

DEPARTMENT OF THE ARMY

U.S ARMY CORPS OF ENGINEERS  
NORFOLK DISTRICT  
803 FRONT STREET  
NORFOLK, VA 23510-1011

INVITATION FOR BIDS AND ACCEPTANCE

SALE OF SURPLUS AND REAL PROPERTY

Sealed bids will be received on a DATE TO BE DETERMINED after completion and publication of an Environmental Report on each parcel, at Norfolk District, Real Estate Office, 803 Front Street Norfolk, VA 23510-1011 and then and there opened on the following Monday, if not a Federal Holiday (if Monday is a holiday bids will be opened the next business day), for purchase, subject to the terms and conditions and in accordance with the instructions to bidders hereinafter contained, of Government-owned real property described as follows including any described related personal property and appurtenances, and subject to any stated exceptions, reservations and restrictions:

Three parcels of land with improvements approximately 25 miles west of Boston via I-90 and under the accountability and control of U.S. Natick Soldiers Support Center, Natick MA. The parcels are located at Bruen Rd, Hudson, MA (parcel 1), East Militia Heights Dr, Needham, MA (parcel 2) and, Oxbow Rd, Wayland MA (parcel 3).

The Sale Parcels, herein referred to collectively as the "Property", include:

Parcel 1: 86.4 +/- acres.  
Parcel 2: 3.5 +/- acres.  
Parcel 3: 5.6 +/- acres.

A map of the approximate metes and bounds of each parcel can be found at Exhibit A.

Terms and conditions of the sale and instructions to bidders are as follows:

1. All bids submitted shall be deemed to have been made with full knowledge of all of the terms, conditions, and requirements herein contained.

2. The property offered for sale is subject to inspection by prospective bidders. The date of inspection was held at on **May 14,**

2018, starting at 11:00 AM, at 19 Bruen Road, Hudson, MA 01749 and the Norfolk District will furnish such further information as may be necessary with respect to the terms, conditions and instructions herein contained. Any title evidence, including abstracts, and continuations thereof, title certificates, or policies if title insurance which may be desired by the successful bidder will be procured by him/her at his sole cost and expense. The Government will however permit examination and inspection of such deeds, abstracts, tax receipts, affidavits of title, judgements in title, judgements in condemnation proceedings, or other documents relating to the title to the property involved, as it may have available. The failure of any bidder to inspect, or to be fully informed regarding the title to of the condition of all or any portion of the property or negligence or mistake on the part of the bidder in preparing the bid will not constitute grounds for any claim or demand for adjustment or withdraw of a bid after and prior to award opening. The foregoing description of property is believed to be sufficiently specific for purposes of identification. Any error or omission in such description shall not constitute any grounds or reason for non-performance of the contract or claim by the successful bidder for any allowance, refund, or deduction from the amounts offered. The property is offered for sale as is and where is. The Government does not make any guaranty or warranty, express or implied, with respect to the property as to title, quantity, quality, character or condition, size or kind; or that the property is in condition or fit to be used for the purpose for which intended.

3. The sale will be on an all-cash basis. Each bid must be accompanied by a certified check, cashier's check or postal money order, payable to the order of the "NORFOLK DISTRICT FAO" as earnest money in the amount **\$100,000.00**. All bids received by the "**Submission Closing Date**" will remain open for acceptance or rejection for a period of **thirty (30) days** from the date of **opening bids or thirty (30) days after approval the Army's Disposal Report including the Environmental Condition of Property and required notices, whichever event is the later**. The deposit of the successful bidder will be retained by the Government to apply against payment of the purchase price and deposits of unsuccessful bidders will be returned, without interest, as promptly as possible after rejection, provided, however, that in the event of default by any bidder hereunder, that bidder's deposit may be applied by the Government to any loss, cost and expense occasioned to the Government thereby, including any loss, cost and expense incurred in selling the property and including any difference between the amount specified in the bid and the amount for which the Government may sell the property, if the latter amount be less than the former. The bidder 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 bidder's deposit.

4. The balance of the purchase price will be paid by the

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successful bidder within **sixty (60) days** after notice has been given by the Government of its readiness to deliver a deed. The United States will thereafter deliver to the successful bidder a quitclaim deed and bill of sale, if needed to cover any related personal property) conveying all right, title, and interest of the United States in and to the property, without warranty, express or implied. The successful bidder will obtain and pay for land surveys and legal descriptions, required, closing and recordation documentary revenue stamp tax. Title and the right of possession will remain in the United States until the deed full payment has been delivered. The formal instruments of conveyance shall within a reasonable time delivery be placed of record in the manner prescribed by local recording statues, all at the sole cost and expense of the successful bidder. The successful bidder will assume possession of and responsibility for the property upon delivery of the deed.

5. Sealed bids must be executed and submitted in quadruplicate on the bid form accompanying this Invitation for Bids, Bid and Acceptance or on exact copies thereof. Additional copies of the bid form may be obtained from the District Engineer.

6. A bid executed by an attorney or agent on behalf of the bidder must be accompanied by four authenticated copies of his Power of Attorney or other evidence of his authority to act on behalf of the bidder. If the bidder is a corporation, the **CERTIFICATE OF CORPORATE BIDDER** must be executed. If the bid 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 CERTIFICATE OF CORPORATE BIDDER, there may be attached to the bid copies so 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.

7. The invitation number and bid-opening time must be plainly marked on the left side of envelopes in which bids are submitted, for example:

Return Address

Sealed Bid

To be opened:

To:  
REAL ESTATE OFFICE  
Norfolk District  
803 Front Street  
Norfolk, VA, 23510-1011

Time \_\_\_\_\_

Date \_\_\_\_\_

INVITATION NO. \_\_\_\_\_

8. It will be the duty of each bidder to see that his bid is delivered by the time and at the place prescribed in the invitation. Bids received prior to the time of opening will be securely kept, unopened. The person whose duty it is to open them will decide when the specified time has arrived, and no bid or modifications of a bid or withdrawals of a bid received thereafter will be considered, except that those received before award is made but delayed in the mails by occurrences beyond control of the bidder maybe considered if written certification is furnished by authorized postal authorities to that effect. No responsibility will attach for the premature opening of a bid not properly addressed and identified. All modifications of a bid or withdrawals of a bid must be in writing. Electronic submission of bids will not be considered, but modifications or withdrawals by electronic submission of bids already submitted will be considered if received prior to the time set for opening bids or approval of the Army's Disposal Report.

9. Upon the acceptance of bids, information on the selected bidder(s) will be made public to all bidders and others properly interested persons in the Federal Business Opportunities website.

10. The right is reserved, as the interest of the Government may require, to reject any or all bids, to waive any defect or informality in bids received, and to accept or reject any bid or portion thereof.

11. Notice of acceptance or rejection of bids and notice that the Government is ready to deliver a deed and/or Bill of Sale shall be deemed to have been sufficiently given when mailed or provided electronically to the bidder or his duly authorized representative at the address indicated in the bid.

12. Except as otherwise provided in this Invitation for Bids, any dispute concerning a question of fact arising under this Invitation for Bids which is not disposed of by agreement shall be decided by the District Engineer, who shall reduce his decision to writing, and mail or otherwise furnish a copy thereof to the bidder. The decision of the District Engineer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the bidder mails or otherwise furnishes to the District Engineer a written appeal addressed to the Secretary of the Army. The decision of the Secretary, or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary or so grossly erroneous as necessary to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this condition, the bidder shall be afforded an

opportunity to be heard and to offer evidence in support of appeal. Pending final decision of a dispute hereunder, the bidder shall proceed diligently with the performance of the contract and in accordance with the District Engineer's decision. This condition does not preclude consideration of questions of law provided that nothing in this condition shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

13. This Invitation for Bids, including, all instructions and conditions set forth herein, and the Bid, when accepted by the Government, shall constitute the contract of sale between the successful bidder and the Government. Such agreement shall constitute the whole contract, unless modified in writing and signed by both parties. No oral statements or statements or representations made by, for, or ostensibly on behalf of either party shall be a part of such contract. Neither this contract, nor any interest therein, shall be transferred or assigned by the successful bidder.

14. No member of or delegate to the Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

15. The successful bidder warrants that he has not employed any person or agency to solicit or secure this contract upon any agreement for a commission percentage, brokerage, or contingent fee. Breach of this warranty shall give the Government the right to annul the contract without liability or at its option to recover from the successful bidder the amount of such commission percentage, brokerage, or contingent fee in addition to the consideration herein set forth. This warranty shall not apply to commissions payable by the successful bidder upon a contract secured or made through bona fide established commercial agencies maintained by the successful bidder for the purpose of doing business. "Bona fide established agencies" has been construed to include licensed real estate brokers engaged in business generally.

16. Continuing Offers: Each bid received shall be deemed to be a continuing offer for **thirty (30)** calendar days after the bid closing date, the approved Disposal Report date or the bid is accepted or rejected by the Government. If the Government desires to accept any bid after the expiration of the **thirty (30)** calendar days, the consent of the bidder shall be obtained prior to such acceptance.

17. Tender of Payment and Delivery of Instrument of Conveyance: Prior to closing, the Purchaser or Purchaser's agent must open an escrow account with an independent, unaffiliated escrow company ("Escrow Holder") to handle the closing. All

closing costs, including escrow fees and document handling expenses, shall be borne solely by the Purchaser. As part of the closing, the Government will provide escrow instructions to the Escrow Holder regarding the recording, disposition of proceeds and related matters. The closing date of the sale is **sixty (60)** calendar days after notice has been given by the Government of its readiness to deliver a deed. Upon agreement by the Government, the Purchaser may close the transaction prior to the **sixty (60)** calendar days period. On the closing date, the Purchaser shall tender to the Escrow Holder the balance of the purchase price in the form of a cashier's check, certified check or electronic wire transfer. Upon confirmation that Purchaser's wire transferred funds have been received by the Government or that Purchaser's funds by check have been confirmed to the satisfaction of the Government, the Government shall deliver to the Purchaser the instrument, or instruments, of conveyance. The Government reserves the right to extend the closing date for a reasonable amount of time.

18. Delayed Closing: Any change to the established closing date is subject to the written approval by the Government. The Government reserves the right to refuse a request for extension of closing. However, if the Government grants an extension, the Purchaser may be required to pay either: (i) a liquidated damages assessment of \$500.00 per day; or (ii) interest on the outstanding balance of the purchase price, whichever is greater, if the closing of the sale is delayed, and the delay is caused, directly or indirectly, by the Purchaser's action or inaction and not by any action on the part of the Government. The interest rate shall be computed based on the yield of 10-year United States Treasury maturities as reported by the Federal Reserve Board in "Federal Reserve Statistical Release H.15" plus 1-1/2% rounded to the nearest one-eighth percent (1/8%) as of the date of bid acceptance. The Government may impose additional terms and conditions to grant an extension.

19. Officials not to Benefit: No member or delegate to the Congress, or resident commissioner shall be admitted to any share or part of the contract of sale or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the contract of sale if made with a corporation for its general benefit. GSA and Department of Defense (DOD) employees are prohibited from bidding on the Property offered in the IFB.

20. The successful Bidder(s) shall provide the exact acreage and legal description of the parcels to be conveyed as determined by a survey that is satisfactory to the Government. The cost of the survey shall be borne by the recipient of the parcels.

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21. Bidders shall be responsible to validate current zoning, ordinances, and / or other land restrictions of the surrounding area of the parcel with the local Town or Municipal authority. The United States will not provide such information and makes no warranty to any other allowable uses or densities of the land beyond what currently exists thereon.

22. The Government reserves the right to negotiate the final purchase price of a parcel in the event that all bid(s) submitted

for a single or multiple parcel(s) are below the Government's estimated fair market value price of the parcel.

EXIHITS:

- A. Site Maps
- B. Constraints / Mitigation
- C. Draft Notices and Covenants
- D. Draft Quit Claim Deed

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BID

\_\_\_\_\_  
Place

\_\_\_\_\_  
Date

To: U.S. Army Corps of Engineers  
Norfolk District, Real Estate Office  
803 Front Street  
Norfolk, VA 23510-1011

The undersigned \_\_\_\_\_,  
a corporation, existing under the laws of the State of \_\_\_\_\_  
or a partnership consisting of \_\_\_\_\_  
or an individual as \_\_\_\_\_  
of \_\_\_\_\_

(Address and Telephone Number)

hereby offers to purchase from the United States of America,  
subject to the terms and conditions and in accordance with the  
instructions to bidders contained in Invitation for Bids No.  
DACA65-9-18-NAT, attached hereto and part hereof, the right,  
title, and interest of the United States in and to the property  
described in said invitation for

Parcel 1: \$\_\_\_\_\_.

Parcel 2: \$\_\_\_\_\_.

Parcel 3: \$\_\_\_\_\_.

Enclosed is a certified check, cashier's check, or postal  
money order payable to Norfolk District FAO, in the amount of  
\$100,000.00.

By: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Business Address)

Certificate of Corporate Bidder

I \_\_\_\_\_, certify that I am the \_\_\_\_\_ Secretary of the Corporation named as bidder herein; that \_\_\_\_\_, who signed this bid on behalf of the bidder, was then \_\_\_\_\_ of said Corporation; that said bid was duly for and in behalf of said Corporation by authority of its governing body, and is within the scope of its corporate powers.

\_\_\_\_\_  
\_\_\_\_\_

(printed name)

SEAL

ACCEPTANCE BY THE GOVERNMENT

The forgoing bid is hereby accepted by and on behalf of the United States this \_\_\_\_\_, day of \_\_\_\_\_, 20\_\_\_\_.

(Name) \_\_\_\_\_

(Title) \_\_\_\_\_

BUYER'S BROKER PARTICIPATION REGISTRATION FORM

IFB Number DACA65-9-18-NAT

<hr/> Enter Client's RealEsateSales.gov User ID Here
---------------------------------------------------------

BROKER/AGENT: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

COMPANY ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

\_\_\_\_\_

AGENT LICENSE #: \_\_\_\_\_ BROKER NUMBER LIC. #: \_\_\_\_\_

TAX IDENTIFICATION NUMBER: \_\_\_\_\_

OFFICE PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

MOBILE PHONE: \_\_\_\_\_

Client (Buyer/Bidder) Information

CLIENT \_\_\_\_\_

\_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

\_\_\_\_\_

HOME PH: \_\_\_\_\_ OFFICE PH: \_\_\_\_\_ MOBILE PH: \_\_\_\_\_

Broker and Client Certification

The broker, by placing his/her signature below, certifies, agrees, and acknowledges that:

1. The broker will not claim any exceptions to the procedures outlined in the IFB No. DACA65-9-18-NAT and any associated amendments to the IFB.
2. Only written registration will qualify broker for a "finder's fee".
3. The broker will hold harmless and indemnify the Government from any and all claims with regard to such commission.
4. The broker will be paid a "finder's fee" consisting of four percent (4%) of the accepted sale price. The fee will only be considered earned upon closing and paid through Escrow.
5. The broker may not receive a "finder's fee" without a "Buyer Representation Agreement" or other such agreement with the

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Bidder. The Government will require full payment of the bid amount if the signature of the buyer/bidder on the Buyer's Broker Participation Registration Form is missing.

6. The broker cannot participate in the auction and receive any commission in conjunction with any other co-brokerage or referral agreement between the Government and broker.
7. The broker represents the buyer/bidder (client) listed in the Buyer's Broker Participation Registration Form as his or her agent.
8. The broker is not a subagent of Government, has no agreement(s) with the Government, and represents his or her client (buyer/bidder) as an agent.

The broker's client (buyer/bidder), by placing his/her signature below, certifies, agrees, and acknowledges that:

1. He or she has read, understood and complied with the terms stated in the IFB No. DACA65-9-18-NAT and any associated amendments to the IFB.
2. He or she shall hold harmless and indemnify the Government from any and all representations made by the buyer's broker.
3. Commission shall be paid only to broker representing client (buyer/bidder) as shown on this form.
4. Commission is prohibited if the buyer is a real estate broker, agent, or salesperson, or is a controlling owner, partner, officer, corporate or organization board member, employer or employee of the brokerage entity that claims to represent the buyer as an agent.

BUYER/BIDDER SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

BROKER/AGENT SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

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**EXHIBIT B**

**Known Constraints / Mitigation Factors**

**Hudson Site:**

Wetlands: Construction within 50' of wetlands prohibited, Construction between 50' to 100' from wetlands requires regulatory approval

Asbestos: No

Lead: No

Sewer: Septic

Endangered Species:

Wood Turtle & Eastern Box Turtle, Notice of Intent required, regulatory approval

Eastern Long Eared Bat, Notice of Intent required, regulatory approval

**Needham Site:**

Wetlands: No

Asbestos: Encapsulated old vinyl tiles, tile mastic, some joint compound

Lead: Mitigated, Exterior trim paint encapsulated by aluminum

Sewer: City lines

Endangered Species: None

**Wayland Site:**

Wetlands: No

Asbestos: Encapsulated old vinyl tiles, tile mastic, some joint compound

Lead: Mitigated, Exterior trim paint encapsulated by aluminum

Sewer: Septic

Zoning: R60 SFR

Endangered Species: None

**EXHIBIT C**

**POTENTIAL NOTICES, COVENANT, AND ACCESS PROVISIONS AND OTHER  
DEED PROVISIONS**

**(FOR EXAMPLE ONLY - THEY MAY OR MAY NOT APPLY TO THE LISTED  
PARCELS)**

The following CERCLA Notice, Covenant, and Access Provisions, along with the Other Deed Provisions, will be placed in the deed in a substantially similar form to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities.

**1. CERCLA NOTICE**

**Property Covered by Access Rights and Covenants Made Pursuant to Section 120(h)(3)(A) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. Section 9620(h)(3)(A)):**

For the property, the Grantor provides the following notice, description, and covenants and retains the following access rights:

**A. Notices Pursuant to Section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9620(h)(3)(A)(i)(I) and (II)):**

Pursuant to Section 120(h)(3)(A) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9620(h)(3)(A)), the GRANTOR has made a complete search of its files and records, and no hazardous substances have been stored for one year or more, or known to have been released or disposed of, on the Property in excess of the 40 CFR 373 reportable quantities. Diminutive concentrations of chromium and cyanide, are known to be present on small portions of the property but at concentrations below regulatory Maximum Contaminant Levels.

**B. Covenant Pursuant to Section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(ii) and (B)):**

Pursuant to section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9620(h)(3)(A)(ii) and (B)), the United States warrants that -

A. All remedial action necessary to protect human health and the environment with respect to any hazardous substance identified pursuant to section 120(h)(3)(A)(i)(I) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 remaining on the property has been taken before the date of this deed, and

B. Any additional remedial action found to be necessary after the date of this deed shall be conducted by the United States.

This warranty shall not apply in any case in which the person or entity to whom the property is transferred is a potentially responsible party with respect to such property.

**C. Access Rights Pursuant to Section 120(h)(3)(A)(iii) of the Comprehensive**

**Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(iii)):**

The United States retains and reserves a perpetual and assignable easement and right of access on, over, and through the property, to enter upon the property in any case in which a remedial action or corrective action is found to be necessary on the part of the United States, without regard to whether such remedial action or corrective action is on the Property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, testpitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the Grantee and its successors and assigns and shall run with the land.

In exercising such easement and right of access, the United States shall provide the Grantee or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the property and exercise its rights under this clause, which notice may be severely curtailed or even eliminated in emergency situations. The United States shall use reasonable means to avoid and to minimize interference with the Grantee's and the Grantee's successors' and assigns' quiet enjoyment of the property. At the completion of work, the work site shall be reasonably restored. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the Grantee, nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States. In exercising such easement and right of access, neither the Grantee nor its successors and assigns, as the case may be, shall have any claim at law or equity against the United States or any officer or employee of the United States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this clause: Provided, however, that nothing in this paragraph shall be considered as a waiver by the grantee and its successors and assigns of any remedy available to them under the Federal Tort Claims Act.

**2. "AS IS", "WHERE IS" PROVISIONS**

a. Grantee agrees and acknowledges that Grantor is selling the property strictly on an "as is, where is", with all faults basis, without warranty, express or implied, with any and all latent and patent defects. Grantee acknowledges that Grantor has made the property available for inspection by Grantee and Grantee's representatives. Grantee has inspected, or will have inspected prior to closing, the physical condition of the property to the extent felt necessary by Grantee, including all improvements thereon, and accepts title to the same "as is" in its existing physical condition. Grantee acknowledges that it is not relying upon any representation, warranty statement or other assertion of the United States of America, as Grantor, including its agencies or any official, agent representative or employee of the foregoing, with respect to the property's conditions. except as set forth in the contract, Grantee is relying solely and wholly on Grantee's own examination of the property, is fully satisfied with the property, and accepts any liabilities or costs arising in

connection with the condition of the property, including, but not limited to any costs or liabilities pertaining to any environmental condition on the property. Except as set forth in Section c, below, the United States of America and its agencies disclaim any and all express or implied warranties and specifically make no warranties of title, habitability, merchantability, suitability, fitness for any purpose, or any other warranty whatsoever. Grantee is put on notice that any prior grant and/or encumbrance may be of record and Grantee is advised to examine all public records available regarding the property.

b. No employee or agent of Grantor is authorized to make any representation or warranty as to the quality or condition of the property, merchantability, suitability or fitness of the property for any use whatsoever, known or unknown to Grantor, or compliance with any environmental protection, pollution or land use laws, rules, regulations, orders, or requirements including, but not limited to, those pertaining to the handling, generating, treating, storing, or disposing of any hazardous waste or substance. In no event shall Grantor be responsible or liable for latent or patent defects or faults, if any, in the property or for remedying or repairing the same including, without limitation, defects related to asbestos or asbestos containing materials, lead, lead-based paint, underground storage tanks, mold, radon or hazardous or toxic materials, chemicals or waste, or for constructing or repairing any streets, utilities or other improvements shown on any plat of the property. **Nothing in this "as is, where is" provision will be construed to modify or negate the Grantor's obligation under the CERCLA covenant or any other statutory obligations.**

### **3. HOLD HARMLESS**

A. To the extent authorized by law, the Grantee, its successors and assigns, covenant and agree to indemnify and hold harmless the Grantor, its officers, agents, and employees from (1) any and all claims, damages, judgments, losses, and costs, including fines and penalties, arising out of the violation of the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in this Deed by the Grantee, its successors and assigns, and (2) any and all claims, damages, and judgments arising out of, or in any manner predicated upon, exposure to asbestos, lead-based paint, or other condition on any portion of the property after the date of conveyance.

B. The Grantee, its successors and assigns, covenant and agree that the Grantor shall not be responsible for any costs associated with modification or termination of the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in this Deed, including without limitation, any costs associated with additional investigation or remediation of asbestos, lead-based paint, or other condition on any portion of the property.

C. Nothing in this Hold Harmless provision will be construed to modify or negate the Grantor's obligation under the CERCLA Covenant or any other statutory obligations.

### **4. POST-TRANSFER DISCOVERY OF CONTAMINATION**

A. If an actual or threatened release of a hazardous substance or petroleum product is discovered on the Property after the date of conveyance, Grantee, its successors or assigns, shall be responsible for such release or newly discovered substance unless it is determined that the substance was not due to Grantor's activities, use, or ownership of the Property. If the Grantee, its

successors or assigns believe the discovered hazardous substance is due to Grantor's activities, use or ownership of the Property, Grantee will immediately secure the site and notify the Grantor of the existence of the hazardous substances, and Grantee will not further disturb such hazardous substances without the written permission of the Grantor.

B. Grantee, its successors and assigns, as consideration for the conveyance of the property, agree to release Grantor from any liability or responsibility for any claims arising solely out of the release of any hazardous substance or petroleum product on the property occurring after the date of the delivery and acceptance of this Deed, where such substance or product was placed on the property by the Grantee, or its successors, assigns, employees, invitees, agents or contractors, after the conveyance. This paragraph shall not affect the Grantor's responsibilities to conduct response actions or corrective actions that are required by applicable laws, rules and regulations, or the Grantor's indemnification obligations under applicable laws.

**5. ENVIRONMENTAL PROTECTION PROVISIONS**

The Environmental Protection Provisions for Parcel 2 & 2a can be found in the sample deed on page 56 and for Parcel 4 page 75, which are attached hereto and made a part hereof. The Grantee shall neither transfer the property, lease the property, nor grant any interest, privilege, or license whatsoever in connection with the property without the inclusion of the Environmental Protection Provisions contained herein, and shall require the inclusion of the Environmental Protection Provisions in all further deeds, easements, transfers, leases, or grant of any interest, privilege, or license.

**6. PESTICIDES DISCLOSURE (NOT PART OF FOST)**

The bidder is notified that the Property may contain the presence of pesticides that have been applied in the management of the property. The United States knows of no use of any registered pesticide in a manner inconsistent with its labeling, and believes that all applications were made in accordance with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA -- 7 U.S.C. Sec. 136, et seq.), its implementing regulations, and according to the labeling provided with such substances. Furthermore, that in accordance with the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA -- 42 U.S.C. Sec. 9601, et seq.), the use of such substances is not a "release" (as defined in CERCLA, 42 U.S.C. Sec. 9601 (22)), but instead the use of a consumer product in consumer use (42 U.S.C. Sec. 9601(9)), and the application of a pesticide product registered under FIFRA for which recovery for response costs is not allowed (42 U.S.C. Sec. 9607(i)).

**EXHIBIT C**

This deed was reviewed and approved by:

\_\_\_\_\_  
Attorney U.S. Army Corps of Engineers, Norfolk District

**EXAMPLE**

**QUITCLAIM DEED  
NATICK SOLDIERS SUPPORT CENTER  
HUDSON, NEEDHAM, AND WAYLAND SITES  
NATICK, MA  
PARCEL NOS. 1, 2, AND 3**

THIS QUITCLAIM DEED is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the UNITED STATES OF AMERICA (hereinafter referred to as the "Grantor"), acting by and through the Director of Real Estate, Headquarters, U.S. Army Corps of Engineers, pursuant to a delegation of authority from the Deputy Assistant Secretary of the Army (Installations, Housing and Partnerships) under the authority of the provisions of Public Law No. 107-217, 40 U.S.C. § 101, et seq., as amended, and section 2905(b) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. § 2687 note), as amended, and \_\_\_\_\_ (hereinafter referred to as the "Grantee[s].")

WITNESSETH THAT:

THE GRANTOR, for the consideration of \_\_\_\_\_, the receipt of which is hereby acknowledged, does hereby REMISE, RELEASE, AND FOREVER QUITCLAIM unto the Grantee[s], [his][her][their][its] [heirs,] successors and assigns, all its right, title, and interest in the property situated, lying and being in the County of XXX, in the State of Massachusetts, designated as Parcel 1, containing approximately 86.40 acres, Parcel 2, containing approximately 3.50 acres and Parcel 3, containing approximately 5.60 acres as more particularly described in Exhibit "A", attached hereto and made a part hereof (hereinafter referred to as the "Property"); reserving, however, unto the Grantor and its assigns, [ Insert Any Reservations

SUBJECT TO all valid and existing reservations, covenants, conditions, restrictions, and easements including, but not limited to, rights-of-way for railroads, highways, pipelines, and public utilities, if any, whether of public record or not.

TO HAVE AND TO HOLD the Property granted herein to the Grantee[s], [his][her][their][its] [heirs,] successors and assigns, together with all and singular the appurtenances, rights, powers, and privileges thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, or claim whatsoever of the Grantor, either in law or in equity, and subject to the reservations, covenants, conditions, restrictions, and easements set forth in this deed.

AND IT IS FURTHER AGREED AND UNDERSTOOD by and between the parties hereto that the Grantee[s], by [his][her][their][its] acceptance of this deed and as part of the consideration for the conveyance made herein, covenants and agrees for [himself][herself] [themselves][itself], [his][her][their][its] [heirs,] successors and assigns, forever, that this deed is made and accepted upon each of the following covenants, conditions, and restrictions which shall be binding upon and enforceable against the Grantee[s], [his][her][their][its] [heirs,] successors and assigns in perpetuity by the Grantor and other interested parties as may be allowed by law; that the covenants, conditions, and restrictions set forth herein are a binding servitude on the Property and shall run with the land; and that the failure to include the said covenants, conditions, and restrictions in subsequent conveyances of the Property or portions thereof does not abrogate the status of the covenants, conditions, and restrictions as binding upon the Grantor and the Grantee[s], [his][her][their][its] [heirs,] successors and assigns:

**1. Property Covered by Notice, Description, Access Rights, and Covenant Made Pursuant to Section 120(h)(3)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)):**

For the Property, the Grantor provides the following notice, description, and covenants and retains the following access rights:

**a. Notice Pursuant to Sections 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(i)(I) and (II)):**

Pursuant to sections 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9620 9620(h)(3)(A)(i)(I) and (II)), notice is hereby provided that chromium and cyanide were released on the

Property.

**b. Description of Remedial Action Taken, if Any, Pursuant to Section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)):**

Pursuant to section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)), no remedial action has been taken on the Property.

**c. Covenant Pursuant to Sections 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(ii) and (B)):**

Pursuant to sections 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(ii) and (B)), the Grantor warrants that -

i. all remedial action necessary to protect human health and the environment with respect to any hazardous substance identified pursuant to section 120(h)(3)(A)(i)(I) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 remaining on the Property has been taken before the date of this deed, and

ii. any additional remedial action found to be necessary after the date of this deed shall be conducted by the Grantor.

**d. Access Rights Pursuant to Section 120(h)(3)(A)(iii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(iii)):**

The Grantor retains and reserves a perpetual and assignable easement and right of access on, over, and through the Property, to enter upon the Property in any case in which a remedial action or corrective action is found to be necessary on the part of the Grantor, without regard to whether such remedial action or corrective action is on the Property or on adjoining or

nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, testpitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the Grantor to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the Grantee and [his][her][their][its] [heirs,] successors and assigns and shall run with the land.

In exercising such easement and right of access, the Grantor shall provide the Grantee or [his][her][their][its] [heirs,] successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the Property and exercise its rights under this clause, which notice may be severely curtailed or even eliminated in emergency situations. The Grantor shall use reasonable means to avoid and to minimize interference with the Grantee['s][s'] and the Grantee['s][s'] [heirs',] successors' and assigns' quiet enjoyment of the Property. At the completion of work, the work site shall be reasonably restored. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the Property at a reasonable charge to the Grantor. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the Grantee[s], nor [his][her][their][its] [heirs,] successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the Grantor.

In exercising such easement and right of access, neither the Grantee[s] nor [his][her] [their][its] [heirs,] successors and assigns, as the case may be, shall have any claim at law or equity against the Grantor or any officer or employee of the Grantor based on actions taken by the Grantor or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this clause: Provided, however, that nothing in this paragraph shall be considered as a waiver by the Grantee[s] and [his][her][their][its] [heirs,] successors and assigns of any remedy available to them under the Federal Tort Claims Act.

## 2. "AS IS" CONDITION

The Grantee[s] acknowledge[s] that it has inspected, or has had the opportunity to inspect, the Property and accepts the

condition and state of repair of the Property. The Grantee[s] understand[s] and agree[s] that the Property is conveyed "AS IS" without any representation, warranty, or guaranty by the Grantor as to quantity, quality, title, character, condition, size, or kind, or that the same is in a suitable condition or fit to be used for the purposes intended by the Grantee[s], and no claim for allowance or deduction upon such grounds shall be considered.

No warranties, either express or implied, are given with regard to the condition of the Property including, without limitation, whether the Property does or does not contain asbestos or lead-based paint. The Grantee[s] shall be deemed to have relied solely on [his][her][their][its] own judgment in assessing the condition of the Property including, without limitation, any asbestos, lead-based paint, or other conditions on the Property. Any failure of the Grantee[s] to inspect or to exercise due diligence to be fully informed as to the condition of the Property shall not constitute grounds for any claim or demand against the Grantor.

Nothing in this "'As Is'Condition" provision shall be construed to modify or negate the Grantor's obligation under the "Covenant Pursuant to Sections 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(ii) and (B))" or any other statutory obligations.

### 3. HOLD HARMLESS

To the extent authorized by law, the Grantee[s], for [himself][herself][themselves][itself], [his][her][their][its] [heirs,] successors and assigns, covenants and agrees to indemnify and hold harmless the Grantor, its officers, agents, and employees from (1) any and all claims, damages, judgments, losses, and costs, including fines and penalties, arising out of the violation of the covenants, conditions, and restrictions in this deed by the Grantee[s], [his][her][their][its] [heirs,] successors and assigns, and (2) any and all claims, damages, judgments, losses, and costs arising out of, or in any manner predicated upon, exposure to asbestos, lead-based paint, or other condition on the Property after the date of the conveyance herein.

The Grantee[s], for [himself][herself][themselves][itself], [his][her][their][its] [heirs,] successors and assigns,

covenants and agrees that the Grantor shall not be responsible for any costs associated with modification or termination of the covenants, conditions, and restrictions in this deed including, without limitation, any costs associated with additional investigation or remediation of asbestos, lead-based paint, or other condition on the Property.

Nothing in this "Hold Harmless" provision shall be construed to modify or negate the Grantor's obligation under the "Covenant Pursuant to Sections 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(ii) and (B))" or any other statutory obligations.

#### **4. POST-TRANSFER DISCOVERY OF CONTAMINATION AND RELEASE**

If a release or threatened release of a hazardous substance is discovered on the Property after the date of the conveyance herein, the Grantee[s], [his][her][their][its] [heirs,] successors or assigns, shall be responsible for such newly discovered release or threatened release of a hazardous substance unless the Grantee[s], [his][her][their][its] [heirs,] successors or assigns is able to demonstrate that such release or threatened release of a hazardous substance was due to the Grantor's activities, use, or ownership of the Property. If the Grantee[s], [his][her][their][its] [heirs,] successors or assigns believe the newly discovered hazardous substance is due to Grantor's activities, use, or ownership of the Property, the Grantee[s], or [his][her][their][its] [heirs,] successors or assigns shall immediately secure the site and notify the Grantor of the existence of the release or threatened release of the hazardous substance and the Grantee[s] or [his][her][their][its] [heirs,] successors or assigns shall not further disturb or allow the disturbance of such hazardous substance without the prior written permission of the Grantor.

The Grantee[s], for [himself][herself][themselves][itself], [his][her][their][its] [heirs,] successors and assigns, as part of the consideration for the conveyance of the Property, hereby releases the Grantor from any liability or responsibility for any claims arising solely out of the release of any hazardous substance on the Property occurring after the date of the conveyance herein where such substance was placed on the Property by the Grantee[s], or [his][her][their] [its] [heirs,] successors, assigns, employees, invitees, agents, contractors, or any person other than the Grantor after the date of the conveyance herein. This "Post-Transfer Discovery of

Contamination and Release" provision shall not affect the Grantor's responsibilities to conduct response actions or corrective actions that are required by applicable laws, rules and regulations, or the Grantor's obligations under the "Covenant Pursuant to Sections 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(ii) and (B))."

**5. ENVIRONMENTAL PROTECTION PROVISIONS**

The Grantee[s] shall neither transfer the Property, lease the Property, nor grant any interest, privilege, or license whatsoever in connection with the Property without including the Environmental Protection Provisions set forth in Exhibit "B," attached hereto and made a part hereof, and shall require the inclusion of the said provisions to be included in all subsequent deeds, easements, transfers, leases, or grant of any interest, privilege, or license in, of, on, or to the Property or any portion thereof.

**6. ANTI-DEFICIENCY ACT**

The Grantor's obligation to pay or reimburse any money under this deed is subject to the availability of funds appropriated for this purpose to the Department of the Army and nothing in this deed shall be interpreted to require obligations or payments by the Grantor in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

**7. NO WAIVER**

The failure of the Grantor to insist in any one or more instances upon timely or complete performance of any obligation of the Grantee[s] or [his][her][their][its] [heirs,] successors or assigns required by the covenants, conditions, or restrictions shall not be construed as a waiver or a relinquishment of the Grantor's right to future performance of any such obligation of the Grantee[s] or [his][her][their][its] [heirs,] successors or assigns in strict accordance with the said covenants, conditions, and restrictions and all such obligations of the Grantee[s], [his][her][their] [its] [heirs,] successors and assigns shall continue in full force and effect.

**IN WITNESS WHEREOF**, the Grantor has caused this deed to be duly executed in its name by the Director of Real Estate, the day and year first above written.

UNITED STATES OF AMERICA

By:

\_\_\_\_\_  
Brenda M. Johnson-Turner  
Director of Real Estate  
Headquarters, U.S. Army Corps  
of Engineers

ACKNOWLEDGEMENT

CITY OF WASHINGTON )  
 ) SS:  
DISTRICT OF COLUMBIA )

I, \_\_\_\_\_, the undersigned, a Notary Public in and for the District of Columbia, do hereby certify that this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, Brenda M. Johnson-Turner, Director of Real Estate, known to me or proven through satisfactory evidence of identity to be the person whose name is subscribed to the foregoing document, appeared in person and acknowledged before me that the signature on the document was voluntarily affixed by [him][her] for the purposes therein stated and that [s]he had due authority to sign the document in the capacity therein stated.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**ACCEPTANCE BY GRANTEE[S]**

IN WITNESS WHEREOF, the Grantee[s], hereby accept[s] the conveyance herein subject to all of the covenants, conditions, restrictions, and reservations, restrictions and terms contained herein, this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_ .

[Name of Grantee[s]]  
[A corporation, partnership, public body, or individual, as appropriate]

By: \_\_\_\_\_

Title: \_\_\_\_\_

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_  
(here insert name and title of the officer)  
personally appeared

\_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and who acknowledged to me that he/she/they executed the same in their authorized capacity(ies), and by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY of PERJURY under the laws of the state of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

[ONE OF THE FOLLOWING IS REQUIRED FOR A CORPORATION, POLITICAL SUBDIVISION, OR PUBLIC BODY]

**CORPORATE ATTORNEY'S CERTIFICATE**

I, \_\_\_\_\_[Name]\_\_\_\_\_, acting as attorney for \_\_\_\_\_[Name of Grantee]\_\_\_\_\_, herein referred to as the "Grantee," do hereby certify: that I have examined the foregoing instrument and the proceedings taken by the Grantee relating thereto, and find that the acceptance thereof by the Grantee has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the State of \_\_\_\_\_, and further that, in my opinion, the instrument constitutes a legal and binding compliance obligation of the Grantee in accordance with the terms thereof.

Date: \_\_\_\_\_  
\_\_\_\_\_

By:  
  
Attorney

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**CORPORATE CERTIFICATE**

I, \_\_\_\_\_ [Name]\_\_\_\_\_, certify that I am the Secretary of \_\_\_\_\_[Name of Grantee]\_\_\_\_\_, and that \_\_\_\_\_[Name]\_\_\_\_\_ who signed the foregoing instrument on behalf of the corporation was then \_\_\_\_\_[Title]\_\_\_\_\_ of the corporation. I further certify that the said officer was acting within the scope of powers delegated to the said officer by the governing body of the corporation in executing said instrument.

Date: \_\_\_\_\_  
\_\_\_\_\_

By:  
Secretary

(Seal)

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**CERTIFICATE OF AUTHORITY**

I, \_\_\_\_\_ [Name]\_\_\_\_\_, certify that I am the Clerk of \_\_\_\_\_[Name of Grantee]\_\_\_\_\_ and that \_\_\_\_\_[Name]\_\_\_\_\_, who signed the foregoing instrument on behalf of the Grantee, was then \_\_\_\_\_[Title]\_\_\_\_\_ of the \_\_\_\_\_[Name of Grantee]\_\_\_\_\_. 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.

Date: \_\_\_\_\_  
\_\_\_\_\_

By:  
Clerk

**END OF INVITATION FOR BID**

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