

**U.S. ARMY CORPS OF ENGINEERS
NOTICE OF AVAILABILITY FOR LEASING NO. DACW-31-R-20-408
Land Lease for Agricultural Purposes**

Mailing Address and Office Location:

Department of the Army
U.S. Army Corps of Engineers
ATTN: Real Estate Division / Tom Craig
2 Hopkins Plaza
Baltimore, Maryland 21201

SITES SELECTED: Tract(s) being leased for Agricultural Purposes.

CONSISTING OF: The site offered for lease is located at Raystown Lake Project, Pennsylvania, and designated as a portion of the following tracts solely for the agricultural purpose of hay production:

<u>Tract Nos.</u>	<u>Acres</u>
3101	46.38 +/-
3062	17.55 +/-
Total:	63.93 +/-

FOR: Agricultural Purposes: The site will be leased on a competitive basis to the individual or corporation offering the highest rental value to the Government.

Applications will be evaluated by: (1) Monetary Return to the United States, and (2) Conformance to the Lease Special Conditions (Exhibit B).

Potential Lessees may request Applications for Leasing, describing the site and giving details of the lease requirements through Tom Craig by phone at (410) 962-2209 or by email at Thomas.m.craig@usace.army.mil.

Applications will be submitted in sealed envelopes, which will be opened and evaluated on:

Date: May 28, 2020
Time: 2:00 PM
Location: Corps of Engineers -Baltimore District
Real Estate Division, 5th Floor, 05-E-02
2 Hopkins Plaza
Baltimore, Maryland 21201

Mailing Address: Department of the Army
U.S. Army Corps of Engineers
Attn: Real Estate Division / Tom Craig
2 Hopkins Plaza
Baltimore, MD 21201

**APPLICATION INFORMATION PACKAGE
FOR
AGRICULTURAL AND/OR GRAZING PURPOSES
AT**

**RAYSTOWN LAKE PROJECT
HUNTINGDON COUNTY, PENNSYLVANIA**

The information below must appear in the lower left corner of the Lease Application envelope.

Sealed application for Lease of Real Property

To be opened:

TIME: 2:00 PM

DATE: May 28, 2020

NOTICE NO. DACW-31-R-20-408

GENERAL INFORMATION

1. PROPERTY TO BE LEASED

- a. Location and Description of Leased Premises. The site offered for lease is located at Raystown Lake, Huntingdon County, Pennsylvania, and designated as a portion of the following Tract's:

<u>Tract No.</u>	<u>Acres</u>
3101	46.38 +/-
3062	17.55 +/-
Total:	63.93 +/-

b. Map and Use Plans. The Map and Special Conditions for the above described unit is attached as Exhibit "A" and Exhibit "B". This map and conditions will be made a part of any lease awarded for the use of this land.

2. DESCRIPTION APPROXIMATE. Description of the property and the map are believed to be correct, but any error or omission in the description of the property and map shall not constitute any grounds for nonperformance of the provisions and conditions of the lease or claim by the lessee for any refund or deduction from the rental.

3. PURPOSE OF LEASING. The property will be leased solely for the agricultural purpose of hay production.

4. AUTHORITY OF LAW. The authority of law for granting this lease is Title 10, United State Code 2667.

5. TERMS AND CONDITIONS OF LEASING.

a. Form of Lease. The successful applicant will be required to enter into a lease with the United States on the form attached as Exhibit C.

b. Term. The lease will be for a term of five (5) years with the right of renewal for a second five (5) year term, with a review and update of the annual rental at the end of the first five years.

c. (1) The Lessee will be required to make use of the land in accordance with the Special Conditions, attached as Exhibit "B". The Special Conditions may affect the

rental amount, therefore it is the responsibility of the applicant to review the Special Conditions before submitting an application.

(3) Although unlikely due to the time of year the Lessee would be accessing the lease area, there is a possibility that access to the unit being advertised may be inundated for flood control.

6. RENTAL.

a. The annual rental will be the amount stated in the application and accepted by the Government.

b. Payments of Rental. Rental will be paid in advance as stated below. The first payment, less the deposit, will be made at the time of delivery of the lease to the lessee.

(1) Rental of \$200.00 or less for the term will be paid in one lump sum payment.

(2) Rental of \$200.00 or less per annum will be paid annually.

(3) Rental of \$200.00 per annum or more and less than \$500.00 per annum may be paid in equal semiannual installments.

(4) Rental of \$500.00 per annum or more and less than \$1,200.00 per annum may be paid in equal quarterly installments.

(5) Rental exceeding \$1,200.00 per annum may be paid in equal monthly installments.

c. A charge, in an amount to be determined by law or regulation, will be imposed on late payment of rent or other payments due under this agreement for each 30-day period that the payment is overdue. The full late charge will also be applicable to periods of less than 30 days.

7. ARRANGEMENTS FOR INSPECTION: Arrangements for inspection may be made with Tom Craig, Realty Specialist, Baltimore District, Telephone: (410) 962-2209.

8. SELECTION CRITERIA: Applications will be evaluated in accordance with the following criteria, listed in descending order of importance.

(1) Monetary Return to the United States.

(2) Conformance to the Special Conditions.

a. Monetary Return to the United States. This will be evaluated as to the amount of annual rent proposed in the application.

b. Conformance to the Special Conditions. This criteria will determine if the applicant is willing to fulfill the Special Conditions as written.

SECTION II APPLICATION NO. DACW-31-R-20-408

SUBMISSION INSTRUCTIONS

1. SUBMISSION: Sealed, written Applications should be submitted to:

Mailing Address:

Department of the Army
U.S. Army Corps of Engineers
Attn: Real Estate Division / Tom Craig
2 Hopkins Plaza
Baltimore, Maryland 21201

Direct Delivery Address:

Department of the Army
U.S. Army Corps of Engineers
2 Hopkins Plaza
5th Floor, 05-E-02 / Tom Craig
Baltimore, Maryland 21201

a. Packages and/or envelopes containing the Application should be marked with Application No. DACW-31-R-20-408

2. DUE DATE: Applications will not be accepted after, 2:00 PM, May 28, 2020, modifications of applications may be made in sealed envelopes, as for original application, up to that time.

3. REJECTION OF APPLICATION:

a. The right is reserved, as the interests of the Government may require, to reject at any time any and all applications, to waive any informality in applications received, and to accept or reject any items of any applications unless such application is qualified by specific limitation.

b. The Government may (1) reject any or all applications if such action is in the public interest, (2) waive informalities and minor irregularities in offers received.

c. The Government reserves the right to conduct written or oral discussions with all responsible applicants who submit proposal within the competitive range.

d. A written award or acceptance of application mailed or otherwise furnished to the successful applicant within the time for acceptance specified in the application shall result in a binding contract without further action by either party. Before the application's specified expiration time, the Government may accept an application whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award. Negotiations conducted after receipt of an application do not constitute a rejection or counteroffer by the Government.

e. The Government may determine that an application is unacceptable if the prices proposed are materially unbalanced between line items or sub line items. An application is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the application will result in the lowest overall cost to the Government, even though it may be the low evaluated application, or it is so unbalanced as to be tantamount to allowing an advance payment.

4. DEFAULT: In the event that the successful applicant fails to enter into a lease within ten (10) days after receipt of Government notification that this application has been accepted and receipt of a draft lease for execution, or in the event that the successful applicant fails to otherwise comply with the terms of this Notice, the Government may declare the applicant in default.

5. ADDITIONAL INFORMATION: Any additional information may be obtained from the Corps of Engineers – Baltimore District, Real Estate Division, Mr. Tom Craig at 410-962-2209.

6. AWARD OF LEASE: A lease will be awarded to the applicant who provides the best overall value to the Government as to the most favorable in terms of apparent ability to farm the site efficiently and effectively. The Government reserves the right not to award a lease under this Notice.

7. DEPOSIT: Applicants will submit a refundable application deposit of 10% of the proposed rental amount. The amount will apply to initial rental for the successful applicant.

8. APPLICANT RESPONSIBILITY: It is the responsibility of the applicant to make sure that all lease provisions are understood and the conditions of the premises proposed for lease are known.

9. ASSURANCES REQUIRED: By submittal of an application, the applicant agrees to provide non-discrimination and Civil Rights assurances, if applicable.

10. QUESTIONS REGARDING SOLICITATION: All questions may be directed to the Corps of Engineers, Baltimore District, Real Estate Division, to Mr. Tom Craig, telephone No. 410-962-2209.

APPLICATION INFORMATION

INVITATION NO. DACW-31-R-20-408

DATED: _____

APPLICATION FOR LEASING UNITED STATES REAL PROPERTY
AT
RAYSTOWN LAKE

TO: Department of the Army
United States Army Corps of Engineers
ATTN: Real Estate Division / Tom Craig
2 Hopkins Plaza
Baltimore, Maryland 21201

SIR:

The undersigned, _____,

a corporation existing under the laws of the State of Pennsylvania,

or a partnership consisting of _____,

or an individual trading as _____,

of _____,

(ADDRESS AND TELEPHONE NUMBER)

in accordance with your Request for Application No. DACW-31-R-20-408, for the leasing of property at the Raystown Point Lake, Huntingdon County, Pennsylvania, and subject to all the conditions and requirements thereof, which so far as they relate to this application, are made a part of it, proposes to enter into a lease for the property applied for below, and hereby agrees to pay the rental set out below:

DESCRIPTION OF LAND APPROXIMATE ACREAGE RENTAL PER ANNUM

Tract No.

Acres

3101

46.38 +/-

3062

17.55 +/-

Total:

63.93 +/-

Applicant represents: (a) That he/she _____ has, _____ has not, employed or retained any company or person (other than a full-time bona fide employee working solely for the applicant to solicit or secure this contract) and (b) that he/she _____ has, _____ has not, paid or agreed to pay to any company or persons (other than a full-time bona fide employee working solely for the applicant) any fee, commission, percentage or brokerage fee, contingent upon or resulting from the aware of this contract, and agrees to furnish information relating to (a) and (b) above as requested by the District Engineer, Baltimore, Maryland.

(Applicant will check the appropriate boxes in the above statement).

OFFER AMOUNT

Tract Nos. 3101 AND 3062

ANNUAL RENTAL OFFER FOR THE 5 YEAR TERM: _____ per year for the 5 year term

Enclosed is a check or money order payable to the Treasurer of the United States in the amount of \$ _____ to cover the required deposit(s) (not less than the first year of the annual rental).

I (We) make this application with full knowledge of all the Lease and Special Conditions and requirements hereinabove set forth, and will enter into a written lease within ten days after the date of written notice of the acceptance of this application and a draft of lease for execution.

SIGNATURE

BUSINESS ADDRESS

TAX ID / SSN:

TELEPHONE NO.

* Section 2667 of Title 10 of the United States Code authorizes collection of this information. The primary use of this information is by the Real Estate Division and Resource Management Office in administration of the lease and the collection of rental payments. Additional disclosures of this information may be made to the Internal Revenue Service, the Government Accounting Office, and the U.S. Army Finance & Accounting Center. Failure to furnish this information will result in the termination of the lease or rejection of this application. If the information provided is used for purposes other than listed above, you will be provided with an additional statement reflecting those purposes.

NOTICE
BY THE CORPS OF ENGINEERS
LEASE FOR AGRICULTURAL PURPOSES
RAYSTOWN LAKE
HUNTINGDON COUNTY, PENNSYLVANIA
UNDER NOTICE OF APPLICATION FOR LEASE NO. DACW-31-R-20-408

The Baltimore District Corps of Engineers is offering agricultural leases at the Raystown Lake, Huntingdon County, Pennsylvania

The sites may be inspected by prospective offerors. Arrangements for inspection must be made 72 hours in advance by contacting Tom Craig, Realty Specialist, Baltimore District, Telephone: (410) 962-2209.

Applications will be accepted until the time of opening, at the Department of the Army, United States Army Corps of Engineers, Attn: Real Estate Division, Baltimore, MD 21201. Applications will be opened for evaluation at 2:00 PM, at the Real Estate Office, 2 Hopkins Plaza, Baltimore, Maryland, 21201, on May 28, 2020.

Applications for Leasing, including terms and conditions of the lease, procedure for submitting applications and a description of the site may be obtained from the above office by calling Mr. Tom Craig at (410) 962-2209.

EXHIBIT A

LEASE MAP

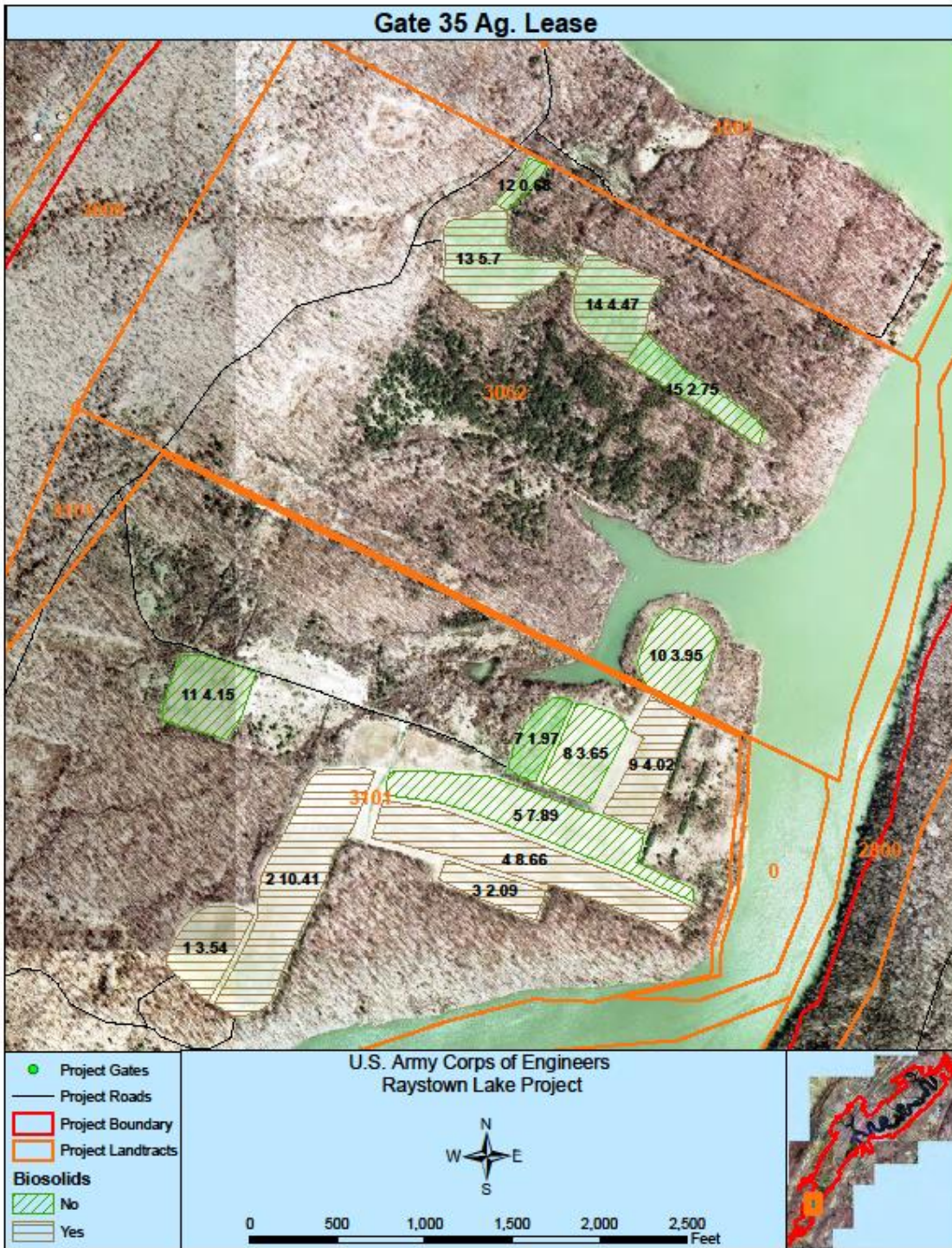


EXHIBIT B

SPECIAL CONDITIONS

The following Special Conditions shall be made a part of this lease at the Raystown Lake Project, Huntingdon County, Pennsylvania:

1. The Lessee shall meet with the Operations Manager or his representative prior to March 31 each year to discuss the Government's planned crop rotations for that year. The Government plans to manage approximately 5 acres of fields within the lease area per year. All fields not managed by the Government in that year are available for the Lessee's use for the sole purpose of hay production.
2. The Lessee is not permitted to alter or harvest any crops planted by the Government.
3. The Lessee is not permitted to alter any field hedge row or buffer strip.
4. The Lessee is only authorized to access the lease area for purposes associated with this lease. Gates shall be kept closed and locked at all times.
5. The Lessee will at no time use the leased property for cattle grazing or any other unapproved farming practice. This lease does not authorize the harvest of wildlife without approval in advance from the Corps of Engineers and if required by regulation the Pennsylvania Game Commission, the Pennsylvania Fish and Boat Commission, and/or the U.S. Fish and Wildlife Service.
6. The Lessee shall conduct a minimum of two hay harvests per year for all fields available for hay production within the lease area.
7. The lease area is not to be used for equipment or hay storage beyond a period reasonably required for harvesting of hay crops.
8. Prior to removing any hay from the lease area the Lessee shall contact the Operation Manager or his representative so that the Government can verify the quantity of hay harvested.
9. The use of any herbicides must be approved in advance by the Operations Manager or his representative. Chemical labels and SDS sheets must be submitted at least two weeks prior to application. All herbicide applications shall be done in accordance with the appropriate federal, state, or local laws, rules, or regulations. At the completion of each approved application the Lessee shall provide the Operations Manager or his representative a completed Post Application Documentation Form (Appendix C).
10. No crops, meant for human consumption, may be planted or harvested within the lease area.
11. Access to the lease area will be restricted for 30 days after the application of bio solids.

12. Soil Management:

Biosolid Fields: The Lessee is not permitted to apply manure, fertilizer, or lime within these fields prior to consultation with the Operations Manager or his representative so that Agronomic Loading Rates for the purpose of biosolid application are not exceeded.

Non Biosolid Fields: The Lessee shall conduct annual soil testing for these fields. A copy of the soil tests shall be provided to the Operations Manager or his representative. The lessee shall apply manure, fertilizer, and/or lime to achieve recommend pH and nutrient levels.

13. The government reserves the right to deny renewal of this agreement if the terms set forth herein are not met. A yearly review of this lease agreement will occur to determine compliance.

EXHIBIT C

DACW-31-X-XX-XXX

**DEPARTMENT OF THE ARMY LEASE
FOR AGRICULTURAL PURPOSES
LOCATED ON
RAYSTOWN LAKE
HUNTINGDON COUNTY, PENNSYLVANIA**

THIS LEASE, made on behalf of the United States, between the **SECRETARY OF THE ARMY**, hereinafter referred to as the Secretary, and **NAME OF LESSEE**, hereinafter referred to as the Lessee,

WITNESSETH:

That the Secretary, by authority of Title 10, United States Code, Section 2667, and for the consideration set forth herein, hereby leases to the Lessee the property hereinafter identified in Exhibit "A", attached hereto and made a part hereof, hereinafter referred to as the premises, for agricultural and grazing purposes, which is attached hereto and made a part hereof..

1. TERM

Said premises are hereby leased for a term of Five (5) years with an option by the Lessee to renew one additional five (5) year term, beginning _____ 20____ and ending _____ 20____, but revocable at will by the Secretary. If the renewal option is selected by the Lessee, a review and update of the annual rental will be made for the second term.

2. CONSIDERATION

a. The Lessee shall pay rental in advance to the United States in the amount of **Amount (\$0.00)**, payable Frequency, to the order of "USAED, Baltimore District", and delivered to the USACE Finance Center, 5720 Integrity Drive, Millington, TN 38054-5005. All payments will be identified with the lease number.

b. All rent and other payments due under the terms of this lease must be paid on or before the date they 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. 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. NOTICES

All correspondence and notices to be given pursuant to this lease shall be addressed, if to the Lessee, to Lessee's Name and Address and, if to the United States, to the District Commander, U.S. Army Corps of Engineers – Baltimore District, Attention: Chief, Real Estate Division, P.O. Box 1715, Baltimore, Maryland 21203-1715, or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope, or wrapper, addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

4. AUTHORIZED REPRESENTATIVES

Except as otherwise specifically provided, any reference herein to “Secretary”, “District Commander”, or “said officer” shall include their duly authorized representatives. Any reference to “Lessee” shall include any sublessees, assignees, transferees, successors and their duly authorized representatives.

5. SUPERVISION BY THE DISTRICT COMMANDER

The use and occupation of the premises shall be subject to the general supervision and approval of the District Commander, Philadelphia District, hereinafter referred to as said officer, and to such rules and regulations as may be prescribed from time to time by said officer.

6. APPLICABLE LAWS AND REGULATIONS

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

7. CONDITION OF PREMISES

a. 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.

8. TRANSFERS AND ASSIGNMENTS

Without prior written approval of the District Commander, the Lessee shall neither transfer nor assign this lease, nor sublet the premises or any part thereof, nor grant any interest, privilege or license whatsoever in connection with this lease. Failure to comply with this condition shall constitute a noncompliance for which the lease may be revoked immediately by the District Commander.

9. PROTECTION OF PROPERTY

The Lessee shall keep the premises in good order and in a clean, 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 said officer, or at the election of said officer, reimbursement made therefor by the Lessee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

10. RENTAL ADJUSTMENT

In the event the United States revokes this lease or in any other manner materially reduces the leased area 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 said 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 the said premises, or the District Commander 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 District Commander; 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 the remaining crops shall become property of the United States upon such revocation.

11. 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 purposes necessary or convenient in connection with government purposes; to make inspections, to remove timber or other materials, 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 lands as may be necessary in connection with government purposes, and the Lessee shall have no claims for damages on account thereof against the United States or any officer, agent, or employee thereof.

12. 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 Grantee, or for damages to the property or injuries to the person of the Grantee'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 Grantee 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.

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, suits, 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.

13. EXECUTIVE ORDERS 13658 & 13706

It has been determined this contract is not subject to Executive Order 13658 and 13706 or the regulations issued by the Secretary of Labor in 29 CFR part 10 pursuant to the Executive Order, and the following provisions.

14. RESTORATION

On or before the expiration of this lease or its termination by the Lessee, the Lessee shall vacate the premises, remove the property of the Lessee, and restore the premises to a condition satisfactory to said officer. If, however, this lease is revoked, the Lessee shall vacate the premises, remove said property and restore the premises to the aforesaid condition within such time as the said officer may designate or as otherwise specified by the provisions of the condition on **RENTAL ADJUSTMENT**. In either event, if the Lessee shall fail or neglect to remove said property and restore the premises, then, at the option of said officer, the property shall either become the property of the United States without compensation therefor, or the said officer may cause the property to be removed and no claim for damages against the United States or its officers or agents shall be created by or made on account of such removal and restoration work. The Lessee shall also pay the United States on demand any sum which may be expended by the United States after the expiration, revocation, or termination of this lease in restoring the premises.

15. 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 leased premises, because of race, color, religion, sex, age, handicap or national origin.

16. SUBJECT TO EASEMENTS

This lease is subject to all existing easements, 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 District Commander, interfere with the use of the premises by the Lessee.

17. SUBJECT TO MINERAL INTERESTS

This lease is subject to all outstanding mineral interests. As to federally owned mineral interests, it is understood that they may be included in present or future mineral leases issued by the Bureau of Land Management (BLM) which has responsibility for mineral development of Federal lands. The Secretary 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.

18. TERMINATION

This lease may be terminated by the Lessee at any time by giving at least sixty (60) days' notice thereof, in writing, to the District Commander. In the case of such termination, no refund by the United State of any rental previously paid shall be made and payment in full of all rent becoming due during the period of notice will be required.

In the event the effective date of termination occurs after the start of the grazing, planting or harvesting season as specified in the Land Use Regulations, any rent due for the balance of the annual term, or the rental due for the remaining term if the lease is for less than one year, shall be due and payable on or before the date of such termination.

19. PROHIBITED USES

The lessee shall not construct or place any structure, improvement or advertising sign or allow or permit such construction or placement without prior written approval of the District Commander.

20. PROTECTION OF NATURAL RESOURCES

The Lessee shall use the premises in accordance with the attached Land Use Regulations and shall at all times: (a) 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; (b) cut no timber, conduct no mining operations, remove no sand, gravel or kindred substances from the premises; (c) commit no waste of any kind nor in any manner substantially change the contour or condition of the premises except changes required to accomplish soil and water conservation measures as may be authorized by said officer.

21. DISPUTES

a. Except as provided in the Contract Disputes Act of 1978 (41 U.S.C. 601-613) (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 District Commander for a written decision. A claim by the Government against the Lessee shall be subject to a written decision by the District Commander.

(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; and

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

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

(3) If the Lessee is an individual, the certificate shall be executed by that individual. If the Lessee is not an individual, the certification shall be executed by --

(i) a senior company official in charge at the Lessee's location involved;
or

(ii) 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 District Commander must, if requested in writing by the Lessee, render a decision within 60 days of the request. For lessee-certified claims over \$100,000, the District Commander must, within 60 days, decide the claim or notify the Lessee of the date by which the decision will be made.

e. The District Commander'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 District Commander 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

certification 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 District Commander 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 District Commander 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, appeal, or action arising under the lease, and comply with any decision of the District Commander.

22. ENVIRONMENTAL PROTECTION

a. Within the limits of their respective legal powers, the parties to this lease shall protect the premises against pollution of its air, ground, and water. The Lessee shall comply with any laws, regulations, conditions, or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the premises is specifically prohibited. Such regulations, conditions, or instructions in effect or prescribed by the said Environmental Protection Agency, or any Federal, state, interstate or local governmental agency are hereby made a condition of this lease. The Lessee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The Lessee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from activities of the lessee, the Lessee shall be liable to restore the damaged resources.

c. The Lessee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the premises.

23. ENVIRONMENTAL CONDITION OF PROPERTY

An Environmental Condition of Property (ECP) 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 LETTER. Upon expiration, revocation or termination of this lease, another ECP shall be prepared which will document the environmental condition of the property at that time. A comparison of the two assessments will assist the District Commander in determining any environmental restoration requirements. Any such requirements will be completed by the Lessee in accordance with the condition on **RESTORATION**.

24. 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 said officer and protect the site and the material from further disturbance until said officer gives clearance to proceed.

25. SOIL AND WATER CONSERVATION

The Lessee shall maintain, in a manner satisfactory to said officer, all soil and water conservation structures that may be in existence upon the 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 in writing by the District Commander.

26. 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 promptly paid 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.

27. 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 fees, 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 United States shall

have the right to annul this lease without liability or, in its discretion, to require the Lessee to pay, in addition to the lease rental or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

28. OFFICIALS NOT TO BENEFIT

No member of or delegate to congress or resident commissioner shall be admitted to any share or part of this lease or to any benefits to arise therefrom. However, nothing herein contained shall be construed to extend to any incorporated company if this lease is for the general benefit of such corporation or company.

29. SEVERAL LESSEES

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

30. MODIFICATIONS

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

31. DISCLAIMER

This lease is effective only insofar as the rights of the United States in the premises are concerned. The Lessee shall obtain any permit or license which may be required by Federal, state, or local statute in connection with the use of the premises. It is understood that the granting of this lease does not preclude the necessity of obtaining a Department of the Army permit for activities which involve the discharge of dredge or fill material or the placement of fixed structures in the waters of the United States, pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (33 U. S. C. § 403), and Section 404 of the Clean Water Act (33 U. S. C. § 1344).

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_____.

CRAIG R. HOMESLEY
Chief, Civil Projects Support Branch
Real Estate Division
Real Estate Contracting Officer
US Army Corps of Engineers
Baltimore District

THIS LEASE is also executed by the Grantee this _____ day of

_____, 20_____.

BY: _____

TITLE: _____

Tax ID: _____