

**EASEMENT NO. DACA27-2-23-293  
DAVID BARROW ARMY RESERVE CENTER**

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**COVER SHEET**

**FOR RECORDING PURPOSES**

**DAVID BARROW USARC**

**1051 RUSSELL CAVE ROAD**

**LEXINGTON, KENTUCKY**

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Return To:  
Cynthia Cannon-Ferguson  
LFUCG, Dept. of Law, 11<sup>th</sup> Floor  
200 East Main Street  
Lexington, KY 40507

Prepared By:

  
(Signature)

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DEPARTMENT OF THE ARMY  
EASEMENT FOR PIPELINE RIGHT-OF-WAY  
LOCATED ON  
DAVID BARROW USARC  
LEXINGTON, KENTUCKY  
COUNTY OF FAYETTE

**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 be in the public interest and will not substantially injure the interests of the United States, hereby grants to Lexington-Fayette Urban County Government hereinafter referred to as the grantee a 20-foot wide easement for the maintenance of a 30-inch diameter ductile iron main as well as the maintenance of a basic 8-inch sanitary sewer transmission pipeline hereinafter referred to as the facilities, over, across, in and upon lands of the United States as identified in Exhibit "A" & "B" hereinafter referred to as the premises, and which are attached hereto and made a part hereof.

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

**1. TERM**

This easement is hereby granted for a term of 50 years, beginning on 1 February 2021 and ending on 31 January 2071.

**2. CONSIDERATION**

The consideration for this easement shall be the construction, operation, and maintenance of the pipeline by the Grantee for the benefit of the United States and the general public in accordance with the conditions herein set forth.

**3. NOTICES**

All notices to be given pursuant to this easement shall be addressed, if to the grantee, to Lexington-Fayette Urban County Government, Division of Engineering, 101 E. Vine Street (4th floor), Lexington, KY 40507 and, if to the United States, to the District Engineer, Attention: Chief, Real Estate Division, Post Office Box 59, Louisville, Kentucky 40201-0059, or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper addressed as aforesaid, and deposited postage prepaid in a post office regularly maintained by the United States Postal Service.

#### **4. AUTHORIZED REPRESENTATIVES**

Except as otherwise specifically provided, any reference herein to "Secretary," "District Engineer," "Installation Commander," 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 INSTALLATION COMMANDER**

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 Installation Commander, 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 the 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 other 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

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condition satisfactory to said officer, or at the election of said officer, reimbursement made therefor 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 work, 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.

**11. TRANSFERS AND ASSIGNMENTS**

Without prior written approval by said District Engineer, 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.

**12. INDEMNITY**

The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property or injuries to the person of the grantee's officers, agents, or employees or others who may be on the premises at their invitation or the invitation of any one of them, and the grantee shall hold the United States harmless from any and all such claims not including damages due to the fault or negligence of the United States or its contractors.

**13. 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.

#### **14. REQUIRED SERVICES**

The grantee shall furnish through said facilities such services as may be required from time to time for governmental purposes, provided that payment for such service will be made by the United States at rates which shall be mutually agreeable, but which shall never exceed the most favorable rates granted by the grantee for similar service.

#### **15. RELOCATION OF FACILITIES**

In the event all or any portion of the premises occupied by the said facilities shall be needed by the United States, or in the event the existence of said facilities is determined to be detrimental to governmental activities, the grantee shall from time to time, upon notice to do so, and as often as so notified, remove said facilities to such other location as may be designated by said officer. In the event said facilities shall not be removed or relocated within ninety (90) days after such notice, the United States may cause such relocation at the sole expense of the grantee.

#### **16. 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.

#### **17. 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.

#### **18. 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 promptly 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

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materials within the premises is strictly 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 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.

#### **19. ENVIRONMENTAL CONSIDERATION**

A Record of Environmental Consideration (REC) 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 expiration, revocation or termination of this easement, another EBS 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**.

#### **20. 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 material from further disturbance until said officer gives clearance to proceed. Grantee shall be liable for any and all damages to historical, archeological, architectural or other cultural artifacts, relics, remains or objects of antiquity.

#### **21. NON-DISCRIMINATION**

The grantee shall not discriminate against any person or persons because of race, color, age, sex, handicap, national origin, or religion in the conduct of operations on the premises.

## **22. RESTORATION**

On or before the expiration or termination of this easement, the grantee shall, without expense to the United States, and within such time as said officer may indicate, remove said facilities and restore the premises to the satisfaction of said officer. In the event the grantee shall fail to remove said facilities and restore the premises, the United States shall have the option to take over said facilities without compensation, or to remove said facilities and 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.

## **23. EXECUTIVE ORDER 13658**

Any reference in this section to “prime contractor” or “contractor” shall mean the Grantee and any reference to “contract” shall refer to this Easement.

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.

### **(a) 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.

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(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.

(b) 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.

(c) 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.

(d) 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.



(e) 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.

(f) Payroll Records

(1) The contractor shall make and maintain for three years records containing the information specified in paragraphs (f)(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

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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.

(g) 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.

(h) 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.

(i) 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 proviso:

(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

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the applicable Executive Order minimum wage through the combination of direct wages and tip credit.

(j) 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 or 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.

(k) 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.

(l) 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.

#### **24. EXECUTIVE ORDER 13706**

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

(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.

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(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) Record keeping.

(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

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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 noncovered 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

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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, 41CFR60-741.23(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 record keeping 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.

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(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.

## **25. Hold Harmless**

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

EASEMENT NO. DACA27-2-23-293  
SUPERCEDES EASEMENT NO. DACA27-2-07-164  
**DAVID BARROW ARMY RESERVE CENTER**


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**26. DISCLAIMER**

This instrument is effective only insofar as the rights of the United States in the property 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 of obtaining any Department of the Army permit which may be required pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. § 403), Section 404 of the Clean Water Act (33 U.S.C. § 1344) or any other permit or license which may be required by Federal, state or local statute in connection with use of the premises.

**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 2nd day of January, 2023<sup>4</sup>

  
**JACKIE L. PRESTON**  
CHIEF, MILITARY BRANCH  
REAL ESTATE CONTRACTING OFFICER

**THIS EASEMENT** is also executed by the grantee this 18th day of December, 2023.

LEXINGTON-FAYETTE URBAN COUNTY  
GOVERNMENT

  
**HONORABLE LINDA GORTON**  
MAYOR OF LEXINGTON

LEASE NO. DACA27-2-23-293  
(DAVID BARROW ARMY RESERVE CENTER)

CERTIFICATE OF AUTHORITY

I, Mackenzie Stock certify that I am the Deputy Council Clerk  
(Name of clerk or appropriate official) (Title)  
of the LFUCG that Linda Gortm.,  
(name of govt entity) (Name of Officer Signing Agreement)

who signed the foregoing instrument on behalf of the grantee, was then

Mayor of Lexington-Fayette Urban County Govt.  
(Office Held) (name of govt entity)

I further certify that the said officer was acting within the scope of powers delegated to this officer by the governing body of the grantee in executing said instrument.

Mackenzie Stock  
(Signature of clerk or appropriate official)

12/18/2023  
(Date)

**EXHIBIT A**

**Sanitary Sewer Easements  
20 Feet in Width  
U.S. Tract Nos. A-100 & A-103**

**U.S. Army Reserve Center  
Military Reservation  
Lexington, Kentucky**

**LAND DESCRIPTION**

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**SITUATED** in the Commonwealth of Kentucky, County of Fayette, approximately 1.4 miles northeast of Rupp Arena and approximately 700 feet northwest of the intersection of Kees Road with Russell Cave Road, being three (3) segmented strips of land 20.00 feet in width and encumbering portions of U.S. Tract Nos. A-100 and A-103 located at the U.S. Army Reserve Center in Lexington, Kentucky, and being described by metes and bounds with bearings referenced to the North American Datum 1983 (NAD 83) – Kentucky State Plane Coordinate System (2011 Adjustment), Single Zone; as follows:

**Easement #1 (30-inch Sanitary Sewer Force Main)**

For a Point of Commencement (POC), go to a concrete monument at the most northerly corner of U.S. Tract No. A-100 (Deed Book 596, Page 432), which is also the intersection of the westerly right-of-way line for Russell Cave Road with the southerly railroad right-of-way line for R.J. Corman/CSX Railroad. Thence leaving said POC and said railroad right-of-way, while going with said westerly right-of-way line the following call:

South 13 degrees 14 minutes 30 seconds West 22 feet, more or less, to a point situated in the centerline of a 30-inch sanitary sewer force main pipeline, being the **Point of Beginning (POB)** of this easement. Thence leaving said westerly right-of-way line and going with the centerline of said pipeline, while traversing across U.S. Tract No. A-100 the following five (5) calls:

- (1) South 61 degrees 15 minutes 30 seconds West 30 feet, more or less
- (2) South 76 degrees 47 minutes 35 seconds West 199 feet, more or less
- (3) South 71 degrees 59 minutes 30 seconds West 268 feet, more or less
- (4) South 50 degrees 12 minutes 15 seconds West 73 feet, more or less
- (5) North 84 degrees 08 minutes 30 seconds West 27 feet, more or less, to a point in the easterly line of U.S. Tract No. A-103 (Deed Book 985, Page 425).

Thence leaving U.S. Tract No. A-100 and continuing with said centerline, while traversing across U.S. Tract No. A-103 the following four (4) calls:

- (1) North 84 degrees 08 minutes 30 seconds West 35 feet, more or less
- (2) South 72 degrees 48 minutes 35 seconds West 134 feet, more or less
- (3) South 64 degrees 06 minutes 15 seconds West 85 feet, more or less
- (4) South 16 degrees 50 minutes 00 seconds West 103 feet, more or less, to a point in the southerly line of U.S. Tract No. A-103, being the **Point of Terminus (POT)** of said centerline.

**EXHIBIT A**

**Sanitary Sewer Easement  
20 Feet in Width  
U.S. Tract Nos. A-100 & A-103**

**U.S. Army Reserve Center  
Military Reservation  
Lexington, Kentucky**

**LAND DESCRIPTION - continued**

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In addition, said POT is situated North 76 degrees 45 minutes 30 seconds West 220 feet, more or less, from a concrete monument found at the common southerly corner of U.S. Tract Nos. A-100 and A-103, while the afore described easement (Easement #1) has traversed a total distance of 954 feet, more or less; encumbering 0.27 acres, more or less, of U.S. Tract No. A-100 and encumbering 0.17 acres, more or less, of U.S. Tract No. A-103.

Easement #2 (8-inch Sanitary Sewer)

For a Point of Commencement (POC), go to a concrete monument at the common southerly corner of U.S. Tract Nos. A-100 and A-103. Thence leaving U.S. Tract No. A-100 and going with the southerly line of U.S. Tract No. A-103 the following call:

North 76 degrees 45 minutes 30 seconds West 287 feet, more or less, to a point situated in the centerline of an 8-inch sanitary sewer gravity pipeline, being the **Point of Beginning (POB)** of this easement. Thence leaving said southerly line and going with the centerline of said pipeline, while traversing across U.S. Tract No. A-103 the following two calls:

- (1) North 13 degrees 32 minutes 20 seconds East 69 feet, more or less, to a sewer manhole
- (2) North 13 degrees 32 minutes 20 seconds East 10 feet, more or less, to a point 10 feet beyond said manhole, being the **Point of Terminus (POT)** of said centerline.

Traversing a total distance of 79 feet, more or less, and containing 0.04 acres, more or less.

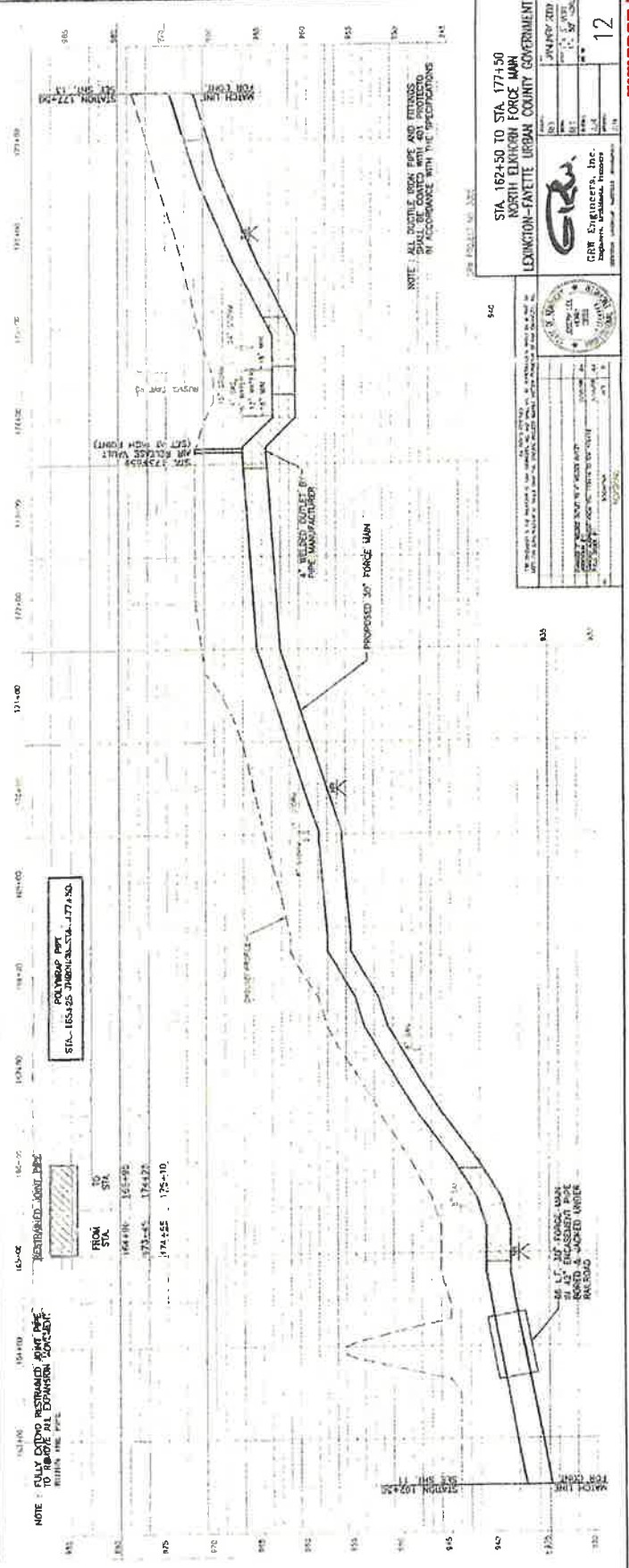
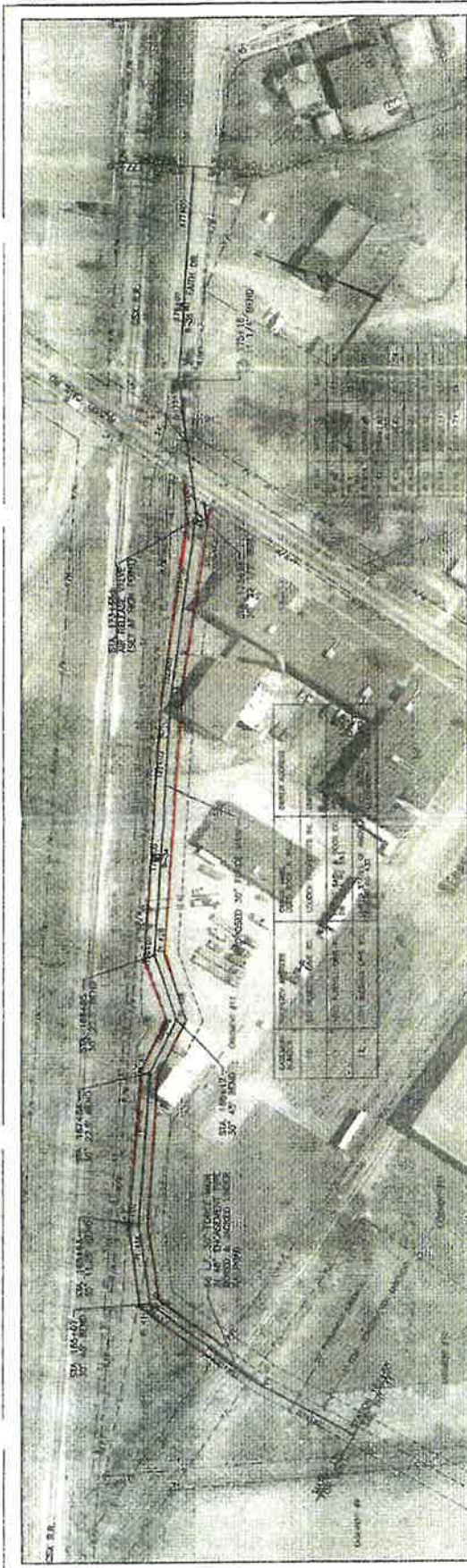
Easement #3 (24-inch Sanitary Sewer)

For a Point of Commencement (POC), go to a concrete monument at the common southerly corner of U.S. Tract Nos. A-100 and A-103. Thence leaving U.S. Tract No. A-100 and going with the southerly line of U.S. Tract No. A-103 the following call:

North 76 degrees 45 minutes 30 seconds West 382 feet, more or less, to a point situated in the centerline of a 24-inch sanitary sewer gravity pipeline, being the **Point of Beginning (POB)** of this easement. Thence leaving said southerly line and going with the centerline of said pipeline, while traversing across U.S. Tract No. A-103 the following call:

North 17 degrees 39 minutes 20 seconds West 35 feet, more or less, to a point in northerly line of U.S. Tract No. A-103, being the **Point of Terminus (POT)** of said centerline; traversing a total distance of 35 feet, more or less, and containing 0.02 acres, more or less.

**TO SUMMARIZE** described herein are three separate easements, each being a strip of land 20 feet in width that encumbers portions of U.S. Tract Nos. A-100 and A-103 containing a total of 0.50 acres, more or less. Specifically, Easement #1 traverses across both Government tracts and encumbers 0.44 acres, more or less, while Easements 2 & 3 encumber only U.S. Tract No. A-103 and contain 0.06 acres, more or less.



NOTE: FULLY DETAILED RESTRAINED JOINT PIPE TO BE USED IN ALL EXHIBIT "B" LOCATIONS WITHIN THE PIPE.

POLYPROP PIPE  
 STL-155425 JERICHO/VA-177450

RESTRAINED JOINT PIPE  
 FROM STA. 164+00 TO STA. 174+00  
 FROM STA. 174+00 TO STA. 175+10

NOTE: ALL PORTS FROM PIPE AND FITTINGS SHALL BE COATED WITH 401 PROTECTANT IN ACCORDANCE WITH THE SPECIFICATIONS.

STA. 162+50 TO STA. 177+50  
 NORTH ELKHORN FORCE MAIN  
 LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

DATE: JANUARY 2009

CRW Engineers, Inc.  
 Engineers, Planners, Architects

Professional Engineer Seal  
 State of Virginia  
 License No. 1000000000

Professional Engineer Seal  
 State of Virginia  
 License No. 1000000000

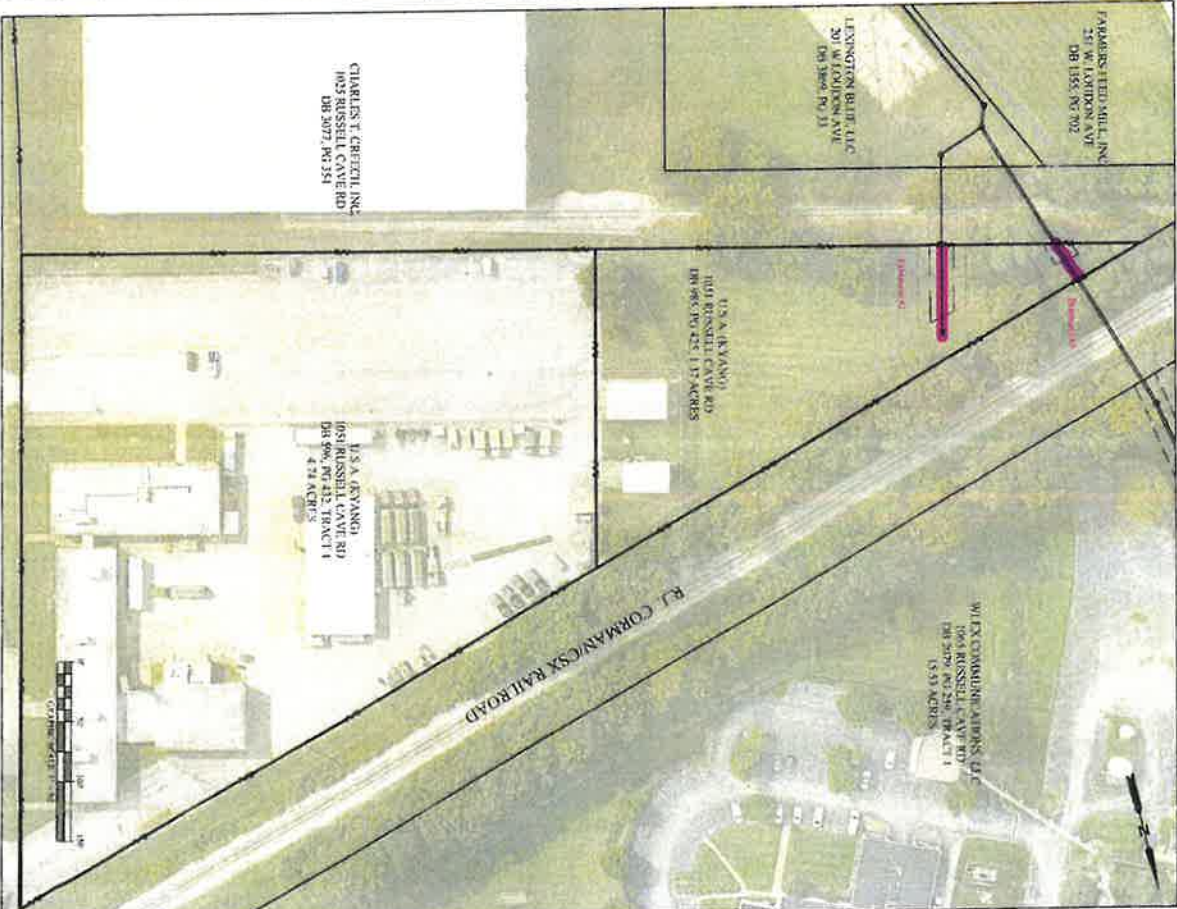
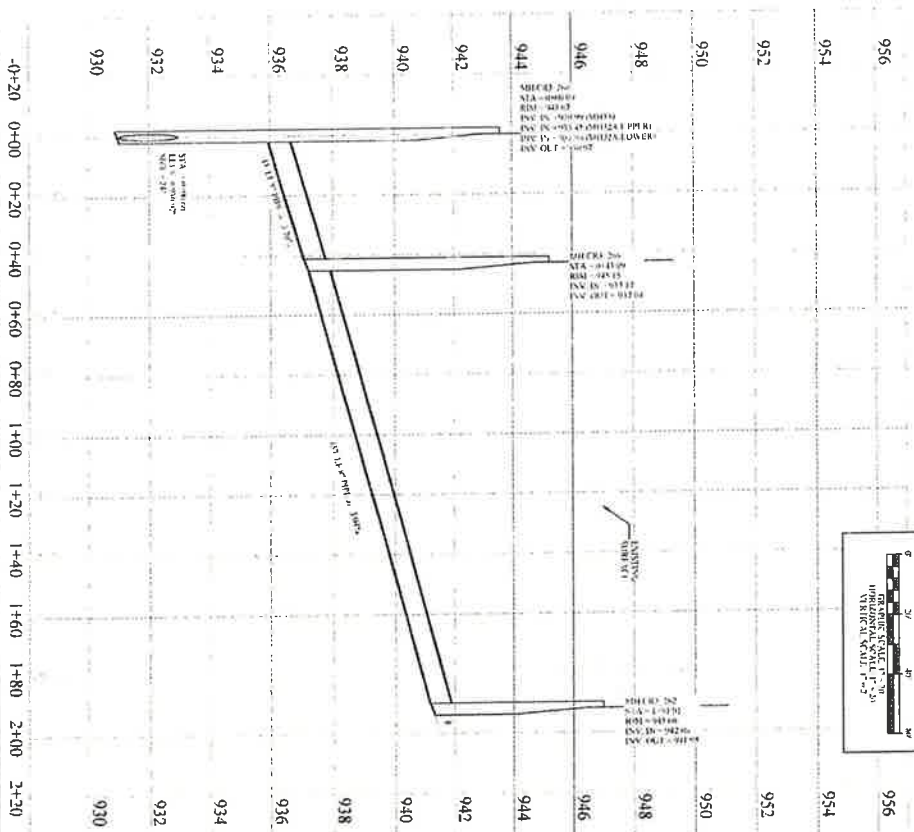
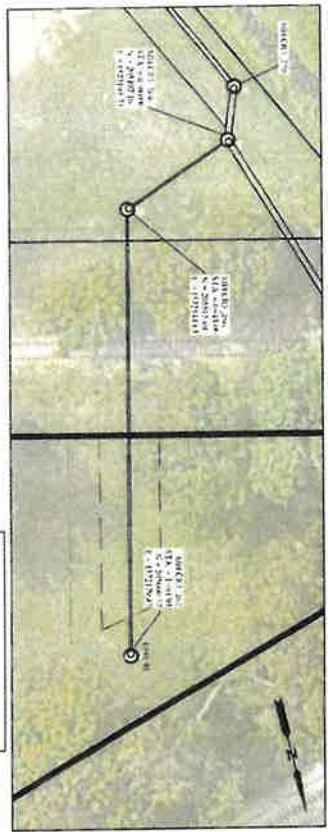


EXHIBIT "B"

SS EX

U.S.A. (KY ANG)  
1051 RUSSELL CAVE RD.  
LEXINGTON, KY  
SANITARY SEWER EXHIBIT

DESCRIPTION OF REVISION

PROJECT NO.: 100122  
DATE: SEP 2012  
DESIGNED BY: WIL  
CHECKED BY:

LEARNER & ASSOCIATES, INC. ENGINEERS  
1000 RUSSELL CAVE RD.  
LEXINGTON, KY 40502  
DIVISION OF WATER QUALITY  
BURLINGAME PROJECT NUMBER 12-CR-13



SCALE

EASEMENT NO. DACA27-2-  
DAVID BARROW USARC

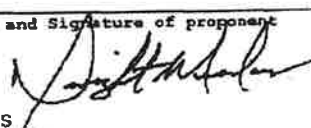
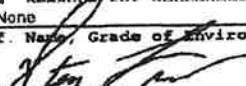
RECORD OF ENVIRONMENTAL CONSIDERATION (REC)		
<b>1. TO (Environmental Office)</b> 81st RRC AFRC-CAL-INSTL MGT (ENVIRONMENTAL) 255 W. OXMOOR ROAD BIRMINGHAM, AL 35209		<b>2. FROM (Proponent Action officer &amp; Phone Number)</b> 81st RRC AFRC-CAL-INSTL MGT (REAL ESTATE) 255 W. OXMOOR ROAD BIRMINGHAM, AL 35209
3. PROJECT IDENTIFICATION		
<b>a. Project Number</b> KY041	<b>b. Project Title</b> Request of temporary easement to construct a sanitary sewer main at Barrow USARC, 1051 Russell Cave Pike, Lexington, KY 40505-3494.	
<b>c. Brief Description</b> The Lexington-Fayette Urban County Government requests a 20' temporary easement to construct a sanitary sewer main on the North and West sides of the facility property. The sewer main will be 30" in diameter.		
<b>d. Anticipated date and/or duration of project (Month/Year of action or FY)</b> FY05		
<b>e. Name, grade and Signature of proponent</b>  DWIGHT MEADORS Chief, Real Estate Division Deputy Chief of Staff, Installation Management	<b>Phone Number</b> (205) 912-6939	<b>Date</b> 30 August 2005
4. CONCURRENCE/NONCONCURRENCE		
<b>a. Concur</b> <input checked="" type="checkbox"/> Yes		<b>b. Nonconcur</b> <input type="checkbox"/>
<b>c. It has been determined that the action (choose one):</b> Qualifies for Categorical Exclusion 32 CFR Part 651. (f)(1)		
<b>d. Special considerations and mitigation specific to this project (includes environmentally sensitive attributes such as the presence of endangered species, historic/archeological sites, hazardous/toxic materials, etc. and/or other environmental requirements such as permits required, coordination required, etc.)</b> <p>(1) Handling and disposal of all materials will be in accordance with Federal, State and local regulations. If any waste materials are determined to be hazardous waste, a copy of the hazardous waste manifest and certificate of hazardous waste disposal must be sent to the facility and a copy to the 81st RRC, 255 West Oxmoor Road, ATTN: AFRC-CAL-INSTL MGT (Bernie Tucker), Birmingham, AL 35209.</p> <p>(2) There are no threatened and endangered species impacted by this proposed project.</p> <p>(3) There will be no environmental permits required (air, water, solid waste).</p> <p>(4) There are no cultural/natural resources adversely impacted by the proposed project.</p> <p>(5) There are no lead/asbestos/radon issues which will adversely impact this project.</p> <p>(6) All other requirements of AR 200-1 and AR 200-2 have been reviewed to assure project compliance. If anything was overlooked or develops during project development, appropriate/avoidance measures will be initiated.</p>		
<b>A Reason for Nonconcurrency</b> None		
<b>f. Name, Grade of Environmental Coordinator</b>  Steven P. Francis Chief, Environmental Division Deputy Chief of Staff, Installation Management	<b>Phone Number</b> (205) 912-6967	<b>Date</b> 30 August 2005

EXHIBIT "C"