

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AMENDMENT NO. 1 TO EASEMENT NO. DAC209-2-14-1142 BETWEEN THE DEPARTMENT OF THE ARMY, LITTLE ROCK DISTRICT CORPS OF ENGINEERS AND THE NORTH LITTLE ROCK ELECTRIC DEPARTMENT; AND FOR OTHER PURPOSES.

WHEREAS, Resolution No. 8708, adopted December 8, 2014, authorized execution of Easement No. DACW03-2-14-1142 with the Department of the Army, Little Rock District Corps of Engineers, for a roadway right-of-way to Campbell Lake and Park and storage area for the North Little Rock Hydroelectric Plant, and was executed on behalf of the Department of the Army on January 13, 2015; and

WHEREAS, Executive Order No. 13658, dated February 12, 2014, established a minimum wage for Federal contractors beginning January 1, 2015 (see Exhibit "A" attached hereto) and it has been determined that the Executive Order is applicable to all Corps of Engineers outgrants (leases, licenses, easements); and

WHEREAS, since Easement No. DACW03-2-14-1142 was renewed after January 1, 2015, the Department of the Army, Little Rock District Corps of Engineers, has submitted Amendment No. 1 to Easement No. DACW03-2-14-1142 to be executed by the City in order to conform with Executive Order No. 13658 and 29 CFR Part 10; and

WHEREAS, wages for hydro employees meet or exceed the requirements of Executive Order No. 13658, and it is in the best interests of the City and its residents that Amendment No. 1 to Easement No. DAVW03-2-14-1142 be executed.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That the Mayor and City Clerk are hereby authorized to execute Amendment No. 1 to Easement No. DACW03-2-14-1142, Murray Lock and Dam, McClellan-Kerr Arkansas River Navigation System with the Department of the Army, Little Rock District Corps of Engineers (substantially similar to Exhibit "A" attached hereto) , said Amendment No. 1 to be effective January 1, 2015.

SECTION 2: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:

Mayor Joe A. Smith

SPONSOR:

Joe A. Smith
Mayor Joe A. Smith

ATTEST:

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

C. Jason Carter
C. Jason Carter, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/b

FILED	<u>11:26</u> A.M.	_____ P.M.
By	<u>City Atty Carter</u>	
DATE	<u>5-19-15</u>	
Diane Whitbey, City Clerk and Collector North Little Rock, Arkansas		
RECEIVED BY	<u>J. Marshall</u>	



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
LITTLE ROCK DISTRICT, CORPS OF ENGINEERS
Post Office Box 867
LITTLE ROCK, ARKANSAS 72203-0867



May 4, 2015

Real Estate Division

Mr. C. Jason Carter
Interim General Manager
NLR Electric Department
P.O. Box 159
North Little Rock, Arkansas 72115-0159

Dear Mr. Carter:

Please refer to Easement No. DACW03-2-14-1142, Murray Lock and Dam, McClellan-Kerr Arkansas River Navigation System, for utility access for the North Little Rock Hydropower Facility. We have recently been made aware of a new Executive Order which requires changes to be made to your easement. Executive Order 13658, dated February 12, 2014, established a minimum wage for Federal contractors beginning on January 1, 2015. Headquarters, US Army Corps of Engineers has made the determination that the Executive Order is applicable to all Corps of Engineers outgrants (leases, licenses, easements). For your convenience, the Executive Order may be viewed at gpo.gov/fdsys and then entering the Executive Order in the search box.

Your easement was renewed after January 1, 2015, and therefore must be supplemented to conform with Executive Order 13658 and 29 CFR Part 10. Though a determination has been made that an outgrant such as yours, which is issued for utility type amenities, is not subject to the Executive Order, the Executive Order nonetheless requires language to be inserted into the outgrant which states as much.

Therefore, enclosed in duplicate, is a draft amendment designed to add the required language from the Executive Order to your easement. Please sign and date both copies of the amendment, have the signature witnessed, insert the date of signing, and return both copies to us.

Upon receipt of the signed copies, the amendment will be executed on behalf of the United States and a copy will then be furnished for your records. We apologize for any inconvenience and appreciate your cooperation

Should you have any questions, please contact me at 501-340-1202.

Sincerely,

Donald L. Balch
Chief, Real Estate Division
Real Estate Contracting Officer

Enclosure



Wage and Hour Division

FACT SHEET: FINAL RULE TO IMPLEMENT EXECUTIVE ORDER 13658, ESTABLISHING A MINIMUM WAGE FOR CONTRACTORS

On February 12, 2014, President Obama signed Executive Order 13658, "Establishing a Minimum Wage for Contractors," to raise the minimum wage to \$10.10 for all workers on Federal construction and service contracts. The President took this executive action because boosting wages lowers turnover and increases morale, and will lead to higher productivity overall. Raising wages will improve the quality and efficiency of services provided to the government. The Executive Order directed the Department of Labor to issue regulations to implement the new Federal contractor minimum wage.

The Department published a Notice of Proposed Rulemaking (NPRM) in the Federal Register on June 17, 2014. The NPRM proposed standards and procedures for implementing and enforcing Executive Order 13658 and invited public comment on the proposed provisions. The Department received many comments from a variety of interested stakeholders, such as labor organizations; contractors and contractor associations; worker advocates, including advocates for individuals with disabilities; contracting agencies; small businesses; and workers.

After carefully considering all timely and relevant comments, the Department has published a final rule to implement the provisions of Executive Order 13658. The final rule issued by Secretary of Labor Tom Perez is an important milestone in raising the minimum wage for workers on Federal contracts.

Key Provisions of the Final Rule

The final rule defines key terms used in the Executive Order, including *contracts*, *contract-like instruments*, and *concessions contracts*. The final rule makes clear that the Executive Order minimum wage requirement applies to all contracts for construction covered by the Davis-Bacon Act; contracts for services covered by the Service Contract Act; concessions contracts, such as contracts to furnish food, lodging, automobile fuel, souvenirs, newspaper stands, and/or recreational equipment on Federal property; and contracts to provide services, such as child care or dry cleaning, in Federal buildings for Federal employees or the general public.

The final rule provides guidance for contractors on their obligations under the Executive Order. The final rule sets forth the standards that contractors should apply to determine whether their workers are covered by the Executive Order, recordkeeping requirements, and where to find the required rate of pay for all workers, including tipped workers and workers with disabilities.

The final rule establishes an enforcement process that should be familiar to most government contractors and will protect the right of workers to receive the new \$10.10 minimum wage. The Department of Labor generally has adopted existing mechanisms for enforcing long-established prevailing wage laws to enforce the provisions of the Executive Order.

The final rule confirms that around 200,000 workers will benefit from the Executive Order.

Details of Final Rule Key Provisions

Coverage

Executive Order 13658 applies to new contracts and replacements for expiring contracts with the Federal Government that result from solicitations issued on or after January 1, 2015 or to contracts that are awarded outside the solicitation process on or after January 1, 2015.

Executive Order 13658 applies to four major categories of contractual agreements:

- procurement contracts for construction covered by the Davis-Bacon Act (DBA);
- service contracts covered by the Service Contract Act (SCA);
- concessions contracts, including any concessions contract excluded from the SCA by the Department of Labor's regulations at 29 CFR 4.133(b); and
- contracts in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public.

Procurement contracts for construction

Under the final rule, any contract covered by the DBA and its implementing regulations is subject to the Executive Order minimum wage requirement. The Executive Order does not apply, however, to contracts that are subject only to the Davis-Bacon Related Acts.

Service contracts

Both procurement and non-procurement contracts that are subject to the SCA and its implementing regulations are subject to the Executive Order minimum wage requirement.

Contracts for concessions

The final rule defines the term concessions contract to mean a contract under which the Federal Government grants a right to use Federal property, including land or facilities, for furnishing services. The term concessions contract includes, but is not limited to, a contract whose principal purpose is to furnish food, lodging, automobile fuel, souvenirs, newspaper stands, and/or recreational equipment, regardless of whether the services are of direct benefit to the Government, its personnel, or the general public. The Executive Order thus covers all concession contracts with the Federal Government, including those excluded from SCA coverage by regulations, such as concession contracts with the Federal Government to operate souvenir shops or to provide food or lodging in national parks.

Contracts in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public



**AMENDMENT NO. 1
TO
EASEMENT NO. DACW03-2-14-1142
MURRAY LOCK AND DAM
MCCLELLAN-KERR ARKANSAS RIVER NAVIGATION SYSTEM
PULASKI COUNTY, ARKANSAS**

Easement No. DACW03-2-14-1142 for utility access for the North Little Rock Hydropower Facility, Murray Lock and Dam, is hereby amended in the following respect, and in this respect only, all other terms and conditions remaining the same:

Condition No. 22 is added as follows:

22. Executive Order 13658

(a) It has been determined this contract is not subject to Executive Order 13658 or the regulations issued by the Secretary of Labor in 29 CFR part 10 pursuant to the Executive Order, and the following provisions.

(b) If a duly authorized representative of the United States discovers or determines, whether before or subsequent to executing this contract, that an erroneous determination regarding the applicability of Executive Order 13658 was made, contractor, to the extent permitted by law, agrees to indemnify and hold harmless the United States, its officers, agents, and employees, for and from any and all liabilities, losses, claims, expenses, 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.”

IT IS UNDERSTOOD AND AGREED THAT the effective date of this Amendment No. 1 is the 1st day of January, 2015.

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

Joe Craig
Chief, Management and Disposal Branch
Real Estate Division

THIS AMENDMENT NO. 1 is hereby accepted on this _____ day of _____, 2015.

WITNESS:

North Little Rock Electric Company

By: _____

Title: _____

(Address)