

NOTICE OF AVAILABILITY TO LEASE GOVERNMENT PROPERTY

PROJECT/INSTALLATION:
Pomona Lake, Osage County, Kansas

PAGE 1 OF 6 PAGES

DATED: January 5, 2009

NOTICE NO.

DACW41-09-B-RE-0062

SEALED APPLICATIONS, IN DUPLICATE,
SUBJECT TO THE CONDITIONS AND TERMS
CONTAINED HEREIN, WILL BE RECEIVED AT
THE OFFICE OF THE DISTRICT ENGINEER,

**KANSAS CITY DISTRICT
CORPS OF ENGINEERS
860 FEDERAL BUILDING
601 EAST 12TH STREET
KANSAS CITY, MISSOURI 64106-2896**

UNTIL THE TIME OF THE APPLICATION
OPENING AT THE PLACE SET FORTH BELOW:

DATE OF OPENING: JANUARY 28, 2009

TIME OF OPENING: 1:30 pm

PLACE OF OPENING:
US ARMY CORPS OF ENGINEERS
KANSAS CITY DISTRICT
700 FEDERAL BUILDING
601 EAST 12TH STREET
REAL ESTATE DIVISION, RM. 858
KANSAS CITY, MISSOURI 64106-2896

ARRANGEMENTS FOR INSPECTION,
SECURING OF INDIVIDUAL TRACT
MAPS, ADDITIONAL COPIES OF
THE NOTICE AND APPLICATION
SHEETS AND ADDITIONAL
INFORMATION MAY BE OBTAINED
AT ANY OF THE BELOW
LISTED OFFICES:

DISTRICT ENGINEER
KANSAS CITY DISTRICT
U.S. ARMY, CORPS OF ENGINEERS
ATTN: RE-C
860 FEDERAL BUILDING
601 EAST 12TH STREET
KANSAS CITY, MISSOURI 64106-2896

Operations Manager
U.S. ARMY CORPS OF ENGINEERS
PERRY LAKE PROJECT OFFICE
10419 PERRY LAKE DR.
PERRY, KANSAS 66073
TELEPHONE NO. 785-597-5144

PROPERTY TO BE LEASED:

NUMBER OF ITEMS: 1
TOTAL ACRES: 47.0
TERM: ** 5 Crop and/or Hay Seasons
BEGINNING: February 1, 2009
ENDING: December 31, 2013
**** See attached application sheet**

**Pomona Lake, Osage County, Kansas
INSTRUCTIONS TO APPLICANTS**

- 1. INSPECTION INFORMATION:** Arrangements for an inspection of the lease units are to be made with the Operations Manager, **Pomona Lake Project Office, 5260 Pomona Dam road, Vassar, Kansas 66543**. It is the responsibility of each applicant to inspect the tract, read the attached lease (including the Land Use Requirements) and discuss any areas of concern with the Project Representative.
- 2. DESCRIPTION:** See attached maps for description of the property. The maps are believed to be correct, but any error or omission in the description of the property or on the maps shall not constitute any ground or reason for nonperformance of the provisions and conditions of the lease or claim by the lessee for any refund or deductions from the rental. *All acreages stated in this Notice of Availability are approximate. Prospective applicants should verify the actual useable acreage for each lease unit.*
- 3. PURPOSE OF LEASING:** The property may be leased for **Hay and/or Crop**, as stated on the application sheet.
- 4. AUTHORITY OF LAW:** The authority of law for the granting of this lease is Title 10, United States Code, Section 2667.
- 5. TERMS and CONDITIONS of LEASING:**
 - a. Form of Lease
 - (1) The successful applicant will be required to enter into a lease with the United States substantially in accordance with the copy of the lease form attached hereto. There are 2 signature pages in the attached lease.
 - (2) *Each applicant is to sign two signature pages, in the manner you wish your name to appear on the lease, for each unit applied for, (one unit - two pages, four units - eight pages, etc). Submit the signed pages with your application, failure to include the required pages may cause disqualification.*
 - (3) If your application is successful, you will receive an award letter and a copy of the lease executed by the United States. In the event the application is unsuccessful, you will be informed by letter, your uncashed check or money order, along with your signed, unexecuted signature pages will be returned.
 - b. Term The leases will be for a term of 5 years beginning **February 1, 2009** and for the time specified on the application sheet.

c. Marking and Sealing Applications The Notice of Availability number and application opening time must be plainly marked on the sealed envelope in which applications are submitted.

Inner Envelope label

<p>NOTICE NO. DACW41-09-B-RE-0062 DATE OF OPENING: <i>January 28, 2009</i> TIME OF OPENING: 1:30 PM</p>	<p><u>SEALED BID DO NOT OPEN</u></p> <p>US Army Corps of Engineers Kansas City District 700 FEDERAL BUILDING PO BOX 15339 601 EAST 12TH STREET REAL ESTATE DIVISION, Rm. 858 KANSAS CITY, MISSOURI 64106-2896</p>
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<p><i>Your Return Address</i></p>	<p>US Army Corps of Engineers Kansas City District 700 FEDERAL BUILDING P O BOX 15339 601 EAST 12TH STREET REAL ESTATE DIVISION, Rm. 858 KANSAS CITY, MISSOURI 64106-2896</p>
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Outer Envelope label

e. Late Charges for Overdue Payments

(1) The United States will impose an interest charge, the amount to be determined by law or regulation, on late payment of rent. Interest will accrue from the rental due date. An administrative charge to cover the costs of processing and handling each late payment will also be imposed.

(2) In addition to the charges set forth above, the United States will impose a penalty charge of six percent per annum on any payment, or portion thereof, more than 90 days past due. The penalty shall accrue from the date of delinquency and will continue to accrue until the debt is paid in full.

f. Annual Payments of Rental The multiple-year lease may provide for the payment of cash rental to the United States, *annually in advance* of January 1 each year thereafter.

g. Reservations and Crop Limitations Lands comprising the project area were purchased with public funds primarily for flood control purposes. The recreational use of the project lands is also recognized. Utilization of these lands is administered as determined to be in the best interest of the public. It is anticipated that certain areas may be required for operational, recreational or other allocated purposes. In the event that it becomes necessary during a season of the lease to remove and convert all or a portion of the leasehold to another use, an equitable adjustment will be made in the rental in accordance with applicable provisions of the lease.

h. Warranty The property described herein will be leased subject to the provisions and conditions of the Notice of Availability and the attached lease form. The property is now subject to inspection by prospective applicants. Applicants are expected to inspect the property and form their own conclusions as to its suitability for their purposes. The failure of any applicant to make such inspection will not constitute grounds for any claim for adjustment or for the withdrawal of his application after the time of application opening. Arrangements for such inspection may be made with the Operations Manager, **Pomona Lake**. The Government makes no guaranty or warranty, either expressed or implied, with respect to the property.

IT IS TO BE UNDERSTOOD AND AGREED THAT THERE IS NO WARRANTY OF ANY CHARACTER OTHER THAN THAT EXPRESSLY STATED IN THIS NOTICE OF AVAILABILITY.

6. INSTRUCTION to APPLICANTS:

a. Applicants Subject to These Terms All applications submitted shall be deemed to have been made with full knowledge of all the terms herein contained.

b. Application Format *Applications are to be signed and submitted in duplicate on the application form attached hereto, and must be accompanied with two signed signature pages for each unit applied for, (see 5.,a. above) and the required deposit for each application. (see 6f below) The required signature pages are contained in the Notice of Availability.*

c. Execution of Applications Each application must give a full address and telephone number of the applicant and be signed with his usual signature. Any additional sheets shall be identified with the applicant's name. An application executed by an attorney or agent in behalf of the applicant shall be accompanied by an authenticated copy of the Power of Attorney, or other evidence of authority to act on behalf of the applicant. If the applicant is a corporation, the CORPORATE CERTIFICATE must be executed. If the application is signed by the secretary of the corporation, the Certificate must be executed by some other officer of the corporation under the corporate seal. In lieu of the Corporate Certificate, there may be attached to the application copies of as much of the records of the corporation as will show the official character and authority of the officer signing, duly certified by the secretary or assistant secretary, under the corporate seal, to be true copies.

d. Qualification of Applicants Applications qualified on an "all or none" basis will not be accepted. Other qualifications on applications which deviate from the terms of the Notice of Availability will be rejected.

e. Additional Information Additional information required may be obtained from the office of the District Engineer, Kansas City District, Corps of Engineers, Attn: Real Estate Division, 860 Federal

Building, 601 East 12th Street, Kansas City, Missouri 64106-2896, or the office of the Operations Manager, U.S. Army, Corps of Engineers, , **Pomona Lake Project Office, 5260 Pomona Dam road, Vassar, Kansas 66543.**

f. Deposit Required for Annual Rental: No application will be considered unless it is accompanied with a separate deposit for each application. Each unit with an annual rental amount up to \$1,000.00 will require a deposit of the full amount, any application over \$1,000 annually will be approximately equal to but not less than ten (10) percent of the annual rental offered for each item, in order to guarantee that the applicant will enter into a written lease and pay the balance of the rental due within ten (10) days after receipt of written notice of acceptance of his application and a draft of lease for execution. Such guaranty must be in the form of a check or money order, payable to the FAO-USAED Kansas City. **However, in the event of default by any applicant, that applicant's deposit may be applied by the Government to any Government loss, cost and expense occasioned thereby, including any incurred in leasing the property and any difference between the rental for another lease, if the latter amount is less.** The applicant is liable for the full amount of damages sustained by the Government because of his default; such liability is not limited to the amount of the applicant's deposit. If you are not the successful applicant your check(s) or money order (s) will be returned uncashed.

7. SUBMISSION of APPLICATIONS: It will be the duty of each applicant to have the application delivered by the time and at the place prescribed in the Notice of Availability. If the application is returned by mail, it is recommended that the application be submitted by Special Delivery or Certified Mail with return receipt for verification of delivery date. If there is any doubt that the mailed application will not arrive at the Kansas City District office on the date and by the time stated in the Notice of Availability, then it should be delivered in person. Applications will be securely kept, unopened. No responsibility will attach for the premature opening of an application not properly addressed and identified.

8. LATE APPLICATIONS, MODIFICATION OR WITHDRAWAL OF LATE APPLICATIONS: The person whose duty it is to open the applications will decide when withdrawal of an application will be considered. Applications may be modified or withdrawn only by written or telegraphic requests received from applicants prior to the time fixed for opening. Negligence in preparing the application confers no right to withdraw the application after it has been opened. **Applications, modifications, or withdrawals received after the time fixed for opening and before award is made will be considered if sent by special delivery or certified mail not later than the 7th calendar day prior to the date specified for receipt of applications** or if sent by mail (telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt by said officer.

9. OPENING of APPLICATIONS: At the time fixed for the opening, application contents will be made public.

10. AWARD of LEASE: Leases will be awarded to the highest applicant who is responsive to this Notice of Availability, provided that the applicant is responsible, the application is reasonable, and it is in the interest of the United States to accept it.

11. ACCEPTANCE of APPLICATIONS: All applications will remain open for acceptance or rejection for ten (10) days from the date of opening. Notice of award will be given as soon as practicable to the successful applicant or, to a duly authorized representative, in writing at the address indicated in the application.

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

13. DATA REQUIRED by the PRIVACY ACT of 1974: The personal information requested on the Notice of Availability and the lease document, for the lease of Government real property, as authorized by Title 10, USC, Section 2667, is needed and will be used to complete the lease, in the case of the successful offeror, and to contact all offerors. The lease document, containing the lessee's address, will be made available to members of the public upon request. The furnishing, by the offeror, lessee, of his/her telephone number and/or address is voluntary and will have no effect on their offer.

14. DEFAULT: In the event that the successful applicant fails to comply with the terms of this Notice, the Government may declare the applicant in default and retain the deposit as liquidated damages.

15. RIGHT OF ENTRY: All lessees will be required to meet with project personnel prior to being given right of entry on to leases lands.

APPLICATION
FOR LEASING UNITED STATES REAL PROPERTY AT
Pomona Lake, Osage County, Kansas

DATE

TO: District Engineer
 US Army Corps of Engineers
 Kansas City District
 700 Federal Building
 601 East 12th Street
 Kansas City, Missouri 64106-2896

SIR:

The undersigned, in accordance with your **Notice of Availability, No. DACW41-09-B-RE-0062**, dated **January 28, 2009**, for the leasing of property at Pomona Lake, Kansas, and subject to all the conditions and requirements thereof, which, so far as they relate to this application, are made a part of it, proposes to enter into a lease for the property below, and hereby agree(s) to pay the rental set out below:

TERM: All items are for **5** crop/hay seasons, beginning **February 1, 2009** and ending **December 31, 2013;**

NOTE: ALL LEASE UNITS ARE SUBJECT TO THE REQUIREMENTS SET FORTH IN SECTIONS A, B, AND C.

<u>ITEM NO.</u>	<u>LEASE UNIT</u>	<u>TOTAL ACRES</u>	<u>USEABLE ACRES</u>	<u>SPECIAL PURPOSE</u>	<u>REQUIREMENTS</u>	<u>RENTAL PER YEAR</u>
1	112, 114, 118, 123	47.0	47.0	Hay	5-10% Food Plots, Hay Bale Removal	\$_____

Enclosed are separate money orders or checks, payable to Finance and Accounting Officer, U.S. Army Corps of Engineers, totaling \$_____ to cover the required deposit, which is full payment for each rental amount of up to and including \$1,000 and/or not less than ten percent (10%) deposit for each rental amount over \$1,000.

I (we) make this application with full knowledge of all the conditions and requirements herein-before set forth, and if this offer is accepted, I (we) agree to promptly execute an appropriate lease, which I (we) understand you will furnish me (us), and return all copies of the same to your office within ten (10) days from the date it is delivered to me (us). If I (we) fail or refuse to execute and return said lease as aforesaid, the Government may declare this application in default and deposit submitted within support hereof will be retained by the United States as liquidated damages.

(Applications must be signed and returned)

Printed Name

Signature

Street Address

City, State and Zip Code

Date Telephone No.

Note: If applying as a partnership, the names of the firm or partnership must appear above the signature. The application must then be signed by all of the partners or the application may be signed by any one of the partners as one of the firm, provided the names and addresses of all of the partners are listed on this application.

CORPORATE CERTIFICATE

I, _____, certify that I am the _____ of the Corporation named as applicant herein; that _____ of said Corporation; who signed said application on behalf of the Corporation, was known to me and was then _____ of the Corporation. I further certify that said officer was acting within the scope of the powers delegated to this officer by the governing body of the Corporation in executing this instrument.

SEAL

(signature/title)

TAXPAYER IDENTIFICATION NUMBER
Pomona Lake, Osage County, Kansas

This Taxpayer Identification Sheet contains information subject to the Privacy Act of 1974 as amended.

As required by law, please provide your “taxpayer identification number” in the space below. For individuals, this number is most likely your social security number. Corporations and other entities should also have a tax I.D. number.

Your are hereby notified that this taxpayer identification number will be used for purposes of collecting and reporting on any delinquent amounts arising out of your relationship with the Army. Should delinquent amounts have to be written off; the number will be used to generate an IRS Form 1099-C reporting this as income to you. In addition, should this office pay money to you that is considered income, the number will be used to generate an applicable IRS Form 1099.

This office may not conduct business with you unless such number is provided.

Taxpayer identification number: _____

Signature: _____

Printed name: _____

(Must be signed and returned or your bid will be disqualified)