



# Privacy Act Data Cover Sheet

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# Privacy Act Data Cover Sheet

**Recording requested by and  
when recorded mail to:**

Ramsey County Parks & Rec. Dept.  
Attn. Dir. Planning & Development,  
2015 Van Dyke St,  
Maplewood, MN 55109

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**DEPARTMENT OF THE ARMY  
EASEMENT FOR PARK ACCESS, PUBLIC ROADS, UTILITIES  
RIGHTS-OF-WAY  
LOCATED ON  
ARDEN HILLS ARMY NATIONAL GUARD TRAINING SITE  
RAMSEY COUNTY, MINNESOTA**

This Easement is made on behalf of **THE UNITED STATES OF AMERICA** (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, Omaha, hereinafter referred to as the "Grantor", under and by virtue of the authority vested in Title 10, United States Code, Section 2668, having found that the granting of this easement will not be against the public interest, and the **COUNTY OF RAMSEY**, a political subdivision, duly organized and existing under and by virtue of the laws of the State of Minnesota, with its principal offices located at 15 West Kellogg Blvd., Suite 250, Saint Paul, Minnesota, 55102, hereinafter referred to as the "Grantee", and a party(ies) yet to be identified as the future owner(s) of the area identified as the Primer Tracer Area (PTA) aka Public Use and Development Area, hereinafter referred to as "Sub-Grantee." The term or reference to the Grantee will refer to both the Grantee and Sub-Grantee in Conditions 3 through 27 below.

**NOW THEREFORE:**

The Grantor, for good and valuable consideration set forth below, the receipt and sufficiency of all of which are hereby acknowledged, upon and subject to the terms, covenants and conditions set forth in this Easement, does hereby:

Grant and convey to Grantee, an easement for the construction, installation, operation, maintenance, repair, removal, upgrade, and replacement of **a public access road, trails, and utilities, such as but not limited to natural gas, water – in various forms, electric power (transmission and distribution) and communications as needed to support the development of the Rice Creek North Trail Corridor Master Plan and the development of the PTA**, and related Facilities, hereinafter collectively referred to as the "Facilities", over, across, under, in

and upon approximately 15.42 acres of lands of the United States as identified as Parcel "C" in Exhibits "A" and "B", having been determined not to be more land than is necessary for the easement, hereinafter referred to as the "Premises", and which is attached hereto and made a part hereof; and further grants to the Sub-Grantee an easement for the construction, installation, operation, maintenance, repair, removal, upgrade, and replacement of the public access road and utilities as required by the PTA as granted to the Grantee.

Make no claim of title during the term of this Easement to any easement Facilities of whatever nature located, constructed, or placed on the Premises during the term of the Easement by, or on behalf of, the Grantee; and title to any such Facilities and any addition or alteration to the Facilities, shall, upon completion thereof, immediately vest in the Grantee. The Facilities shall remain real property for the duration of this Easement.

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

**1. TERM**

This Easement is hereby granted in perpetuity, beginning **1 March 2019**, so long as the Grantee remains in compliance with any or all of the conditions of this Easement.

A temporary Easement or license for construction is hereby granted across the property described as the Arden Hills Army National Guard Training Site ("AHATS") in **Exhibit "B1"** for the purpose of constructing a 20' wide Gravel Access Road and construction of gates and fencing as identified in **Exhibit "B1"**, for a term of two (2) years beginning 1 July 2019, and ending automatically on 30 June 2021, or upon notification that construction and restoration is complete, whichever is earlier.

**2. CONSIDERATION, MITIGATION, AND DAMAGES**

**a.** The consideration for this Easement shall be the construction, operation and maintenance of a public access road and utilities for the benefit of the United States and the general public in accordance with the terms herein set forth. The Grantee will also provide consideration in-kind which is further specified in **SPECIAL CONDITIONS**.

**b.** The Grantee will mitigate damages caused to the Premises, surrounding areas, or to the (AHATS), during initial installation and construction of the Facilities, and damages caused during operation, maintenance, or subsequent construction work, and complete all site restoration.

**c.** Any cash payments to the Grantor will be made to the order of the USACE FAO, Omaha, and delivered to 1616 Capitol Avenue, Omaha, NE 68102-4901.

**d.** Any payments due under the terms of this Easement 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, as amended (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.

### 3. NOTICES

a. All correspondence and notices to be given pursuant to this easement shall be in writing and addressed, if to the Grantee, to Ramsey County Parks and Recreation Department, Attention Director of Planning and Development, 2015 Van Dyke Street, Maplewood, Minnesota, 55109; if to the Sub-Grantee as provide upon transfer of the P.U.D.A.; and if to the Grantor, to: the Commander, Omaha District, U. S. Army Corps of Engineers, Real Estate Division, ATTN: CENWO-RE-M, 1616 Capitol Avenue, Suite 9000, Omaha, Nebraska 68102-4901; with reference to the Easement number: **DACA45-2-19-6017**, or as may from time to time otherwise be directed by the parties. The Grantor, Grantee and Sub-Grantee have an obligation to ensure that the other party has their accurate address.

b. Notices shall be mailed by certified mail, postage prepaid, return receipt requested, addressed to the addresses 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.

### 4. AUTHORIZED REPRESENTATIVES

Except as otherwise specifically provided, any reference herein to "Grantor" or "Real Estate Contracting Officer" shall include their duly authorized representatives. Any reference to "Grantee" or shall include assignees, transferees and their duly authorized representatives.

### 5. SUPERVISION BY THE GRANTOR

a. The construction, operation, maintenance, repair or replacement of said Facilities, including related facilities, culverts and other drainage facilities, and the Premises shall be performed at no cost or expense to the United States under the general supervision and subject to the approval of the Grantor's representative having immediate jurisdiction over the property, hereinafter designated as "said officer," and in such manner as not to endanger personnel or property of the United States on the said United States land or obstruct travel on any road thereon. The Grantee shall have the right of ingress and egress for such purposes, subject to approval of access by said officer.

b. The use and occupation of the Premises incident to the exercise of the privileges and purposes hereby granted shall be subject to such rules and regulations as the said officer may from time to time prescribe.

## **6. APPLICABLE LAWS AND REGULATIONS**

a. The Grantee shall comply with all applicable Federal, state, county and municipal laws, ordinances and regulations wherein the Premises are located. The Grantee shall be solely responsible for obtaining at its cost and expense any permits or licenses required for its operations under this Easement, independent of any existing permits or licenses held by the Grantor.

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

## **7. CONDITION OF PREMISES**

The Grantee acknowledges that it has inspected the Premises, knows the condition, and understands that the same is granted without any representation or warranties whatsoever and without any obligation on the part of the Grantor.

## **8. INSPECTION AND REPAIRS**

a. Upon completion of any phase of the Easement activities which causes damage to the Premises, the Grantee shall restore said damage immediately, at the Grantee's own expense, to the same condition in which they existed prior to the commencement of such work, to the satisfaction of the said officer.

b. The Grantee shall supervise the said Premises and Facilities and cause it to be inspected at reasonable intervals, and shall immediately repair any defects or leaks found by such inspection, or when requested by the Grantor to repair any defects or leaks.

## **9. PROTECTION OF GOVERNMENT PROPERTY**

The Grantee shall be responsible for any damage that may be caused to property of the United States by the activities of the Grantee under this Easement, and shall exercise due diligence in the protection of all property located on the Premises against fire or damage from any and all causes. Any property of the United States damaged or destroyed by the Grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Grantee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefore by the Grantee in an amount to reimburse for the loss satisfactory to the Grantor.

## **10. RIGHT TO ENTER**

a. The right is reserved to the Grantor, 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 Grantee, and/or to make any other use of the lands as may be necessary in connection with

government purposes, and the Grantee shall have no claim for damages on account thereof against the United States or any officer, agent, or employee thereof.

**b. – *This Condition Has Been Deleted***

c. The Grantee shall have the right to enter the Installation to exercise its rights under this Easement, subject to certain restrictions and/or special conditions required by the Installation. The Grantee acknowledges and recognizes that:

(1) Premises are located on active U.S. Army installations and, as such, access to the easement activities may be subject to temporary closings and identification and/or routing requirements due to the occurrence of announced or unannounced events, actual or simulated, involving: mobilization, extreme weather conditions, security, anti-terrorist force protection measures, police, medical or fire-related emergencies; the occurrence of a national emergency declared by the President or Congress; or due to planned military training exercises affecting the Premises. It is expressly understood that the Grantor may limit or restrict the right of access granted in any manner considered necessary, in the Grantor's sole discretion.

(2) Grantor, acting by and through his duly authorized Commander, Facilities Management Office, Camp Ripley, exercises command and control over and with respect to (i) the Premises, including traffic control, security, force protection, law enforcement, fire protection, activities performed thereon and command and control matters, and (ii) military personnel that may be at or otherwise present on the Premises from time to time.

**11. RIGHT TO CONNECT**

The Grantor reserves the right to make such connections between the road or street herein authorized and roads and streets on other government lands as said officer may from time to time consider necessary, and also reserves to itself rights-of-way for all purposes across, over or under the right-of-way hereby granted; provided that such rights shall be used in a manner that will not create unnecessary interference with the use and enjoyment by the Grantee of the right-of-way herein granted.

**12. REQUIRED SERVICES – *This Condition Has Been Deleted***

**13. TRANSFERS AND ASSIGNMENTS**

Without prior written approval by the Grantor, the Grantee shall neither transfer nor assign this easement or any part thereof nor grant any interest, privilege or license whatsoever in connection with this easement. The provisions and conditions of this easement shall extend to and be binding upon and shall inure to the benefit of the representatives, successors and assigns of the Grantee.

**14. INDEMNITY – *This Condition Has Been Deleted***

**15. SUBJECT TO EASEMENTS**

This easement is subject to all other 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 Grantee, and easements will not be granted which will, in the opinion of said officer, interfere with the use of the Premises by the Grantee.

**16. OTHER AGENCY AGREEMENTS**

It is understood that the provisions of this easement shall not abrogate or interfere with any agreements or commitments made or entered into between the Grantee and any other agency of the United States with regard to financial aid to the Grantee in connection with the installation, construction, operations, maintenance, or repair of the Facilities herein authorized.

**17. RELOCATION OF FACILITIES - DELETED**

**18. TERMINATION**

This easement may be terminated by the Grantor upon 180 days written notice to the Grantee if the Grantor shall determine that the right-of-way hereby granted interferes with the use or disposal of said land by the United States, or it may be revoked by the Grantor for failure of the Grantee to comply with any or all of the conditions of this easement, or for non-use for a period of two (2) years, or for abandonment.

**19. SOIL AND WATER CONSERVATION**

The Grantee shall maintain, in a manner satisfactory to said officer, 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 Grantee during the term of this easement, and the Grantee shall take appropriate measures to prevent or control soil erosion within the right-of-way herein granted. Any soil erosion occurring outside the Premises resulting from the activities of the Grantee shall be corrected by the Grantee as directed by said officer.

**20. ENVIRONMENTAL PROTECTION**

a. Within the limits of their respective legal powers, the parties hereto shall protect the Premises against pollution of its air, ground and water. The Grantee 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 easement. The Grantee 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 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 Grantee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the Premises.

c. The Grantee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from the Grantee's activities, the Grantee shall be liable to restore the damaged resources.

## **21. ENVIRONMENTAL SITE ASSESSMENT**

An environmental site assessment, 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 "C"**. Upon revocation or termination of this easement, another environmental site assessment shall be prepared which will document the environmental condition of the property at that time. A comparison of the two assessments will assist the said officer in determining any environmental restoration requirements. Any such requirements will be completed by the Grantee in accordance with the condition on **RESTORATION**.

## **22. HISTORIC PRESERVATION**

The Grantee 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 Grantee shall immediately notify said officer and protect the site and the material from further disturbance until said officer gives clearance to proceed.

## **23. NON-DISCRIMINATION - DELETED**

## **24. NON-DISCRIMINATION**

a. The Grantee shall not discriminate against any person or persons because of race, color, age, sex, handicap, national origin or religion.

b. The Grantee, by acceptance of this easement, is receiving a type of Federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. 2000d); the Age Discrimination Act of 1975 (42 U.S.C. 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directive 5500.11 and 1020.1, and Army Regulation 600-7. This assurance shall be binding on the Grantee, its successors and assigns.



## 25. RESTORATION

On or before the termination or revocation of this easement, the Grantee shall, without expense to the United States and within such time as said officer may indicate, restore the Premises to the satisfaction of said officer. In the event the Grantee shall fail to restore the Premises, at the option of said officer, said improvements shall either become the property of the United States without compensation therefore, or said officer shall have the option to perform the restoration at the expense of the Grantee, and the Grantee shall have no claim for damages against the United States or its officers or agents for such action.

## 26. DISCLAIMER

This instrument is effective only insofar as the rights of the United States in the Premises are concerned; and the Grantee shall obtain such permission as may be required on account of any other existing rights. It is understood that the granting of this easement does not eliminate the necessity for 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 any other permit or license which may be required by Federal, state, interstate or local laws in connection with the use of the Premises.

## 27. SPECIAL CONDITIONS

### EXECUTIVE ORDERS 13658 AND 13706

**a.** The parties expressly stipulate that this Easement is subject to Executive Orders 13658 and 13706 regarding minimum wage and sick leave requirements, the regulations issued by the Secretary of Labor in 29 CFR parts 10 and 13 pursuant to the Executive Orders as referenced herein. Executive Orders 13658 and 13706 are attached hereto and made a part hereof as **Exhibits "D" and "E."**

**b.** If a duly authorized representative of the United States discovers or determines, whether before or subsequent to executing this Easement, that an erroneous determination regarding the applicability of Executive Orders 13658 or 13706 was made, the Grantee, 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 or 13706 determination. This includes Grantee releasing any claim or entitlement it would otherwise have to an equitable adjustment to the Easement and indemnifying and holding harmless the United States from the claims of subcontractors and Grantee employees.

## 28. ACCESS GRANTED TO OTHERS

The parties understand and agree the area listed on **Exhibit "B"** as Primer Tracer Area (PTA) is currently owned by the Government but is to be sold / transferred out of Government ownership in the future. The new owner(s) must agree to the terms and conditions of this easement as they apply to the Sub-Grantee or their successors and assigns, as noted in this document, by signing the prepared Amendment 1 to DACA45-2-19-6017 and subsequent amendments or changes regarding their use of the Access road and utility corridor. The Grantee agrees to not restrict access rights to the easement area or the PTA by using excessive restrictions that will hinder the Government's ability to transfer or dispose of the PTA.

## 29. SPECIFIC USE AND DEVELOPMENT CONDITIONS

a. Grantee will use and develop the easement area as shown on **Exhibits "A" and "B"** in accordance with the Rice Creek North Trail Corridor Master Plan, as amended (the "Master Plan"), and which is subject to review and approval of the Minnesota Army National Guard (MNARNG) and the Department of Military Affairs (DMA) prior to submission to the Metropolitan Council. No alterations, structural changes, additions, or property improvements shall be made upon the easement area by the Grantee except as shown in the Master Plan without first submitting the plans and specifications and subsequently obtaining written approval from the DMA.

b. The Grantee will design, construct and maintain, at its sole expense until such time as the Grantor sells or conveys ownership of the PTA, at which time the Grantee and the Sub-Grantee will enter into a separate agreement specifying a cost sharing maintenance plan, one (1) two lane road surface for the purpose of connecting County Road I to nature areas adjacent to the easement area and to allow access to the PTA. The paved surface should include required drainage and on site water retention as to not have a negative effect on adjacent property. The road should be built to a ten (10) ton vehicle weight (three (3) tons per axle) standard from County road I south to the entrance to AHATS as shown on **Exhibit "B"** to enable use by military convoy vehicles accessing the AHATS. The Sub-Grantee shall use the road to access the PTA as shown on **Exhibit "B"**, and shall pay the cost of any required upgrading for their use. Maintenance of this surface will include, but not limited to, painting, signage, crack seal, overlay and snow removal, and will be the responsibility of the Grantee. If the Grantee, or Sub-Grantee it's successors or assigns are exceeding the limits of the roadway or creating damage in excess of normal wear and tear to the roadway, as mutually agreed by the Grantee and the Sub-Grantee, its successors or assigns, then the Sub-Grantee, it successors and assigns will be responsible for contributing towards the repairs in an amount equal to the usage or damage caused in excess of the normal wear and tear.

c. Grantee will relocate the fence currently along the west line of the Easement area to the east line making sure the fence is located outside of the easement area. The relocated fence will consist of a seven (7) foot high nine (9) gauge chain link fence with a twelve (12) inch high triple strand four point concertina on the top. The risers for the triple strand will be welded to

ensure they can't be removed. The bottom of the fence material will be reinforced with six (6) gauge wire and will be buried at least two (2) inches in the soil. Grantee will construct a concrete approach at the location as generally shown on **Exhibit "B"** that will connect the access point to the rest of AHATS. The access point will be twenty four (24) feet in width with rolling gates that meet in the middle and can be secured. The profile of the gate will be the same as the rest of the fence. The approach will be poured the full width of the gate from three (3) feet inside to the fence (to the east) to the point the joins with the new road (in the west). Fence placement is shown in **Exhibit "B"**. The fence, gates and concrete approaches will be constructed at the Grantees expense.

**d.** Grantee may install walking/biking/hiking/cross country trails on the easement area as shown on the Master Plan. Construction, maintenance, utilization, and liability of the trail will be at the sole expense of the Grantee.

**e.** Grantee, at their expense, will be responsible for the design, construction and maintenance of a pull off lane for the east bound County Road I traffic into the easement area.

**f.** Grantee, at their expense, will install, maintain, and provide for monthly expenses for any lighting that will be required on the Easement Area for use in accordance with the Master Plan and the use of the roadway. Any lighting within the AHATS area will not be included with this provision. All lighting on the Easement Area will comply with City and State regulations.

**g.** Grantee will be responsible for all the funding, design costs and construction of the project to relocate the AHATS boundary road (Class V) currently along the west boundary of the Easement Area to a location east of the relocated fence as shown on **Exhibit "B"**. The relocated gravel road will be twenty (20) feet wide.

**h.** The Grantee is responsible for the maintenance of the Easement Area including the roadway, and will keep the area in a good, clean condition, free of debris.

**i.** Grantee will be responsible for any utilities that may be required for the Grantee's use of the Easement Area. The Grantee acknowledges there may be additional utilities located with the Easement Area and takes full responsibility for determining their locations to prevent damage to or interference with any rights held by other easement holders, whether those rights are held under recorded or unrecorded easements.

**j.** Grantee agrees to work with the Grantor and Sub-Grantee, as needed, in the expansion or development of utilities for the PTA to be located adjacent to the Grantee's public access road. The Grantee is not responsible for any drive or utility connection from the access road to the PTA.

**k.** Any water management, for both construction and aesthetic purposes, must be reviewed and approved by the Department of Military Affairs. Written approval must be received prior to any construction, changes or modification taking place.

**l.** Grantee must restore areas affected by construction of the roadway consistently with the Master Plan and any adjacent areas to the same condition as existed prior to such construction, maintenance and repair.

**m.** Any planting of vegetation, new vegetation or restoration, is to remain consistent with the indigenous species and plantings as shown on the Master Plan.

**n.** Grantee assumes responsibility for security against theft, vandalism, or accidental loss of any kind upon the Easement Area, except as may be caused by MNARNG's use of the public access roadway to the entrance to AHATS or other activities of the MNARNG on the Easement Area.


**o.** In the event of a natural disaster, the Department of the Military Affairs and the State of Minnesota shall have no liability of obligation to replace any damage to the Easement Area.

**p.** Grantee shall in no way restrict the MNARNG access from County Road I to AHATS or the Sub-Grantees access and development of the PTA, by way of the roadway. When working in the Easement Area, the Grantee shall not unreasonably interfere with the safety and convenience of travel along and over the Easement Area to AHATS. If interference is necessary for construction, repairs, maintenance, or at any time, the Grantee shall notify the Department of the Military Affairs in writing prior to the interference.

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

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IN WITNESS WHEREOF, I have hereunto set my hand by authority  
of the Secretary Army, this 13<sup>th</sup> day of August, 2019.

  
Susan Goding  
Chief, Real Estate Division  
Real Estate Contracting Officer

ACKNOWLEDGMENT

STATE OF NEBRASKA

COUNTY OF DOUGLAS

**PERSONALLY APPEARED BEFORE ME**, the undersigned authority in and for said County and State, within my jurisdiction, the within named **Susan Goding**, who acknowledged that she is the Real Estate Contracting Officer, U.S. Army Engineer District, Omaha, and that in said capacity he/she executed the above and foregoing **Easement for Roads and Utilities Rights-Of-Way** by authority of the Secretary of the Army for the purposes therein expressed and as the act and deed of the United States of America.

GIVEN UNDER MY HAND AND SEAL, this 13 day of August, 2019.

(SEAL)

STEPHANIE FRAZIER  
General Notary - State of Nebraska  
My Commission Expires Feb 9, 2021

  
NOTARY PUBLIC

My Commission Expires:  
02-09-21

THIS EASEMENT is also executed by the Grantee this \_\_\_\_ day of \_\_\_\_\_, 2019.

RAMSEY COUNTY, MINNESOTA

*Jim McDonough*

Jim McDonough  
Chair, Ramsey County Board of Commissioners

APPROVED AS TO FORM

*Amy K.L. Schmidt*

Amy K.L. Schmidt  
ASSISTANT RAMSEY COUNTY ATTORNEY

DATE: 7/24/2019

*Janet Guthrie*

Janet Guthrie  
Chief Clerk, Ramsey Co. Board of Commissioners

ACKNOWLEDGMENT

STATE OF MINNESOTA

COUNTY OF RAMSEY

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the county and state, on this 6<sup>th</sup> day of AUGUST, 2019 within my jurisdiction, the within named Jim McDonough and Janet Guthrie, who acknowledged that they are the Chair and Chief clerk, respectively, of the Ramsey County Board of Commissioners for the County of Ramsey, a political subdivision, duly organized and existing under and by virtue of the laws of the State of Minnesota, and that for and on behalf of the said political subdivision, and as its act and deed each executed the above and foregoing instrument after having been duly authorized by said political subdivision so to do.

(SEAL)

*Allyson Jacobsen*

NOTARY PUBLIC

My Commission Expires:

Jan. 31, 2024

EASEMENT

Parcel C

A tract of land situated in of the Northeast Quarter of the Northwest Quarter, the Southeast Quarter of the Northwest Quarter, and the west 450.00 feet of the Northeast Quarter of Section 9, Township 30 North, Range 23 West, Ramsey County, Minnesota, said tract being more particular described as follows:

**Beginning** at a point on the North line of the Northwest Quarter of said Section 9, a distance of 50.00 feet Westerly of the Northeast corner of the Northwest Quarter of said Section 9;

Thence South  $00^{\circ} 43' 50''$  East, along a line parallel with the East line of said Northwest Quarter, a distance of 1,378.00 feet;

Thence South  $89^{\circ} 56' 13''$  East, a distance of 500 feet;

Thence North  $00^{\circ} 43' 50''$  West, a distance of 1,378 feet, to a point on the North line of said Northwest Quarter;

Thence North  $89^{\circ} 56' 13''$  West, a distance of 500 feet, to the **Point of Beginning**;

The tract of land herein described contains 15.95 acres, more or less.

08Apr2019pkd

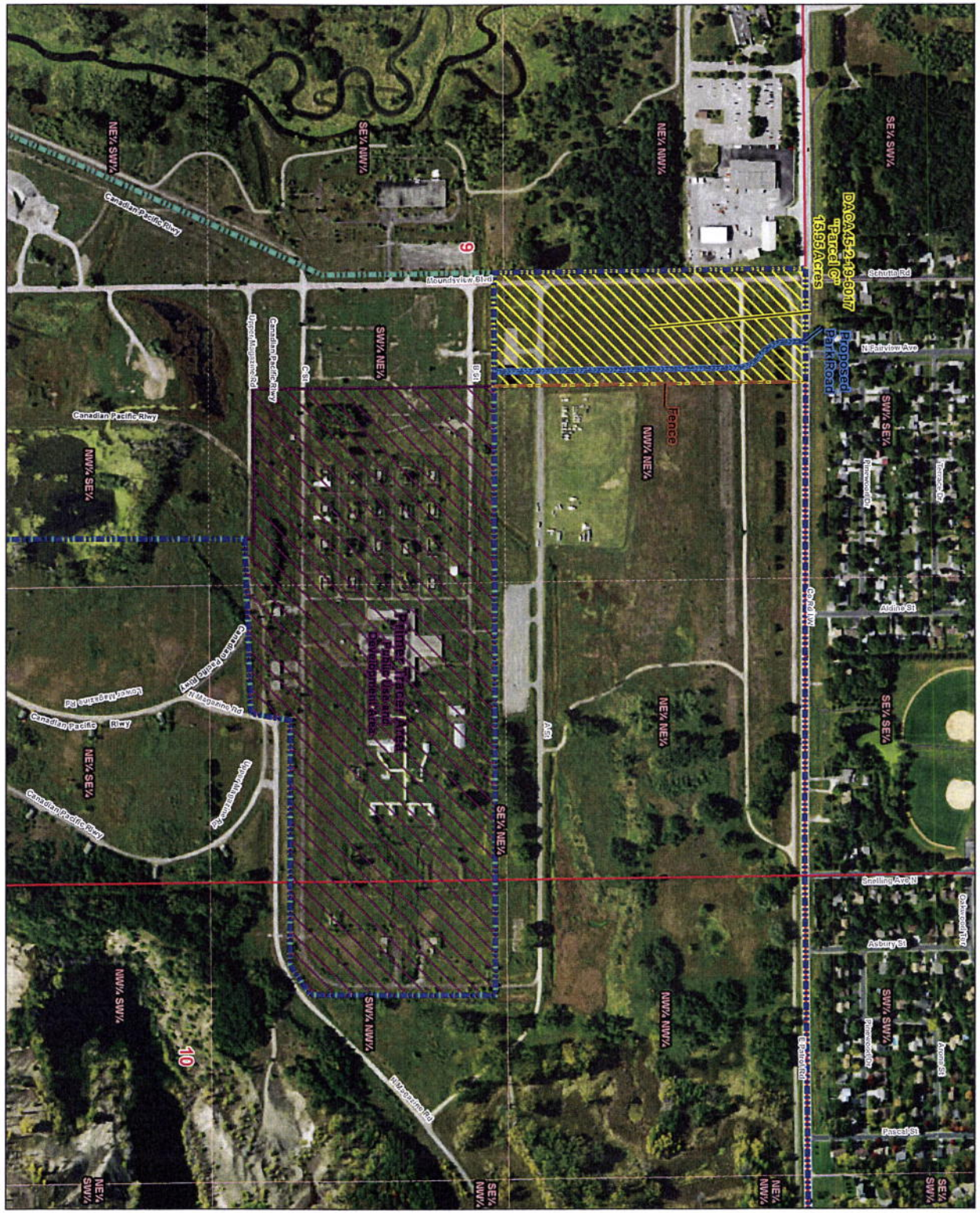
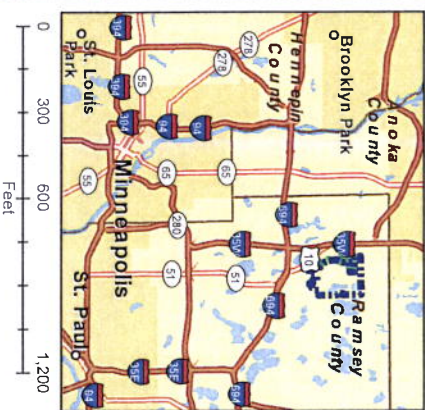
EXHIBIT "A" ATTACHED TO AND  
MADE A PART OF DACA45-2-19-6017

# Arden Hills Army Training Site Ramsey County, MN

Legend T30N R23W  
4th P.M.



- Fence
- AHATS Licensed Area
- TCAAP Fee Boundary
- Proposed Park Road
- DAC45-2-19-6017 (±15.96 Acres)
- Primer Tracer Area Public Use and Dev Area
- Sections
- 1/4 Sections



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Produced By: Kyle Cassler  
Production Date: July 2, 2019  
Released By:  
Revision Date:  
File Location: T:\Arden\_Hills\_ARNG\DAC45-2-19-6017\ DAC45-2-19-6017.mxd

**Real Estate**  
CENWARE-S

**US Army Corps of Engineers**  
Omaha District

**EXHIBIT "B" ATTACHED TO AND  
MADE A PART OF DAC45-2-19-6017**



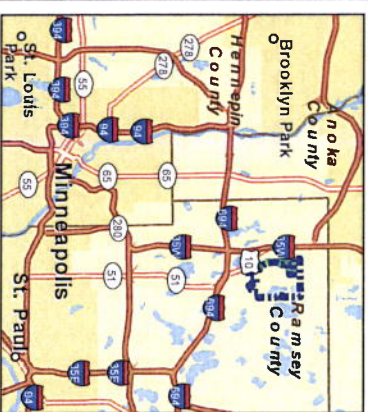
# Arden Hills Army Training Site Ramsey County, MN

Legend T30N R23W  
4th P.M.

- Access Gate
- Fence
- AHATS Licensed Area
- TCOAAP Fee Boundary
- Proposed 20' Boundary Road
- DAC445-2-19-6017 (415.95 Acres)



Sections  
1/4x Sections



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Real Estate  
CENWO-RE-S

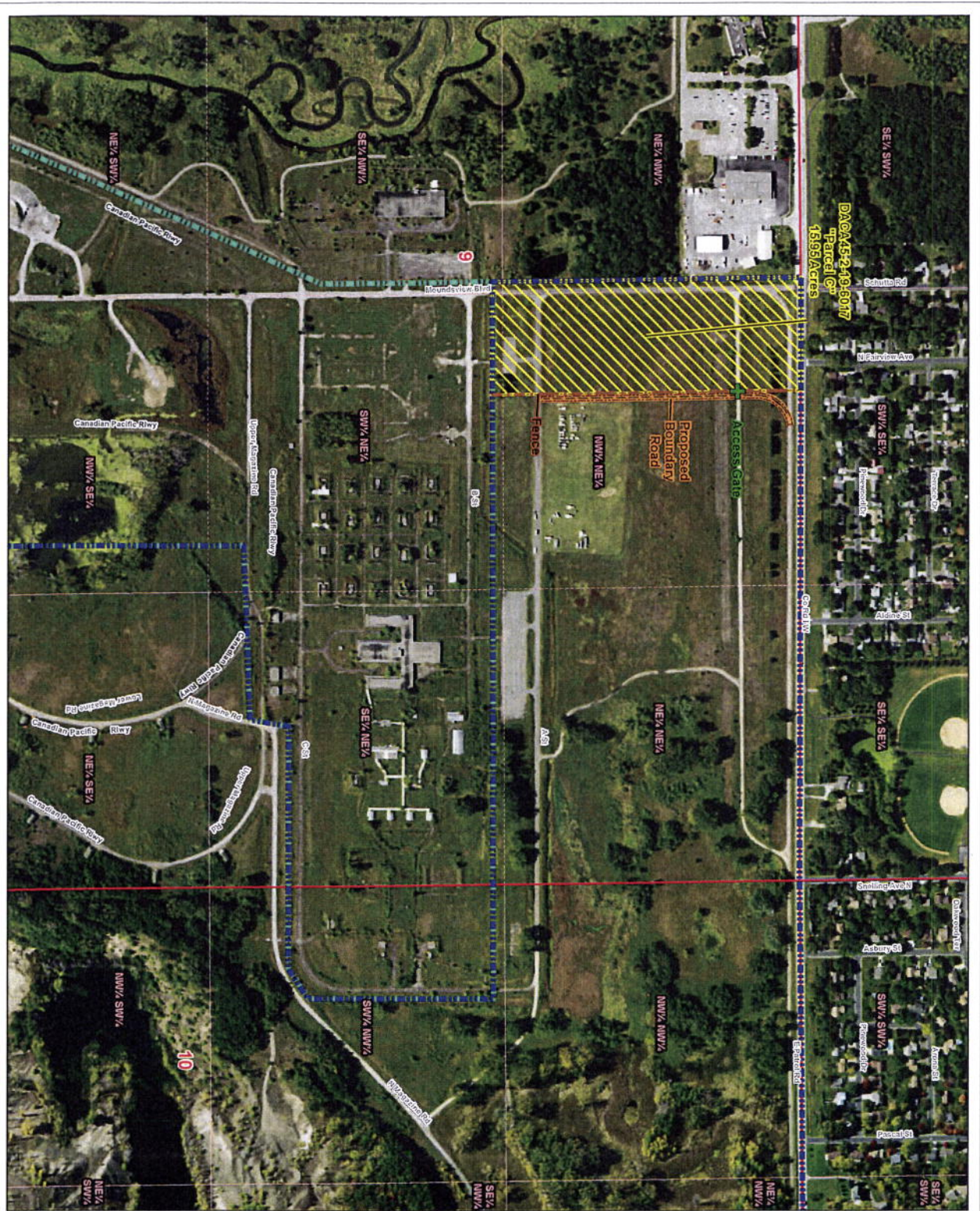


US Army Corps  
of Engineers  
Omaha District

Produced by:  
Kyle Gustafson  
Production Date:  
July 2, 2019  
Revised By:  
Nathan Oatis

File Location:  
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EXHIBIT "B-1" ATTACHED TO AND  
MADE A PART OF DAC445-2-19-6017



Enviro tracking #	ARNG ENVIRONMENTAL CHECKLIST	State ARNG Minnesota
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PART - A PROJECT INFORMATION	
1. Project name: Right of Access Arden Hills Training Site Northwest Corner	
2. Project number: (MILCON if applicable)	3. Date prepared: July 25, 2018
4. Description and location of the project/proposed action.	
a. Location (Include a detailed map if applicable):	
Located at current AHATS, Minnesota. Address of facility is: 4761 Hamline Avenue North, Arden Hills, Minnesota, 55112-5743	
b. Description:	
Proposed action consists of granting a long term easement to Ramsey County for access to county developed property. The land of interest is federally owned property located at Arden Hill Area Training Site (AHATS). The access requested is a 15.42 acre training land parcel of AHATS that lies between County Road I and the "Primer Tracer" section of the Twin Cities Army Ammunition Plant (TCAAP). The parcel will be approximately 500 feet wide. Ramsey County will construct a road that will begin at County Road I Ave, and continue south to access their adjacent property. Easement access will allow for County use of the road and trails, as well as enable the MN ARNG to utilize the new road as an additional access point to AHATS.	
c. The proposed action will involve (check all that apply):	
<input type="checkbox"/> Training activities/areas	<input type="checkbox"/> Construction
<input type="checkbox"/> Maintenance/repair/rehabilitation	<input checked="" type="checkbox"/> Real estate action
<input type="checkbox"/> Innovative readiness training project	<input type="checkbox"/> Natural resource management
<input type="checkbox"/> Other (Explain):	<input type="checkbox"/> Environmental plans/surveys
d. Project size in acres: (if applicable)	Acres of proposed new surface disturbance: (if applicable)
5. Start date of proposed action (dd-mmm-yy): 11-01-2018 <i>NOTE: this must be a future date.</i>	
6. Programmed fiscal year: FY18	
7. End date (If applicable): Continuous	

**PART B - DECISION ANALYSIS GUIDE**

To use a categorical exclusion, the project must satisfy the following three screening criteria: no segmentation, no exceptional circumstances and a qualifying categorical exclusion that covers the project. The following decision tree will guide the application and documentation of these three screening criteria. The criteria were extracted from 32 CFR Section 651.29 and represent the most common screening conditions experienced in the ARNG. NOTE: Each question in Part B must have an applicable block checked for concurrence with REC.

1. Is this action segmented (the scope of the action must include the consideration of connected, cumulative, and similar actions)?  Yes (go to #30)  No (go to #2)
2. Is there reasonable likelihood of significant environmental effects (direct, indirect, and cumulative)? If action meets screening criteria but is assessed in an existing EA or EIS, check NO and proceed to the next question.  Yes (go to #30)  No (go to #3)
3. Is there a reasonable likelihood of significant effects on public health, safety or the environment? If action meets screening criteria but is assessed in an existing EA or EIS, check NO and proceed to the next question.  Yes (go to #30)  No (go to #4)
4. Is there an imposition of uncertain or unique environmental risks? If action meets screening criteria but is assessed in an existing EA or EIS, check NO and proceed to the next question.  Yes (go to #30)  No (go to #5)
5. Is the project of greater scope or size than is normal for the category of action? If action meets screening criteria but is assessed in an existing EA or EIS, check NO and proceed to the next question.  Yes (go to #30)  No (go to #6)

6. Does the project introduce or employ unproven technology? If action meets screening criteria but is assessed in an existing EA or EIS, check NO and proceed to the next question.  Yes (go to #30)  No (go to #7)

7. Will there be reportable releases of hazardous or toxic substances as specified in 40 CFR Part 302? If action meets screening criteria but is assessed in an existing EA or EIS, check NO and proceed to the next question.  
 Yes (go to #30)  No (go to #8)

8. If proposed action is in a non-attainment or maintenance area, will air emissions exceed de minimus levels or otherwise require a formal Clean Air Act (CAA) conformity determination? If action meets screening criteria but is assessed in an existing EA or EIS, check NO and proceed to the next question.  
 Yes (go to #30)  No (go to #9)  N/A (go to #9)

9. Will the project have effects on the quality of the environment that are likely to be highly controversial? If action meets screening criteria but is assessed in an existing EA or EIS, check NO and proceed to the next question.  
 Yes (go to #30)  No (go to #10)

10. Will the project establish a precedent (or make decisions in principle) for future or subsequent actions that are reasonably likely to have future significant effects? If action meets screening criteria but is assessed in an existing EA or EIS, check NO and proceed to the next question.  Yes (go to #30)  No (go to #11)

11. Has federal funding been secured for the Innovative Readiness Training (IRT) project?  
 Not applicable (go to #13)  Yes (go to #13)  No (go to #12)

12. NOTE: IRT projects not currently funded can secure approved NEPA documentation. However, once funding is secured State ARNG is required to coordinate with ARNG-ILE-T to complete natural and cultural surveys via proponent funding.  Confirmed (go to #27)

13. Do you have a species list from the U.S. Fish and Wildlife Service that is less than 90 days old?  
 Yes (go to #14)  Date of list: 3-12-18  No (update species list, return to #13)

14. In reviewing the species list, what determination was made by the State ARNG?  
 No species present (go to #16)  
 No affect (go to #16)  
 May affect but not likely to adversely affect  Date of USFWS concurrence: (go to #16)  
 May affect likely to adversely affect (go to #15)

15. Does an existing biological opinion cover the action?  Yes  Date of BO: (go to #16)  No (go to #30)

16. Have the Endangered Species Act, Section 7 requirements been completed?  
 Yes  Date of documentation: 3-12-18 (Draft) (go to #17)  No (complete documentation, return to #16)

17. Does the project involve an undertaking to a building or structure that is 50 years of age or older?  
 Yes (go to #18)  No (go to #20)

18. Has the building or structure been surveyed for the National Register of Historic Places?  
 Yes (go to #19)  No (complete inventory, return to #18)

19. Is the building or structure eligible for or listed on the National Register of Historic Places?  
 Yes (go to #20)  No (go to #20)

20. Does the action involve ground disturbing activities?  Yes (go to #21)  No (go to #22)

21. Has an archaeological inventory or research been completed to determine if there are any archaeological resources present?  Yes (go to #22)  No (complete inventory, return to #21)

22. In reviewing the undertaking, under the National Historic Preservation Act (NHPA) (for both above and below ground resources), what determination was made by the State ARNG?  
 No 106 undertaking; no additional consultation required under NHPA (go to question #27)  
 No properties affected  Date of SHPO concurrence: (go to #24)  
 No adverse effect  Date of SHPO concurrence: (go to #24)  
 Adverse effect (go to #23)

23. Has the State ARNG addressed the adverse effect?  
 Yes (place date of MOA or existing PA and explanation of stipulations below, go to #24)  No (go to #30)

23a. Date of MOA or PA and explanation:  
 \_\_\_\_\_

24. Per DoDI 4710.02 did the state ARNG determine that tribal consultation was necessary for this project?  
 Yes (go to #25)  No (Provide reason in block below, go to #27)

24a. Reason for no consultation:  
 \_\_\_\_\_

25. Did the Tribes express an interest or respond with concerns about the project?  
 Yes (go to #26)  No Date of MFR: \_\_\_\_\_ (go to #27)

26. Has the State ARNG addressed the Tribal concerns?  
 Yes (place date of MOU or explanation in box below, go to #27)  No (address concerns, return to #26)

26a. Date of MOU or explanation of how State addressed tribal concerns:  
 \_\_\_\_\_

27. Does the project involve an unresolved effect on areas having special designation or recognition such as those listed below? For any yes responses go to #30 otherwise go to #28. If any No response is a result of negotiated and/or previously resolved effects please describe resolution in box 27a below.

Type	Unresolved Effects?	Type	Unresolved Effects?
a. Prime/Unique Farmland	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	e. Wild/Scenic River	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
b. Wilderness Area/National Park	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	f. Coastal Zones	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
c. Sole-Source Aquifer	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	g. 100-Year Floodplains	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
d. Wetlands	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	h. National Wildlife Refuges	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

27a. Resolution:  
 \_\_\_\_\_

28. Is this project addressed in a separate EA or EIS review?  
 Yes (complete information below, go to Part C, Determination)  No (go to #29)

Document Title:  
 Lead Agency:  
 Date of Decision Document:

29. Does the project meet at least one of the categorical exclusions listed in 32 CFR 651 App B?  
 Yes (complete information below, go to Part C, Determination)  No (go to #30)

Primary CAT EX code: F-1  
 Reason why CAT EX code applies: Real estate action with no change to current land use or building use.


30. At this time your project has not met all the qualifications for using a categorical exclusion under 32 CFR 651. Unless the scope of the project is changed, it will require an Environmental Assessment or possibly an Environmental Impact Statement. If you feel this is in error, please call your NEPA Regional Manager to discuss. If needed, go to Part C Determination.

Additional information (if needed):  
 \_\_\_\_\_

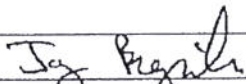
**PART C – DETERMINATION**

On the basis of this initial evaluation the following is appropriate:

- In accordance with 32 CFR 651 Appendix B, the proposed action qualifies for a categorical exclusion that does not require a record of environmental consideration.
- A record of environmental consideration.
- An environmental assessment.
- A notice of intent to prepare an environmental impact statement.



Signature of Proponent (requestor)  
Name: COL Sol Sukut  
Date: 7-27-2018



Signature of Environmental Program Manager  
Name: Mr. Jay Brezinka  
Date: 7-27-2018

Enviro tracking #	<b>ARNG RECORD OF ENVIRONMENTAL CONSIDERATION</b>	State ARNG Minnesota
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1. Project name: Right of Access Arden Hills Training Site Northwest Corner  
 2. Project number: (MILCON if applicable) | 3. Date prepared: July 25th, 2018  
 4. Start date of proposed action (dd-mmm-yy): Nov 1st, 2018 *NOTE: this must be a future date.*  
 5. Programmed fiscal year: FY18  
 6. End date (if applicable): Continuous  
 7. Description and location of the project/proposed action.  
 a. Location (Include a detailed map if applicable):  
 Located at current AHATS, Minnesota. Address of facility is: 4761 Hamline Avenue North, Arden Hills, Minnesota, 55112-5743  
 b. Description:  
 Proposed action consists of granting a long term easement to Ramsey County for access to county developed property. The land of interest is federally owned property located at Arden Hill Area Training Site (AHATS). The access requested is a 15.42 acre training land parcel of AHATS that lies between County Road I and the "Primer Tracer" section of the Twin Cities Army Ammunition Plant (TCAAP). The parcel will be approximately 500 feet wide. Ramsey County will construct a road that will begin at County Road I Ave, and continue south to access their adjacent property. Easement access will allow for County use of the road and trails, as well as enable the MN ARNG to utilize the new road as an additional access point to AHATS.

8. Choose one of the following:

An existing environmental assessment\* adequately covers the scope of this project. Attach FNSI if EA was completed by another federal agency (non-ARNG).  
 Date of EA (dd-mmm-yy): \_\_\_\_\_ Lead Agency: \_\_\_\_\_


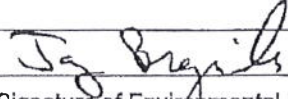
An existing environmental impact statement\* adequately covers the scope of this project.  
 Date of EIS (dd-mmm-yy): \_\_\_\_\_ Lead Agency: \_\_\_\_\_

After reviewing the screening criteria and completing the ARNG environmental checklist, this project qualifies for a categorical exclusion (select below).  
 CAT EX Code: F-1  
 CAT EX Code: \_\_\_\_\_  
 CAT EX Code: \_\_\_\_\_

This project is exempt from NEPA requirements under the provisions of:  
 Cite superseding law: \_\_\_\_\_

\*Copies of the referenced environmental assessment or environmental impact statement can be found in the ARNG Environmental Office within each state.

9. Remarks (if needed):

 Signature of Proponent (requestor) Name: COL Sol Sukut Date: 7-27-2018	 Signature of Environmental Program Manager Name: Mr. Jay Brezinka Date: 7-27-2018
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Proponent Information

10. Proponent: COL Sol Sukut
11. Address: 15000 Highway 115, Little Falls, Minnesota, 56345
12. POC: Mr. Joseph LaForce
13. Comm. voice: 320-616-2621
14. Proponent POC e-mail: joseph.a.laforce.nfg@mail.mil

### **Executive Order 13658**

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

The parties expressly stipulate this contract is subject to Executive Order 13658, the regulations issued by the Secretary of Labor in 29 CFR part 10 pursuant to the Executive Order, and the following provisions.

(b) Minimum Wages. (1) Each worker (as defined in 29 CFR 10.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship which may be alleged to exist between the contractor and worker, shall be paid not less than the applicable minimum wage under Executive Order 13658.

(2) The minimum wage required to be paid to each worker performing work on or in connection with this contract between January 1, 2015 and December 31, 2015 shall be \$10.10 per hour. The minimum wage shall be adjusted each time the Secretary of Labor's annual determination of the applicable minimum wage under section 2(a)(ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the Executive Order minimum wage under section 2(a)(ii) of Executive Order 13658 will be effective for all workers subject to the Executive Order beginning January 1 of the following year. If appropriate, the contracting officer, or other agency official overseeing this contract shall ensure the contractor is compensated only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. The Secretary of Labor will publish annual determinations in the Federal Register no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on [www.wdol.gov](http://www.wdol.gov) (or any successor Web site). The applicable published minimum wage is incorporated by reference into this contract.

(3) The contractor shall pay unconditionally to each worker all wages due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 10.23), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Executive Order may not be of any duration longer than semi-monthly.

(4) The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the Executive Order minimum wage requirements. In the event of any violation of the minimum wage obligation of this clause, the contractor and any subcontractor(s) responsible therefore shall be liable for the unpaid wages.

(5) If the commensurate wage rate paid to a worker on a covered contract whose wages are calculated pursuant to a special certificate issued under 29 U.S.C. 214(c), whether hourly or piece rate, is less than the Executive Order minimum wage, the contractor must pay the Executive Order minimum wage rate to achieve compliance with the Order. If the commensurate wage due under the certificate is greater than the Executive Order minimum wage, the contractor must pay the 14(c) worker the greater commensurate wage.

(c) Withholding. The agency head shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay workers the full amount of wages required by Executive Order 13658.

(d) Contract Suspension/Contract Termination/Contractor Debarment. In the event of a failure to pay any worker all or part of the wages due under Executive Order 13658 or 29 CFR part 10, or a failure to comply with any other term or condition of Executive Order 13658 or 29 CFR part 10, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 10.52.

(e) The contractor may not discharge any part of its minimum wage obligation under Executive Order 13658 by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Act, the cash equivalent thereof.

(f) Nothing herein shall relieve the contractor of any other obligation under Federal, State or local law, or under contract, for the payment of a higher wage to any worker, nor shall a lower prevailing wage under any such Federal, State, or local law, or under contract, entitle a contractor to pay less than \$10.10 (or the minimum wage as established each January thereafter) to any worker.

(g) Payroll Records. (1) The contractor shall make and maintain for three years records containing the information specified in paragraphs (g)(1) (i) through (vi) of this section for each worker and shall make the records available for inspection and transcription by authorized representatives of the Wage and Hour Division of the



U.S. Department of Labor:

(i) Name, address, and social security number.

(ii) The worker's occupation(s) or classification(s)

(iii) The rate or rates of wages paid.

(iv) The number of daily and weekly hours worked by each worker.

(v) Any deductions made; and

(vi) Total wages paid.

(2) The contractor shall also make available a copy of the contract, as applicable, for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of 29 CFR part 10 and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of an authorized representative of the Department of Labor, or under its own action, shall take such action as may be necessary to cause suspension of any further payment or advance of funds until such time as the violations are discontinued.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct investigations, including interviewing workers at the worksite during normal working hours.

(5) Nothing in this clause limits or otherwise modifies the contractor's payroll and recordkeeping obligations, if any, under the Davis-Bacon Act, as amended, and its implementing regulations; the Service Contract Act, as amended, and its implementing regulations; the Fair Labor Standards Act, as amended, and its implementing regulations; or any other applicable law.

(h) The contractor (as defined in 29 CFR 10.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts. The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with this contract clause.

(i) Certification of Eligibility. (1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of

the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a)(1).

(2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(j) Tipped employees. In paying wages to a tipped employee as defined in section 3(t) of the Fair Labor Standards Act, 29 U.S.C. 203(t), the contractor may take a partial credit against the wage payment obligation (tip credit) to the extent permitted under section 3(a) of Executive Order 13658. In order to take such a tip credit, the employee must receive an amount of tips at least equal to the amount of the credit taken; where the tipped employee does not receive sufficient tips to equal the amount of the tip credit the contractor must increase the cash wage paid for the workweek so that the amount of cash wage paid and the tips received by the employee equal the applicable minimum wage under Executive Order 13658. To utilize this provision:

(1) The employer must inform the tipped employee in advance of the use of the tip credit;

(2) The employer must inform the tipped employee of the amount of cash wage that will be paid and the additional amount by which the employee's wages will be considered increased on account of the tip credit;

(3) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received); and

(4) The employer must be able to show by records that the tipped employee receives at least the applicable Executive Order minimum wage through the combination of direct wages and tip credit.

(k) Antiretaliation. It shall be unlawful for any person to discharge or in any other manner discriminate against any worker because such worker has filed any complaint of instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or 29 CFR part 10, or has testified or is about to testify in any such proceeding.

(l) Disputes concerning labor standards. Disputes related to the application of Executive Order 13658 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 10. Disputes within the meaning of this contract clause include disputes between the contractor (or any

of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the workers or their representatives.

(m) Notice. The contractor must notify all workers performing work on or in connection with a covered contract of the applicable minimum wage rate under the Executive Order. With respect to service employees on contracts covered by the Service Contract Act and laborers and mechanics on contracts covered by the Davis-Bacon Act, the contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers performing work on or in connection with a covered contract whose wages are governed by the FLSA, the contractor must post a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by workers. Contractors that customarily post notices to workers electronically may post the notice electronically provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

Executive Order 13706

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

(a) Executive Order 13706. This contract is subject to Executive Order 13706, the regulations issued by the Secretary of Labor in 29 CFR part 13 pursuant to the Executive Order, and the following provisions.

(b) Paid Sick Leave. (1) The contractor shall permit each employee (as defined in 29 CFR 13.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship that may be alleged to exist between the contractor and employee, to earn not less than 1 hour of paid sick leave for every 30 hours worked. The contractor shall additionally allow accrual and use of paid sick leave as required by Executive Order 13706 and 29 CFR part 13. The contractor shall in particular comply with the accrual, use, and other requirements set forth in 29 CFR 13.5 and 13.6, which are incorporated by reference in this contract. (2) The contractor shall provide paid sick leave to all employees when due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 13.24), rebate, or kickback on any account. The contractor shall provide pay and benefits for paid sick leave used no later than one pay period following the end of the regular pay period in which the paid sick leave was taken. (3) The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the requirements of Executive Order 13706, 29 CFR part 13, and this clause.

(c) Withholding. The contracting officer shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay employees the full amount owed to compensate for any violation of the requirements of Executive Order 13706, 29 CFR part 13, or this clause, including any pay and/or benefits denied or lost by reason of the violation; other actual monetary losses sustained as a direct result of the violation, and liquidated damages.

(d) Contract Suspension/Contract Termination/Contractor Debarment. In the event of a failure to comply with Executive Order 13706, 29 CFR part 13, or this clause, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance, or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for

completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 13.52.

(e) The paid sick leave required by Executive Order 13706, 29 CFR part 13, and this clause is in addition to a contractor's obligations under the Service Contract Act and Davis-Bacon Act, and a contractor may not receive credit toward its prevailing wage or fringe benefit obligations under those Acts for any paid sick leave provided in satisfaction of the requirements of Executive Order 13706 and 29 CFR part 13.

(f) Nothing in Executive Order 13706 or 29 CFR part 13 shall excuse noncompliance with or supersede any applicable Federal or State law, any applicable law or municipal ordinance, or a collective bargaining agreement requiring greater paid sick leave or leave rights than those established under Executive Order 13706 and 29 CFR part 13.

(g) Recordkeeping. (1) Any contractor performing work subject to Executive Order 13706 and 29 CFR part 13 must make and maintain, for no less than three (3) years from the completion of the work on the contract, records containing the information specified in paragraphs (i) through (xv) of this section for each employee and shall make them available for inspection, copying, and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:

- (i) Name, address, and Social Security number of each employee;
- (ii) The employee's occupation(s) or classification(s);
- (iii) The rate or rates of wages paid (including all pay and benefits provided);
- (iv) The number of daily and weekly hours worked;
- (v) Any deductions made;
- (vi) The total wages paid (including all pay and benefits provided) each pay period;
- (vii) A copy of notifications to employees of the amount of paid sick leave the employee has accrued, as required under 29 CFR 13.5(a)(2);
- (viii) A copy of employees' requests to use paid sick leave, if in writing, or, if not in writing, any other records reflecting such employee requests;
- (ix) Dates and amounts of paid sick leave taken by employees (unless a contractor's paid time off policy satisfies the requirements of Executive Order 13706 and 29 CFR part 13 as described in § 13.5(f)(5), leave must be designated in records as paid sick leave pursuant to Executive Order 13706);
- (x) A copy of any written responses to employees' requests to use paid sick leave, including explanations for any denials of such requests, as required under 29 CFR 13.5(d)(3);
- (xi) Any records reflecting the certification and documentation a contractor may require an employee to provide under 29 CFR 13.5(e), including copies of any certification or documentation provided by an employee;
- (xii) Any other records showing any tracking of or calculations related to an employee's accrual or use of paid sick leave;

- (xiii) The relevant covered contract;
  - (xiv) The regular pay and benefits provided to an employee for each use of paid sick leave; and
  - (xv) Any financial payment made for unused paid sick leave upon a separation from employment intended, pursuant to 29 CFR 13.5(b)(5), to relieve a contractor from the obligation to reinstate such paid sick leave as otherwise required by 29 CFR 13.5(b)(4).
- (2)(i) If a contractor wishes to distinguish between an employee's covered and non-covered work, the contractor must keep records or other proof reflecting such distinctions. Only if the contractor adequately segregates the employee's time will time spent on non-covered work be excluded from hours worked counted toward the accrual of paid sick leave. Similarly, only if that contractor adequately segregates the employee's time may a contractor properly refuse an employee's request to use paid sick leave on the ground that the employee was scheduled to perform non-covered work during the time she asked to use paid sick leave.
- (ii) If a contractor estimates covered hours worked by an employee who performs work in connection with covered contracts pursuant to 29 CFR 13.5(a)(i) or (iii), the contractor must keep records or other proof of the verifiable information on which such estimates are reasonably based. Only if the contractor relies on an estimate that is reasonable and based on verifiable information will an employee's time spent in connection with non-covered work be excluded from hours worked counted toward the accrual of paid sick leave. If a contractor estimates the amount of time an employee spends performing in connection with covered contracts, the contractor must permit the employee to use her paid sick leave during any work time for the contractor.
- (3) In the event a contractor is not obligated by the Service Contract Act, the Davis-Bacon Act, or the Fair Labor Standards Act to keep records of an employee's hours worked, such as because the employee is exempt from the FLSA's minimum wage and overtime requirements, and the contractor chooses to use the assumption permitted by 29 CFR 13.5(a)(1)(iii), the contractor is excused from the requirement in paragraph (1)(d) of this section to keep records of the employee's number of daily and weekly hours worked.
- (4)(i) Records relating to medical histories or domestic violence, sexual assault, or stalking, created for purposes of Executive Order 13706, whether of an employee or an employee's child, parent, spouse, domestic partner, or other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship, shall be maintained as confidential records in separate files/records from the usual personnel files.
- (ii) If the confidentiality requirements of the Genetic Information Nondiscrimination Act of 2008 (GINA), section 503 of the Rehabilitation Act of 1973, and/or the Americans with Disabilities Act (ADA) apply to records or documents created to comply with the recordkeeping requirements in this contract clause, the records and documents must also be maintained in compliance with the confidentiality requirements of the GINA, section 503 of the Rehabilitation Act of 1973, and/or ADA as described in 29 CFR 1635.9, 41 CFR 60-741.23(d), and 29 CFR 1630.14(c)(1), respectively.

(iii) The contractor shall not disclose any documentation used to verify the need to use 3 or more consecutive days of paid sick leave for the purposes listed in 29 CFR 13.5(c)(1)(iv) (as described in 29 CFR 13.5(e)(1)(ii)) and shall maintain confidentiality about any domestic abuse, sexual assault, or stalking, unless the employee consents or when disclosure is required by law. (5) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours. (6) Nothing in this contract clause limits or otherwise modifies the contractor's recordkeeping obligations, if any, under the Davis-Bacon Act, the Service Contract Act, the Fair Labor Standards Act, the Family and Medical Leave Act, Executive Order 13658, their respective implementing regulations, or any other applicable law.

(h) The contractor (as defined in 29 CFR 13.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts.

(i) Certification of Eligibility. (1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a)(1). (2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts currently maintained on the System for Award Management Web site, <http://www.SAM.gov>. (3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(j) Interference/Discrimination. (1) A contractor may not in any manner interfere with an employee's accrual or use of paid sick leave as required by Executive Order 13706 or 29 CFR part 13. Interference includes, but is not limited to, miscalculating the amount of paid sick leave an employee has accrued, denying or unreasonably delaying a response to a proper request to use paid sick leave, discouraging an employee from using paid sick leave, reducing an employee's accrued paid sick leave by more than the amount of such leave used, transferring an employee to work on non-covered contracts to prevent the accrual or use of paid sick leave, disclosing confidential information contained in certification or other documentation provided to verify the need to use paid sick leave, or making the use of paid sick leave contingent on the employee's finding a replacement worker or the fulfillment of the contractor's operational needs. (2) A contractor may not discharge or in any other manner discriminate against any employee for:

(i) Using, or attempting to use, paid sick leave as provided for under Executive Order 13706 and 29 CFR part 13;

- (ii) Filing any complaint, initiating any proceeding, or otherwise asserting any right or claim under Executive Order 13706 and 29 CFR part 13;
- (iii) Cooperating in any investigation or testifying in any proceeding under Executive Order 13706 and 29 CFR part 13; or
- (iv) Informing any other person about his or her rights under Executive Order 13706 and 29 CFR part 13.

(k) Waiver. Employees cannot waive, nor may contractors induce employees to waive, their rights under Executive Order 13706, 29 CFR part 13, or this clause.

(l) Notice. The contractor must notify all employees performing work on or in connection with a covered contract of the paid sick leave requirements of Executive Order 13706, 29 CFR part 13, and this clause by posting a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by employees. Contractors that customarily post notices to employees electronically may post the notice electronically, provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to employees about terms and conditions of employment.

(m) Disputes concerning labor standards. Disputes related to the application of Executive Order 13706 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 13. Disputes within the meaning of this contract clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.