

**DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 Virginia Road
Concord, Massachusetts 01742-2751**

**SUPPLEMENTAL AGREEMENT NO. 1
between
THE SECRETARY OF THE ARMY
and
HOPKINTON-EVERETT LAKE DOG CLUB ASSOCIATION (HELDCA)**

License No. DACW33-3-11-073
Hopkinton-Everett Lakes Project, NH

WITNESSETH:

WHEREAS, THE SECRETARY OF THE ARMY, hereinafter referred to as the Secretary, acting under his general administrative powers, granted to the Hopkinton – Everett Lake Dog Club Association, a nonprofit corporation organized and existing under the laws of the State of New Hampshire, with a mailing address of 44 Birchwood Drive, Allenstown, NH 03275, permission to operate a dogfield/ trial area for hunting dogs in competitive conditions including maintaining a small shelter and kiosk, placement of portable restroom, and to mow grass for assembly and trial areas over, across, in and upon land of the United States identified as Hopkinton-Everett Lake Project Tract No. 1204 and Tract No. 1208, hereinafter referred to as the premises, as shown on Exhibit A, attached thereto and made a part thereof; and

WHEREAS, it has been determined to be advantageous and in the best interest of the parties hereto to modify said license to amend the name of the Grantee, to provide for an extension of the term to April 14, 2021, and to add and delete certain other conditions;

NOW, THEREFORE, the parties hereto, in consideration of the premises, do mutually agree to modify and amend License No. DACW33-3-11-073 effective February 28, 2017 to change the Grantee from "Hopkinton-Everett Lake Dog Club Association" to "HELDCA".

AND FURTHERMORE, the parties hereto, in consideration of the premises, do mutually further agree to modify and amend License No. DACW33-3-11-073 effective April 13, 2016 as follows:

1. The term of the license is extended from April 14, 2016 through April 14, 2021, but revocable at will by the Secretary.

2. License Condition 2.a (2) is deleted in its entirety and the following language is added as Condition 2.b: "All consideration and other payments due under the terms of this license must be paid on or before the date they are due in order to avoid the mandatory sanctions imposed by the Debt Collection Act of 1982, (31 U.S.C. § 3717). This statute requires the imposition of an interest charge for the late payment of debts owed to the United States; an administrative charge to cover the costs of processing and handling delinquent debts; and the assessment of an additional penalty charge on any portion of a debt that is more than 90 days past due. The provisions of the statute will be implemented as follows:

(1) The United States will impose an interest charge, the amount to be determined by law or regulation, on late payment of debts. Interest will accrue from the due date. An administrative charge to cover the cost of processing and handling each 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 (6%) per annum on any payment or portion thereof, more than ninety (90) days past due. The penalty shall accrue from the date of delinquency and will continue until the debt is paid in full.

(3) All payments received will be applied first to any accumulated interest, administrative and penalty charges and then to any unpaid rental or other payment balance. Interest will not accrue on any administrative or late payment penalty charge."

3. Condition 18.b. is amended by deleting the words "the last week in September until the second week in November" and replacing them with the words "28 September through 4 November".

4. Condition 18.b. is further amended to insert after the words "the area is flood prone" the words "; and in instances of flood events or".

5. The language in License Condition 18.n is deleted and the following language is inserted in its place: "The Grantee shall coordinate any mowing with the Hopkinton-Everett Lakes Project Manager to ensure it does not interfere with bird nesting or with any other Government activity or public use."

6. Condition 18.o is added to said license and provides as follows: "o. The Grantee will maintain the grass around the parking lot and picnic shelter at a height of six inches or less."

7. Effective April 14, 2016 Condition 18 of said license is amended to add the following as subparagraph **18p**: "p. Executive Order 13658: (1)This license is subject to Executive Order 13658 (12 February 2014), "Establishing a Minimum Wage for

Contractors". The provisions contained in Exhibit B, attached hereto, are made a part of this license.

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

8. All of the other terms and conditions of License No. DACW33-3-11-073 are hereby ratified and, except as modified by this Supplemental Agreement No. 1, shall remain in full force and effect.

[Signatures are on the following page.]

IN WITNESS WHEREOF, I have hereunto set my hand by authority of the
Secretary of the Army this 23rd day of June, 2017.

UNITED STATES OF AMERICA



Anne L. Kosel
District Chief of Real Estate
Real Estate Contracting Officer

THIS SUPPLEMENTAL AGREEMENT NO. 1 is also executed by the grantee
this 17th day of June, 2017.

HELDCA



Steve Marcq
President

CERTIFICATE OF AUTHORITY

I, Richard C. Dwyer, certify that I am the Secretary of HELDCA, a non-profit corporation organized and existing under the laws of the State of New Hampshire, and that Steve Marcq, who signed the foregoing instrument on behalf of the grantee, was then President of HELDCA. I further certify that the said officer was acting within the scope of powers delegated to this officer by the governing board of the grantee in executing said instrument.

6/19/2017
Date

Richard C. Dwyer
Signed

Richard C. Dwyer
Print name

Exhibit B - Executive Order 13658

Any reference in this section to "prime contractor" or "contractor" shall mean Hopkinton-Everett Lake Dog Club Association and any reference to "contract" shall refer to **License No. DACW33-3-11-073**, including all amendments thereto.

I.

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

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

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

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

(4) The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the Executive Order minimum wage requirements. In the event of any violation of the minimum wage

obligation of this clause, the contractor and any subcontractor(s) responsible therefore shall be liable for the unpaid wages.

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

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

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

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

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

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

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

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

(iii) The rate or rates of wages paid.

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

(v) Any deductions made; and

(vi) Total wages paid.

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

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

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

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

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

(i) Certification of Eligibility. (1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a)(1).

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

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

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

(k) Antiretaliation. It shall be unlawful for any person to discharge or in any other manner discriminate against any worker because such worker has filed any complaint 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.

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

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