submitted if you are submitting your offer as a partnership. Page 19 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 20 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 7th 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 Tenkiller Ferry Lake Office.

DESCRIPTION OF AREA

THE FOLLOWING AREA IS AVAILABLE FOR HAY HARVESTING PURPOSES ONLY:

AREA 112

This area contains approximately 49 acres, of which approximately 49 acres are useable for the authorized purposes, located in Sections SE1/4 of S2, T16N, R22E, Cherokee County, Oklahoma as shown on the maps marked **Exhibits A** and **B**, attached hereto.

THIS AREA INTENTIONALLY LEFT BLANK

**TENKILLER FERRY LAKE
LAND USE REGULATIONS
HAY HARVESTING PURPOSES
LEASE AREA 112**

AREA USAGE: HAY HARVESTING

1. Any work performed outside of boundaries indicated in **Exhibits A and B** shall be approved in advance by the Tenkiller Ferry Lake Office.
2. Grazing **will not** be permitted on this lease area.
3. A maximum of only (2) two cuttings per year are authorized.
4. All hay harvesting must be completed on or before **August 31** of each year.
5. All haying equipment and baled hay shall be removed on or before **September 30** each year.
6. All hay cutting heights must be maintained at not less than (4) inches above the ground.
7. **PESTICIDES:** The term "pesticide" means (1) any substance or mixture of substances intended for preventing, destroying, repelling any pest and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. This includes fungicides, herbicides, insecticides, larvicides, and rodenticides. **Any and all pesticides may only be applied with prior written approval from the Lake Manager.**
8. If hay area is not harvested annually, the lessee will be required to brush hog areas normally mowed for hay. If brush hogging is required work **must** be completed by **November 1** each year.
8. Any deviation from the above requirements requires the advanced approval of the Chief, Real Estate Division.

SPECIAL LEASE REQUIREMENTS

1. **SOIL SAMPLING:** Lessee shall obtain annual soil samples in manner recommended by Natural Resource Conservation Service throughout hay meadows. Cost of testing samples will be accrued by lessee.
2. **FERTILIZATION AND/OR LIMING:** Lessee shall apply fertilizer and/or lime in manner as recommended by soil sample results. This shall be completed prior to the first cutting. Only commercial fertilizers will be allowed. Prior to application, lessee shall contact local Soil Conservation Specialist at United States Department of Agriculture office for guidance. All fertilizer and/or lime applications shall be approved in advance by the Natural Resource Specialist at the Tenkiller Ferry Lake Office. All costs of fertilization and/or liming shall be accrued by lessee.
3. **BOUNDARY FENCING:** Any boundary fencing located in lease area shall be maintained by lessee. Fencing shall be kept clean of brush, trees, limbs, etc. All wire and posts shall be kept intact and maintained in a manner as to prohibit illegal grazing. Materials for initial repairs to existing fencing will be supplied by the government on an as-needed basis. Labor to make repairs and/or maintain fencing shall be accrued by the lessee. Fence and gate maintenance, repair, or construction must be conducted by hand. Vegetation clearing or old fencing removal may be accomplished by lifting with small equipment such as a skid steer, but should not be pushed in order to avoid ground disturbance. Should heavy equipment be needed, additional review will be required. Any tree

clearing must be done by hand, with stumps 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, additional review will be required. Provided all necessary fence and gate repair and maintenance adheres to the above, there is no potential to affect historic properties. Fence construction or maintenance must follow guidelines as set forth in **Exhibit C**.

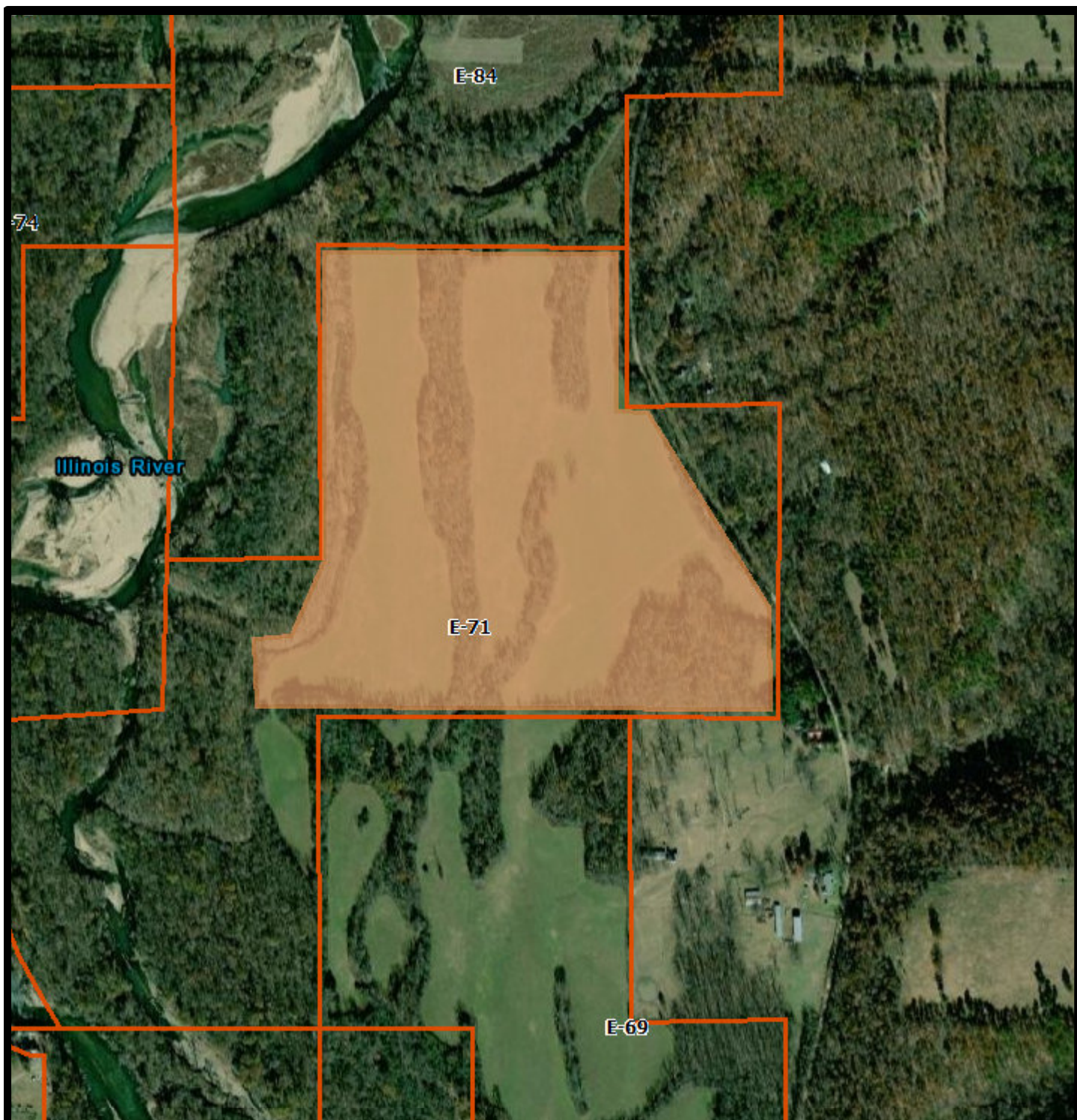
4. **HAY PASTURE, BUFFER ZONE AREA ESTABLISHMENT:** Hay shall not be cut within a 100' zone along the common boundary of Hay Pasture and Tenkiller Ferry Lake and/or its tributaries. The vegetation within this zone shall be allowed to return to a natural state to allow bank stabilization within the area.

5. **GATE LOCKS AND KEYS:** Any changes in locks and keys on access gates shall be approved in advance by the Tenkiller Natural Resource Specialist. If lessee wishes to place his/her own lock(s) on access gates, (2) two keys shall be supplied to Natural Resource Specialist prior to placing lock(s) on gate. If there are any changes in locks and keys on access gates, keys shall be supplied to the Tenkiller Office no later than 5 days following changes.

6. All agricultural activities will utilize existing land improvements, including roads, paths, fences, ponds, clearings, fields, firebreaks, etc. The lessee shall not construct new land improvements or improve existing land improvements without submitting a formal written request to the Tenkiller Ferry Lake Office. Requests for improvements will follow Tulsa District's standard outgrant approval process. Formal written approval will be required prior to the commencement of any improvement activities.

7. The Lessee shall maintain the premises in good condition and free from weeds, brush, washes, gullies, and other erosion which is detrimental to the value of the premises for agricultural purposes.

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0 0.1 0.2
mi

Legend

- Outgranted Area
- Gov Easements
- Gov Fee Lands



Map Projection: WGS 1984 Web Mercator (Auxiliary Sphere)

Contract Number:

Location Description: SE1/4 of Section 2, T16N, R22E, Cherokee County, Oklahoma. Containing 49 acres. Area 112

Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, While the United States Army Corps of Engineers, (hereinafter referred to as USACE) has made a reasonable effort to insure the accuracy of the maps and associated data, it should be explicitly noted that USACE makes no warranty, representation or guaranty, either express or implied, as to the content, sequence, accuracy, timeliness or completeness of any of the data provided herein. The USACE, its officers, agents, employees, or servants shall assume no liability of any nature for any errors, omissions, or inaccuracies in the information provided regardless of how caused.

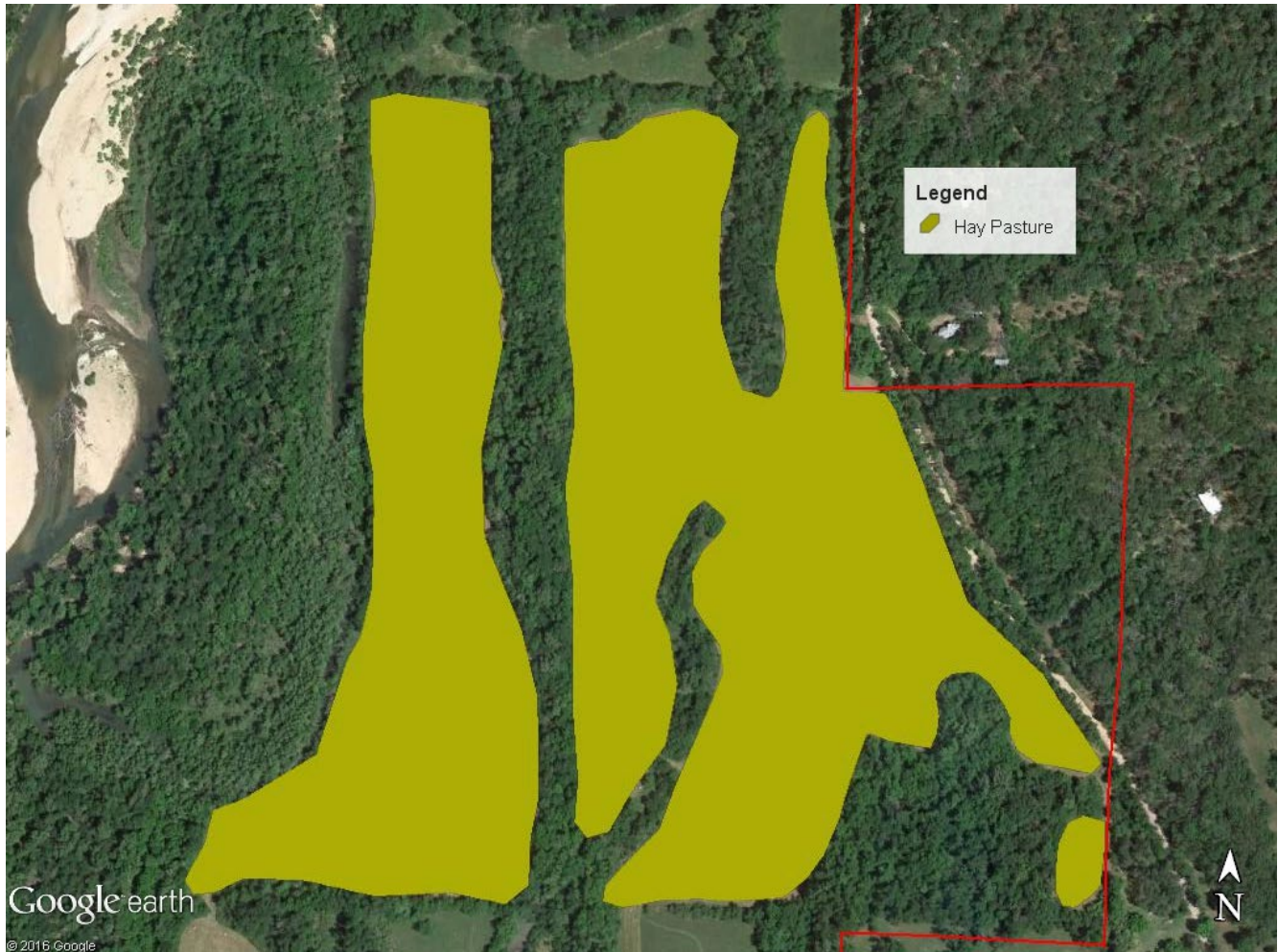


**U.S. Army Corps
of Engineers®**
Tulsa District

EXHIBIT A

Date Created: 07/29/2021

TENKILLER FERRY LAKE LEASE & LAND USE BOUNDARY AREA 112



*This image is an approximate representation and may not be used as a legal document due to errors in the generation process.
Copies of survey plat and shoreline allocation maps may be obtained through the Tenkiller Ferry Lake Office.
The Corps of Engineers is not responsible for any incorrect information provided in this map.*

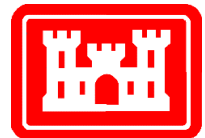


Exhibit B

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 $\frac{1}{4}$ 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

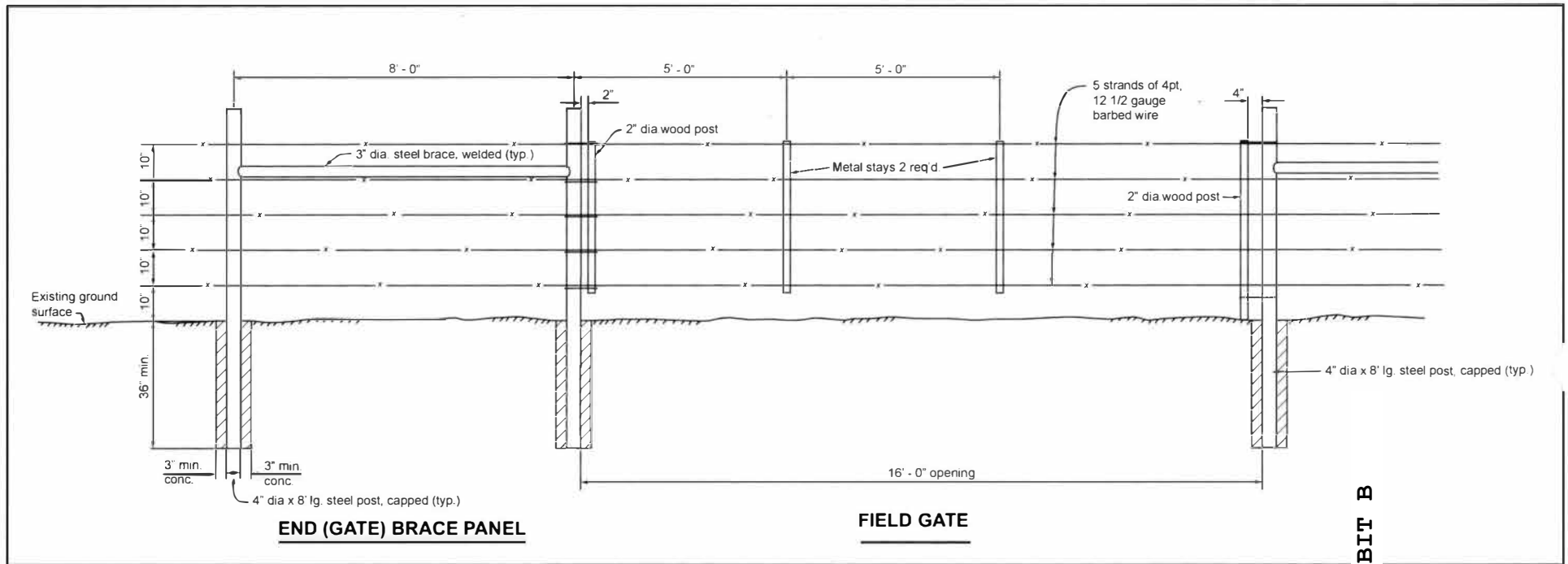
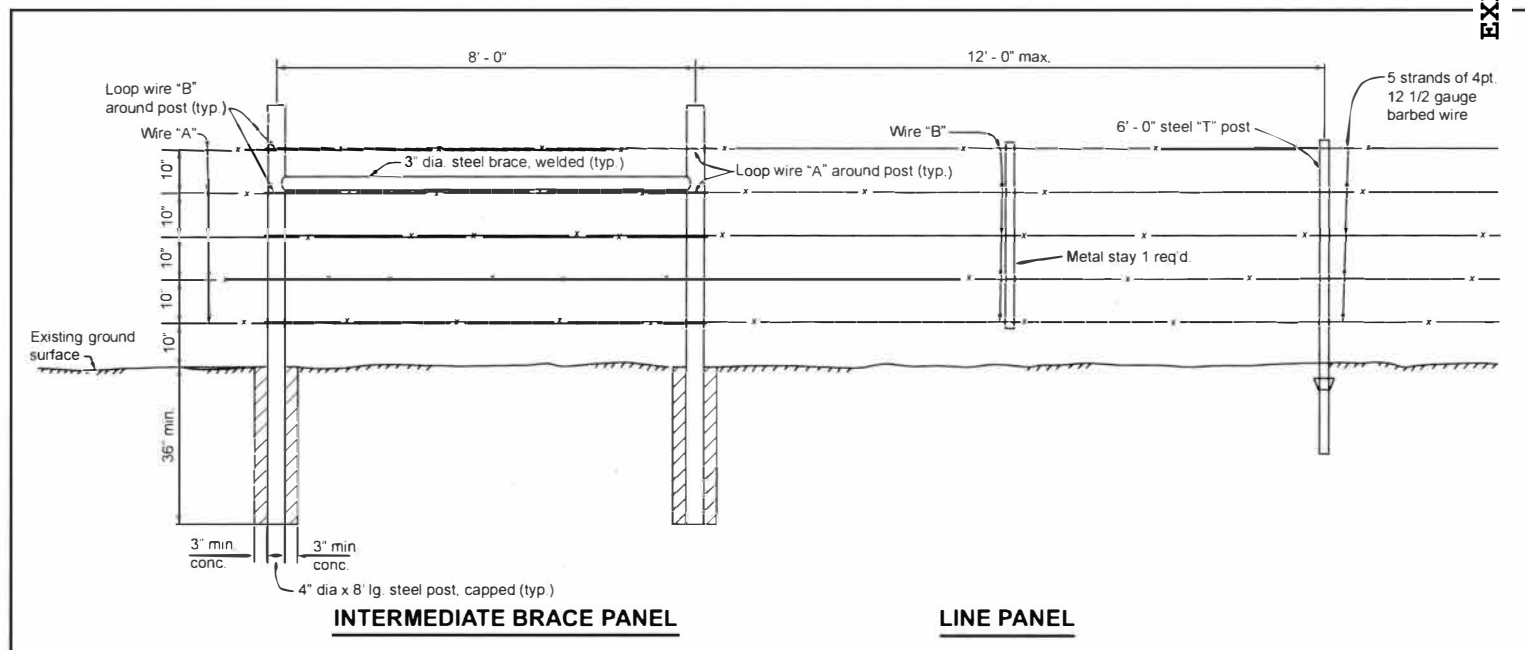
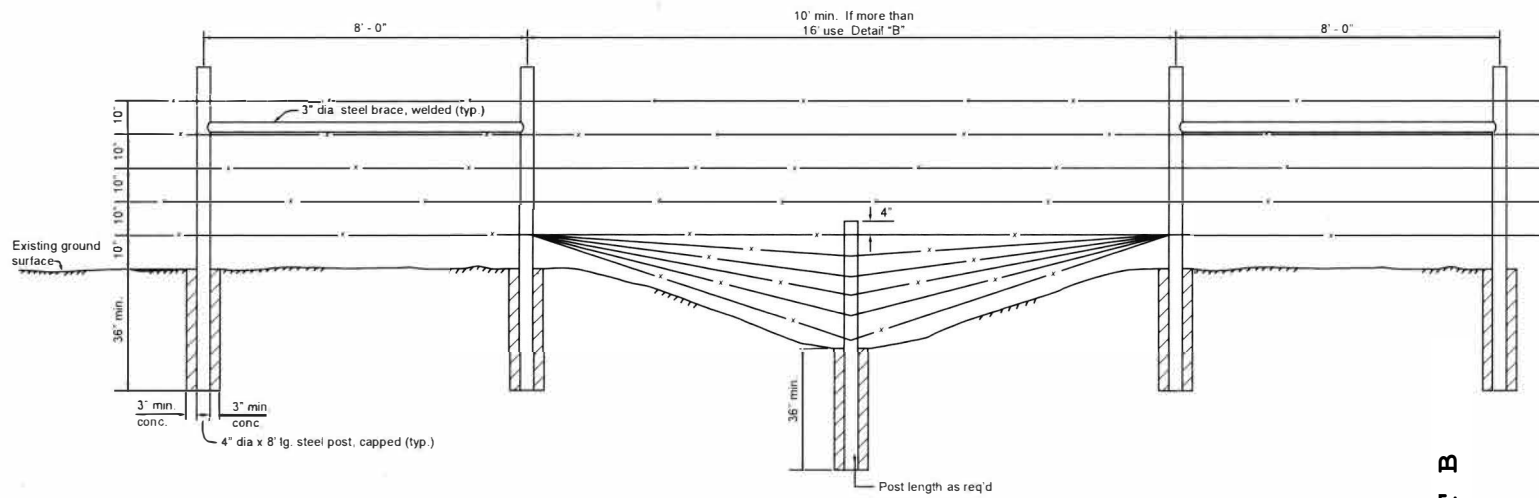


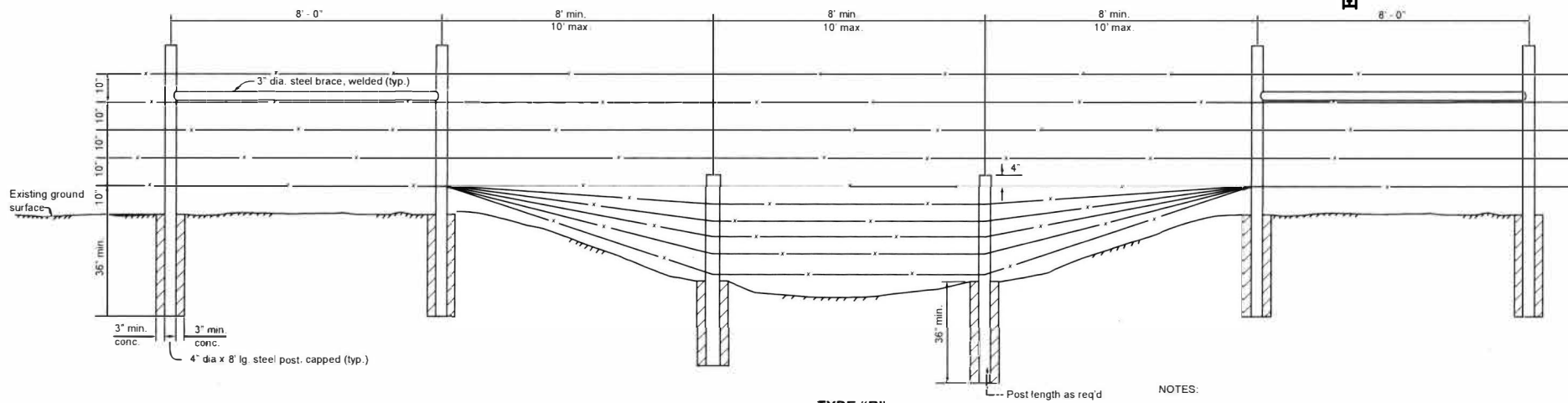
EXHIBIT B





TYPE "A"

EXHIBIT B

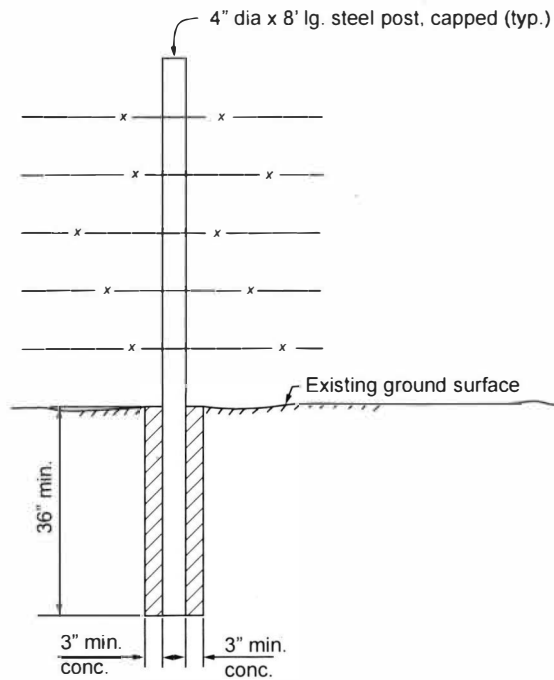


TYPE "B"

WATER GAP DETAILS

NOTES:

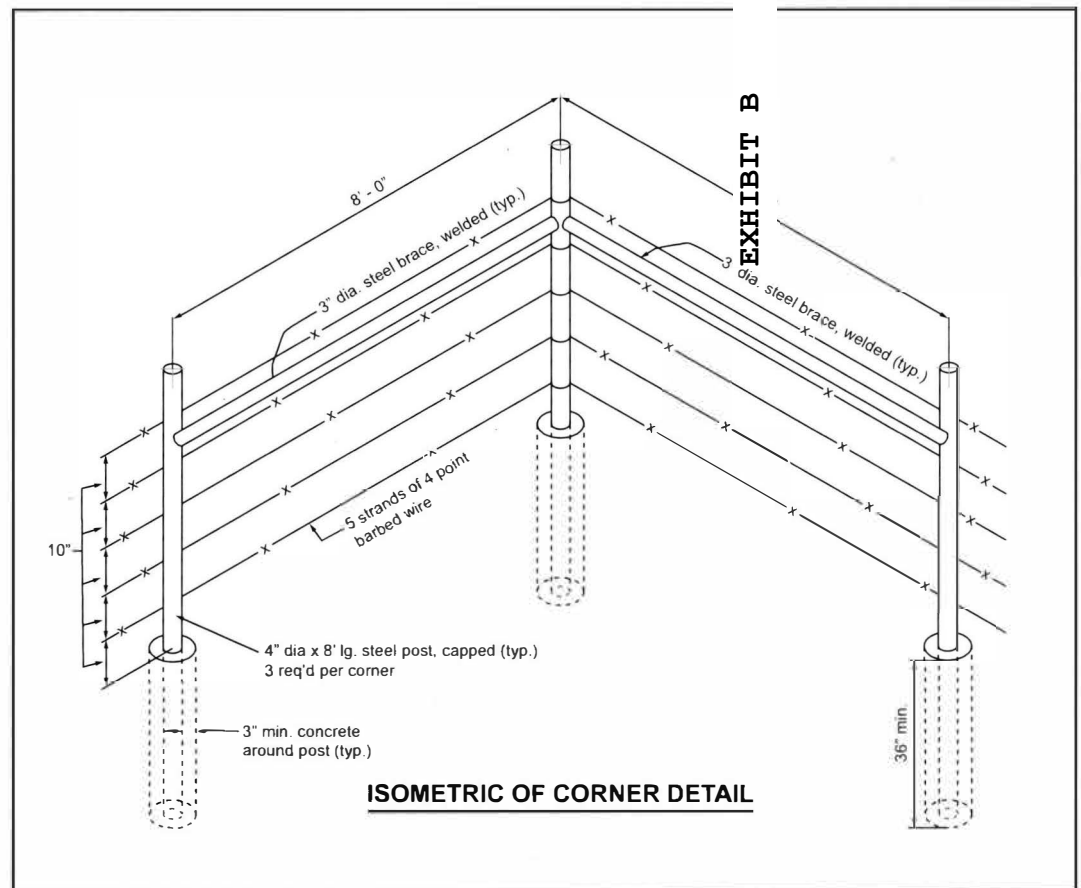
1. Used where fence alignment changes are 5 degrees or greater, but less than 10 degrees.
2. Used at bottom of sharp vertical breaks to prevent uplift from removing normally set post.



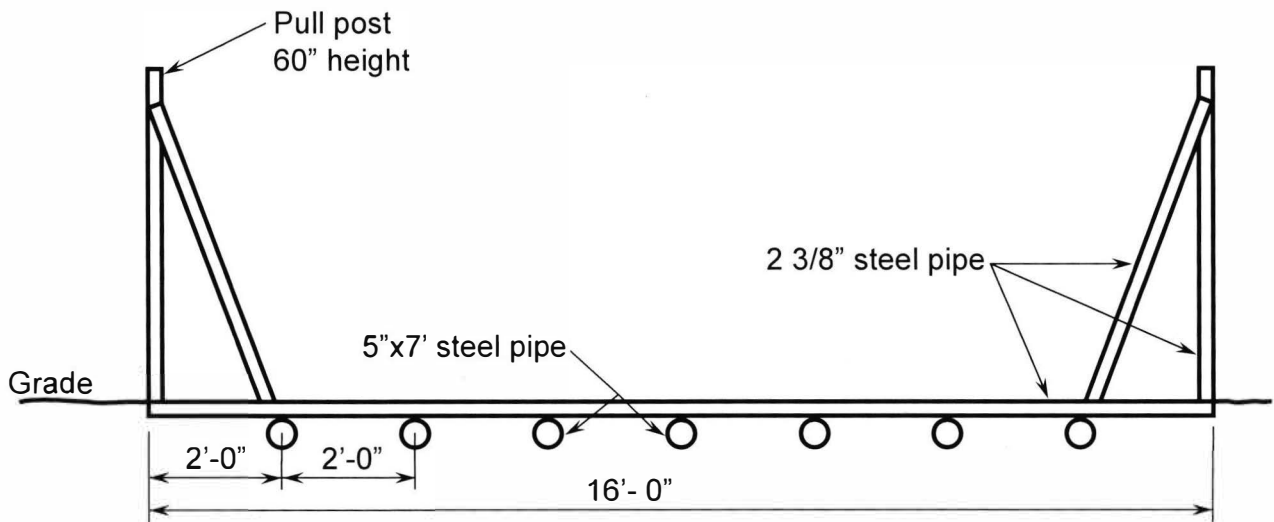
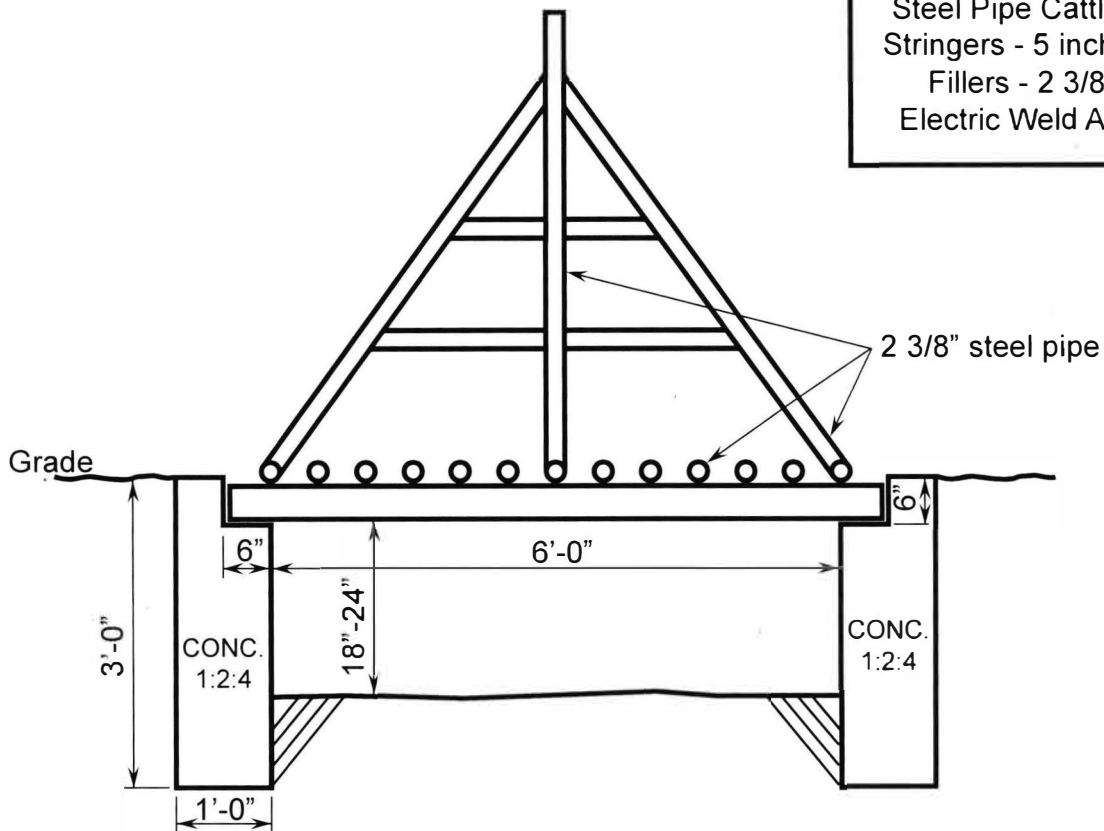
ANCHOR POST

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.



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



NOTICE FOR A&G LEASE OFFERS – TENKILLER FERRY LAKE
Notice of Availability for Leasing No. DACW56-9-22-001

TO: A&G LEASE OFFERS
U.S. Army Corps of Engineers
ATTN: Real Estate Division
2488 E. 81st 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	OFFER DEPOSIT ENCLOSED
112	\$	\$
	\$	\$
	\$	\$
	\$	\$

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: DACW56-9-22-001

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



DRAFT FOR INFORMATIONAL PURPOSES ONLY

NO. DACW56-1-22-XXX

**DEPARTMENT OF THE ARMY LEASE
FOR AGRICULTURE/GRAZING/HAY HARVESTING PURPOSES
LOCATED ON**

** 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

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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

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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 81st 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

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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

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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

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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

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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

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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,

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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.

28. 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.

29. 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.

30. 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 –

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- (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 or 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.

31. 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.).

32. 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.

33. 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.

34. 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.

35. 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.

36. 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.

37. 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

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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.

38. 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.

39. 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.

40. 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.

41. 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.

42. 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.

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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.

43. 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.

44. 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.

45. 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.

46. 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.

DRAFT FOR INFORMATIONAL PURPOSES ONLY.

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: _____