

DEPARTMENT OF THE ARMY

EASEMENT FOR A PUBLIC ROAD OR STREET

LOCATED AT

LAVON LAKE

COLLIN COUNTY, TEXAS

RECEIVED
PURCHASING AGENT
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THE SECRETARY OF THE ARMY under and by virtue of the authority vested in the Secretary by Title 10, United States Code, Section 2668, having found that the granting of this easement will not be against the public interest, hereby grants to Collin County, a political subdivision of the State of Texas, located at 700A Wilmeth Road, McKinney, Texas 75069, hereinafter referred to as the grantee, an easement for a road or street, Tracts 3717-1, hereinafter referred to as the facilities over, across, in and upon the lands of the United States as identified in **Exhibits A and B** attached hereto and made a part hereof, hereinafter referred to as the premises.

THIS EASEMENT is granted subject to the following conditions:

1. TERM

This easement is granted in perpetuity.

2. CONSIDERATION

The consideration for this easement shall be the construction, operation and maintenance of a public road for the benefit of the United States and the general public in accordance with the terms herein set forth.

3. NOTICES

All correspondence and notices to be given pursuant to this easement shall be addressed, if to the grantee, to Collin County, 700A Wilmeth Road, McKinney, Texas 75069; and if to the United States, to the District Engineer, Attention: Chief, Real Estate Division CESWF-RE-MM, Post Office Box 17300, Fort Worth, Texas 76102-0300, 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", "Real Estate Contracting Officer", or "said officer" shall include their duly authorized representatives. Any reference to "grantee" shall include assignees, transferees and their duly authorized representatives.

5. SUPERVISION BY THE REAL ESTATE CONTRACTING OFFICER

The construction, operation, maintenance, repair or replacement of said facilities, including culverts and other drainage facilities, shall be performed at no cost or expense to the United States and subject to the approval of the Real Estate Contracting Officer, Fort Worth District, hereinafter referred to as said officer. Upon the completion of any of the above activities, the Grantee shall immediately restore the premises to the satisfaction of said officer. The use and occupation of the premises for the purposes herein granted shall be subject to such rules and regulations as said officer prescribes in writing from time to time.

6. APPLICABLE LAWS AND REGULATIONS

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

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 United States.

8. INSPECTION AND REPAIRS

The grantee shall inspect the facilities at reasonable intervals and immediately repair any defects found by such inspection or when required by said officer to repair any such defects.

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

**EASEMENT NO. DACW63-2-15-0605
REPLACES DACW63-2-83-0512**

officer, or at the election of said officer, reimbursement made therefore by the grantee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

10. RIGHT TO ENTER

The right is reserved to the United States, its officers, agents, and employees to enter upon the premises at any time and for any purpose necessary or convenient in connection with government purposes, to make inspections, to remove timber or other material, except property of the grantee, to flood the premises 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.

11. RIGHT TO CONNECT

The United States 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. OTHER AGENCY AGREEMENTS

It is understood that the provisions of the conditions on SUPERVISION BY THE REAL ESTATE CONTRACTING OFFICER and RIGHT TO ENTER above 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 construction, maintenance, or repair of the facilities herein authorized.

13. TERMINATION

This easement may be terminated by the Secretary upon 30 days written notice to the grantee if the Secretary 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 Secretary 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.

14. 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.

15. 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.

16. PRELIMINARY ASSESSMENT SCREENING

A Preliminary Assessment Screening (PAS), 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 PAS 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**.

17. 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.

18. 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 agents, successors, transferees, and assignees.

19. 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.

20. 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

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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.

21. DETERMINATION REGARDING EXECUTIVE ORDER 13658

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

b. If a duly authorized representative of the United States discovers or determines, whether before or subsequent to executing this contract, that an erroneous determination regarding the applicability of Executive Order 13658 was made, contractor, to the extent permitted by law, agrees to indemnify and hold harmless the United States, its officers, agents, and employees, for and from any and all liabilities, losses, claims, expenses, suites, fines, penalties, judgments, demands or actions, costs, fees, and damages directly or indirectly arising out of, caused by, related to, resulting from or in any way predicated upon, in whole or in part, the erroneous Executive Order 13658 determination. This includes contractor releasing any claim or entitlement it would otherwise have to an equitable adjustment to the contract and indemnifying and holding harmless the United States from the claims of subcontractors and contractor employees.

22. ADDED CONDITIONS

a. The grantee shall at all times maintain said road in good condition and shall make all repairs thereto needed to preserve a smooth surface roadway.

b. Any property of the United States damaged by the grantee incident to the use and occupation of the said premise shall be promptly repaired or replaced by the grantee to the satisfaction of said officer.

c. The use and occupation of said lands of the United States for the purposes authorized by this instrument shall be subject to the rules and regulations as the said officer may prescribe from time to time in order to properly protect the interest of the United States.

d. The United States shall in no case be liable for any damages or injuries to the said road or street which may be caused by or result from any operation undertaken by the government, and no claim or right to compensation shall accrue from such damages.

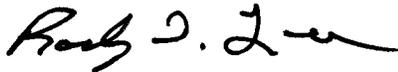
e. The Government shall not be liable for any part of loss or accident which may occur on the roads.

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f. The Grantee shall not assign or otherwise release its responsibility to maintain the right-of-way.

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

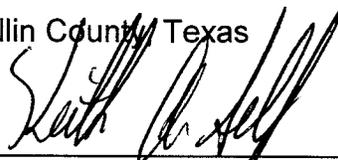
IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Army, this 19 day of November, 2015.



Rocky D. Lee
District Chief, Real Estate Division
Real Estate Contracting Officer

THIS EASEMENT is also executed by the grantee this 6th day of October, 2015.

Collin County, Texas



Authorized Representative

County Judge
Title

CERTIFICATE OF AUTHORITY

I Keith Self, certify that I am the County Judge of **Collin County**, named as the grantee herein; and that William Roberts, who signed the foregoing instrument on behalf of **Collin County**, was then County Judge of **Collin County**. I further certify that the said officer was acting within the scope of powers delegated to this officer by the governing body of **Collin County**, in executing said instrument.

Date 10/6/15



Authorized Representative

County Judge

(Title)

AFFIX COMPANY SEAL

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

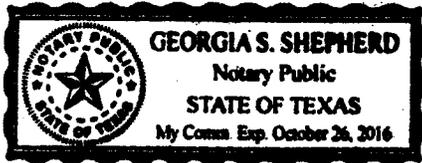
STATE OF TEXAS

COUNTY OF Collin

}
} SS.
}

On this 6th day of October, 2015, before me, the undersigned officer, personally appeared Keith Self, known to me to be the person described in the foregoing instrument, who acknowledged that he executed the same in the capacity therein stated and for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Georgia S. Shepherd
Notary Public, State of Texas
My Commission Expires: 10/26/2016
Printed Name: Georgia S. Shepherd

ACKNOWLEDGMENT

STATE OF TEXAS

}
} SS.
}

COUNTY OF TARRANT

On this 19 day of November, 2015, before me, the undersigned officer, personally appeared within named Rocky D. Lee, District Chief, Real Estate Division, United States Army Corps of Engineers, Fort Worth District, on behalf of the United States of America, and known to me to be the person whose name is subscribed to the foregoing instrument by virtue of the above-cited authority and acknowledged to me that he executed the same in such capacity for the purposes and consideration therein expressed.

Given under my hand and seal this 19 day of November, 2015.



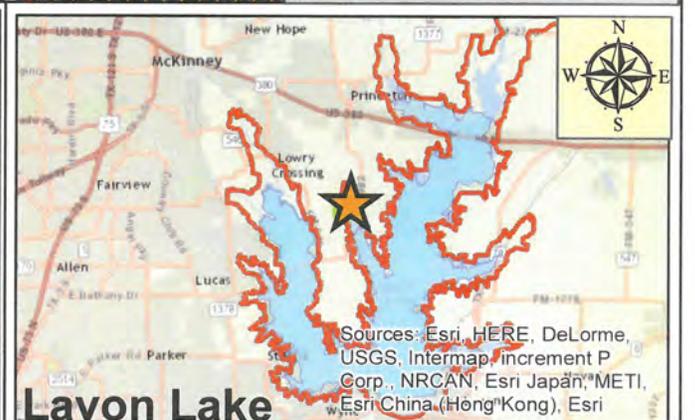
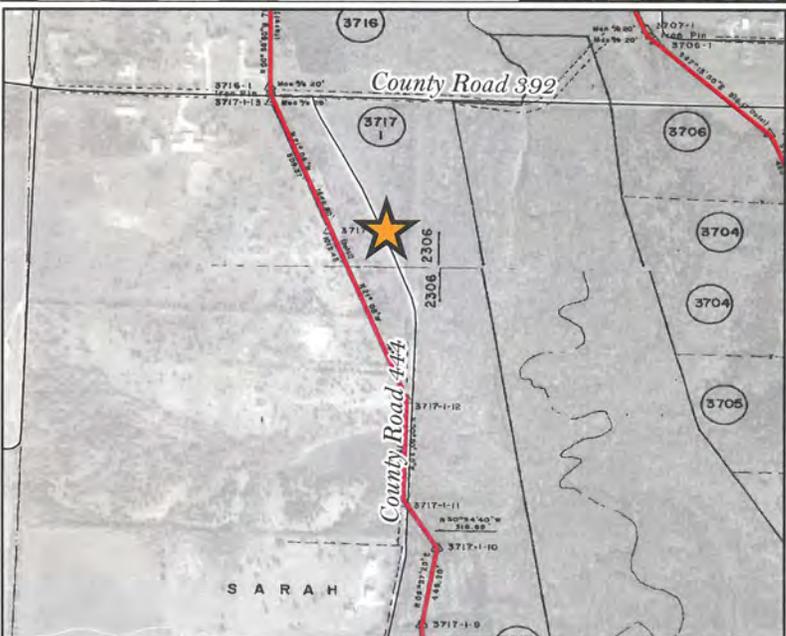
Kelly Owens
Notary Public, State of Texas
My Commission Expires: 9-16-2019
Printed Name: KELLY OWENS

Easement #DACW63-2-15-0605 - Collin County Road #444 Tract # - 3717-1 - Lavon Lake - Trinity Regional Project



Legend

- Boundary Monuments
- Lavon 510' (for 508) Contour
- Fee Boundary
- Easement Location



Map Created: 05/02/2015 By: P. Nealy

The U.S. Army Corps of Engineers has provided these spatial data as a representation of the various geographic information gathered from multiple sources. These data should be viewed only as a representation of the provided information and should not be used for any other purpose. No guarantee is made by the U.S. Army Corps of Engineers regarding the accuracy or completeness of the data or their suitability for a particular use.



LAVON LAKE

A tract of land situated in the County of Collin, State of Texas, being part of the Sarah D. Terry Survey (A-890), and being more particularly described as follows, all bearings being referred to the Texas Plane Coordinate System, North Central Zone:

FROM Government marker No. 3717-1-13, situated in the south right-of-way line for a county road running east and west and located in a southwesterly boundary line for a 91.20 acre tract of land acquired by the United States of America from Laurence R. Melton, et ux, and being designated as Tract No. 3717-1 for Lavon Lake, north 21°08' west, 25 feet to an iron pin in the center line for said east-west county road for the northwest corner for said Tract No. 3717-1;

THENCE along the center line for said road, same being the north boundary line for said Tract No. 3717-1, south 88°58' east, 226.15 feet to a point for the intersection for the easterly right-of-way line for an existing rock road from the south with said boundary line for the point of beginning, said point of beginning being located south 88°58' east, 31.15 feet from an iron pin;

THENCE along the easterly right-of-way line for said rock road from the south as follows: south 14°35'27" east, 76.07 feet to a point;

THENCE south 26°40'03" east, 576.47 feet to a point;

THENCE south 21°34'24" east, 540.01 feet to a point;

THENCE south 06°18'18" east, 132.93 feet to a point;

THENCE departing from said easterly right-of-way line, north 88°58' west, 60.50 feet to a point;

THENCE along the westerly right-of-way line for said existing rock road as follows: north 06°18'18" west, 117.17 feet to a point;

THENCE north 21°34'24" west, 529.31 feet to a point;

THENCE north 26°40'03" west, 580.15 feet to a point;

THENCE north 14°35'27" west, 99.19 feet to a point for the intersection for the west right-of-way line for said existing rock road with the north boundary line for said Tract No. 3717-1;

THENCE departing from the westerly right-of-way line for said existing rock road, along the north boundary line for said Tract No. 3717-1, same being the center line for an east-west county road, south 88°58' east, 62.30 feet to the point of beginning, containing 1.826 acres, more or less,

RESERVING, however, to the United States of America a perpetual flowage easement over the entire 1.826 acres, more or less.

PRELIMINARY ASSESSMENT SCREENING

1. **REAL PROPERTY TRANSACTION:** The Corps proposes to issue an Easement, DACW63-2-15-0605, which will allow the Collin County, Texas to operate and maintain a road right-of-way. The new perpetual easement will become effective May 4, 2015.

a. A **COMPREHENSIVE RECORDS SEARCH** was conducted which included a review of the following areas:

- 1) Real Estate Division files.
- 2) Real Estate Division maps.
- 3) Lavon Lake Master plan.
- 4) Operations Division files.
- 5) Environmental Review Guide for Operations (ERGO).

b. **INTERVIEWS WERE CONDUCTED** with the following: Lavon Lake Manager, Michael Kinnard

c. A **SITE INVESTIGATION** was performed by Park Ranger Steve Perrin, On 24 April 2015, which consisted of a visual inspection of the area.

2. STATEMENT OF FINDINGS

a. COMPREHENSIVE RECORDS SEARCH SUMMARY

A complete search of the District files which pertain to the proposed easement area was made as stated in 1.a. above. The records search revealed no other evidence of any hazardous substance being stored, released or disposed of on the property involved. The operating plans and historical records also showed no other evidence of any activity which would have contaminated the property with hazardous substances.

b. SITE INVESTIGATION SUMMARY

A site investigation of the proposed easement area was made as stated in 1.c. above. This visual inspection revealed no unusual odors, stained soils, stressed vegetation, suspicious seepage, manmade land features, unnatural surface features or other evidence that would indicate the presence of hazardous wastes. Based on this inspection it was determined no hazardous substance has been stored, released or disposed of on the property involved. Project personnel are unaware of past activities which might have created a hazardous situation.

for U Allen

Prepared By: Andre Pharms
Realty Specialist, Management and Disposal Branch

11/18/15

Date

Rocky D. Lee

Approved By: Rocky D. Lee
District Chief, Real Estate Division
Real Estate Contracting Officer

19 Nov 15

Date