

## **AMENDED QUITCLAIM DEED**

This Amended Quitclaim Deed (Amended Deed) supersedes and replaces in its entirety the Quitclaim Deed dated August 17, 1971, and recorded in the official records of Hennepin County, Minnesota, on March 6, 1972, in book 72 on page 3934775 (1971 Deed). The parties to this Amended Deed are the United States of America (United States or Grantor) and the State of Minnesota, Department of Natural Resources (Minnesota or Grantee).

## **BACKGROUND**

The 1971 Deed conveys to Minnesota property situated in Sections Twenty (20) and Twenty-nine (29), Township Twenty-eight (28) North, Range Twenty-three (23) West of the Fourth Principal Meridian, Hennepin County, Minnesota (the Property). The 1971 Deed requires that all of the Property be used and maintained exclusively for public park or public recreation purposes.

As described in part in the 1971 Deed, the Secretary of the Interior (Secretary) has retained certain administrative responsibility and authority over the Property. Minnesota has asked the Secretary to amend the 1971 Deed to require Minnesota to use and maintain the Property as an historic monument for benefit of the public.

Section 484(k)(3) of 40 U.S.C. authorizes the Administrator of General Services, United States General Services Administration (Administrator), to convey surplus real property to a State, political subdivision, instrumentality thereof, or municipality for use as an historic monument for benefit of the public. Under 41 C.F.R. § 101-47.308-3, that authority has been delegated to the Secretary and re-delegated to the Regional Director, Midwest Regional Office, National Park Service, U.S. Department of the Interior (Regional Director).

Section 484(k)(4)(c)(iii) of 40 U.S.C. authorizes the Secretary to release the Property from any term, condition, reservation, or restriction of the 1971 Deed and to impose terms and conditions deemed necessary to protect or advance the interests of the United States. That authority has been delegated to the Regional Director of the National Park Service. This Deed is intended to supersede and replace the 1971 Deed in its entirety.

The Regional Director finds that the Property in its entirety no longer serves the public park or public recreation purpose for which the United States conveyed it to Minnesota under the 1971 Deed.

The Regional Director finds that the Property is suitable and desirable for use as an historic monument.

On page one of the 1971 Deed, in line two of unnumbered paragraph four of the indented property description, the word “Bloomingdale” was erroneously substituted for the word “Bloomington.” This Amended Deed corrects that error.

On page one of the 1971 Deed, unnumbered paragraph five of the indented property description excepts and reserves to the Grantor, for the use and benefit of the 88<sup>th</sup> Army Reserve Unit for a 10-year period, various rights to Area J. Unnumbered paragraph six of the indented property description gives the Grantor the option and right to extend that ten-year period prior to its expira-

tion. The Grantor has not exercised that option within the applicable ten-year deadline, whereupon the rights and option expired. Thus, paragraphs five and six of the indented property description in the 1971 Deed no longer have any relevance and are not included in this Amended Deed.

The provision in the fourth full paragraph on page two of the 1971 Deed, concerning a reservation of the right to use and occupy the fire station (Building Number 65), is not included in this Amended Deed because the General Services Administration has constructed and is using and occupying a new facility elsewhere.

The Grantee previously has complied with the requirement in numbered paragraph two on page three of the 1971 Deed for an accurate metes and bounds survey and monumenting of the property. Thus, that requirement is not included in this Amended Deed.

Pursuant to written authorization received from the Department of the Army under 10 U.S.C. § 2535, the provision in numbered paragraph six on page four of the 1971 Deed, concerning reversion of the property for national defense purposes, is not included in this Amended Deed.

Pursuant to 40 U.S.C. § 484(k)(4), the Regional Director, on behalf of the Secretary, has notified the Administrator of the United States' intent to execute this Amended Deed; more than thirty days have passed since that notice was given; and the Administrator has not disapproved of the execution of this Amended Deed.

Wherefore, in consideration of the mutual benefits to be derived therefrom, the United States and Minnesota hereby amends and restates the 1971 Deed to read as follows:

#### PREMISES

The UNITED STATES OF AMERICA, acting by and through the Regional Director, Midwest Region, National Park Service, pursuant to authority delegated by the Secretary of the Interior, and as authorized by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and particularly as amended by Public Law 91-485 (84 Stat. 1084), and regulations and orders promulgated thereunder (hereinafter referred to as Grantor), for and in consideration of the use and maintenance of the Property herein conveyed for the purposes set forth below in perpetuity by the State of Minnesota, Department of Natural Resources (hereinafter referred to as Grantee), does hereby remise, release, and quitclaim to Grantee, its successors and assigns, subject to the reservations, exceptions, restrictions, conditions and covenants hereinafter set forth, all right, title, and interest of the Grantor in and to the following described property, situated in Sections Twenty (20) and Twenty-nine (29), Township Twenty-eight (28) North, Range Twenty-three (23) West of the Fourth Principal Meridian, Hennepin County, State of Minnesota, and more particularly described as follows:

Commencing at a concrete monument with an aluminum disk marking the southwest corner of Section Twenty (20); thence S 0°16'33" E along the west line of Section Twenty-nine (29) 771.38 feet; thence S 60°34'28" E 2326.03 feet; thence S 46°14'26" E 166.37 feet; thence N 37°44'49" E 229.13 feet to an iron pipe; thence S 60°34'28" E 30.08 feet to the point of beginning;

Thence S 60°34'28" E 2375 feet, more or less, to a point in the west right-of-way boundary of State Highway Number 5;

Thence in a northeasterly and northwesterly direction along said boundary to its point of intersection with the west boundary of the right-of-way of Bloomington Road;

Thence S 37°44'49" E 3197 feet, more or less, along the said west boundary of Bloomington Road to the point of beginning, containing 141 acres, more or less, and being a portion of the Veterans Administration Hospital Reservation, Fort Snelling, Minnesota;

Consisting of four separate areas, known respectively as the Golf Course," the "Polo Grounds," "Officer's Row," and "Area J", as legally described in

Exhibit A and shown by drawing in Exhibit B, which exhibits are attached hereto and made a part hereof.

SUBJECT TO any and all existing reservations, easements and rights-of-way, recorded and unrecorded, for public roads and highways, railroads, pipelines, drainage ditches, sanitary and storm sewer systems, water mains, gas mains, communication conduits and electrical distribution systems for power, light and signal facilities including a reservation to the Grantor of the right to use the three foot by six foot government-owned interceptor sewer to serve contiguous facilities of Grantor not conveyed herewith.

TO HAVE AND TO HOLD the above quitclaimed premises, subject to the easements, reservations, exceptions, restrictions, conditions, and covenants herein enumerated and set forth, unto the Grantee, its successors and assigns, forever.

There are excepted from this conveyance and reserved to the Grantor all oil, gas, and other minerals in, under and upon the lands herein conveyed, together with the right to enter upon the land for the purpose of mining and removing the same. Provided, however, that in exercising said rights the Grantor shall not disturb the Grantee's existing surface use of the property or the historic structures located thereon.

Grantor further reserves an easement and right-of-way for the 3' x 6' interceptor sewer traversing the lands herein conveyed and such additional rights-of-way and of ingress and egress as may be necessary or appropriate for the purpose of using, operating, maintaining, replacing, and repairing existing water, gas, sanitary or storm sewer, electrical distribution, or communication systems on, under or across the lands herein conveyed and there are reserved from this conveyance the structures and appurtenances of the above described systems situated thereon or therein.

Pursuant to authority contained in the Federal Property and Administrative Services Act of 1949, as amended, and applicable rules, regulations and orders promulgated thereunder, the General Services Administration determined the property to be surplus to the needs

of the United States of America and assigned the property to the Department of the Interior for further conveyance to the State of Minnesota.

It is understood and agreed by and between the Grantor and Grantee, and Grantee by acceptance of this deed does acknowledge that it fully understands the terms and conditions set forth herein and does further covenant and agree for itself, and its successors and assigns, forever, as follows:

1. *The Property* (a) The shall be used and maintained as an historic monument for benefit of the public in perpetuity, pursuant to 40 U.S.C. § 484(k)(3), as set forth in the Application and Program of Preservation and Utilization for the Property submitted by Grantee on May, 201\_\_ and approved by the Secretary on \_\_\_\_\_, 2016 (Historic Monument Approved Program), which is incorporated herein by reference and made a part hereof. The Historic Monument Approved Program specifies how the Grantee will use and maintain the Property, including the Grantee's plan for repair, rehabilitation, restoration, and maintenance of the Property, and the Grantee's plan for financing those activities.

(b) The Historic Monument Approved Program may be amended from time to time at the request of either the Grantor or Grantee, with the written concurrence of the other party, and such amendments shall be added to and become a part of the original application and of this deed of conveyance. Prior to executing any amendment to the Historic Monument Approved Program, the Secretary will review the amendment for consistency with any determination by the Secretary or authorization of the Administrator of General Services under section 1(d) of this deed, concerning revenue-producing activities. The Secretary will not execute any amendment to the Historic Monument Approved Program that would be inconsistent with any such determination or authorization.

(c) The Property shall not be sold, assigned, or otherwise conveyed, except to a State, political subdivision, instrumentality thereof, or municipality that the Secretary agrees in writing can assure the continued use and maintenance of the Property for historic monument purposes subject to the same terms and conditions in this Amended Quitclaim Deed. The Grantee may lease the Property to an individual or entity only with the prior written approval of the Secretary for a purpose that is compatible and complies with the Historic Monument Approved Program.

(d) The Property may be used for revenue-producing activities by the Grantee or a lessee, sublessor or developer, with the prior written authorization of the Administrator of General Services, United States General Services Administration or its assign. The Secretary of the Interior will seek such authorization from the Administrator if the Grantee submits to the Secretary a detailed written request to use the Property for specified revenue-producing activities and the Secretary finds in writing that:

(i) The revenue-producing activities are compatible with the use of the Property for historic monument purposes in accordance with the Historic Monument Approved Program;

(ii) The financial plan in the Historic Monument Approved Program provides that all incomes which are derived from the Property by the Grantee that exceed the costs of repair, rehabilitation, restoration, maintenance, and the cost to repay or defease any state bonded property at the Upper Post that may accrue to the Grantee, , shall first be used by the Grantee, on property owned by the Grantee within the Fort Snelling National Historic District (National Historic Landmark) for public historic preservation; historic, cultural and natural resources education; recreational; or park

management purposes, or for related administrative expenses provided, however, that the revenues generated from or on the property conveyed herein that is determined by the Regional Director and the Grantee to be in excess of that needed by the Grantee for restoration and maintenance; operations; public historic preservation; historic, cultural and natural resources education; recreational; or state park management purposes of property the Grantee owns within the Fort Snelling National Historic District (National Historic Landmark) may be used by the Grantee for the preservation and restoration of properties within the Minnesota State Park System that are National Historic Landmark properties. Provided further that said preservation and restoration is in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (Standards) and Guidelines for the Treatment of Cultural Landscapes (Guidelines) ; and

(iii) The Secretary has examined and approves the Grantee's accounting and financial procedures for recording and reporting on revenue-producing activities. Upon approval of a program for revenue-producing activities by the Administrator of General Services, under this section, no further approval for individual leases from Grantee or a lessee, sublessor or developer by the Administrator shall be required. Leases and subleases shall, however, be reviewed by the Secretary. The Secretary shall cause the filing of a suitable Notice of Approval indicating the authorization under this section to be filed of property records of Hennepin County. For clarity, it is intentional that no subsequent approval shall be required for subleases for residential or commercial tenants of a lessee, sublessor or developer.



(e) The Secretary may periodically audit the records of the Grantee that are directly related to the Property.

(f) Unless require otherwise by the Programmatic Agreement entered into between the Secretary acting through the National Park Service and the Grantee (the “Programmatic Agreement”), prior to implementing any repair, rehabilitation, restoration, new construction, or other change in any historic attribute of the Property, or any improvement thereon, the Grantee shall submit to the Secretary and the Minnesota State Historic Preservation Officer, and obtain their written approval of, detailed plans and specifications covering the proposed change or improvement. The Grantee shall prepare all such plans and specifications in accordance with the recommended treatments in the Secretary of the Interior’s Standards for the Treatment of Historic Properties and Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (Standards) and Guidelines for the Treatment of Cultural Landscapes (Guidelines) or any applicable Programmatic Agreement.

2. *Permanent Sign or Marker.* The Grantee shall, within 6 months of the date of this deed, design, in accordance with the Standards and Guidelines, erect, and maintain a permanent sign or marker near the point of principal access to the conveyed area indicating that the property is a historic monument and has been acquired from the Federal Government for use by the general public.

3. *Biennial Reports.* From the date of this conveyance, the Grantee, its successors and assigns, shall submit biennial reports to the Secretary of the Interior, setting forth the use made of the property during the preceding two-year period, and other pertinent data establishing its continuous use for the purposes set forth above, for ten consecutive reports and as further determined by the Secretary of the Interior.

4. *Civil Rights Act of 1964.* As part of the consideration for this Amended Quitclaim Deed, the Grantee covenants and agrees for itself, its successors and assigns, that: (1) the program for or in connection with which this Amended Quitclaim Deed is made will be conducted in compliance with, and the Grantee, its successors and assigns, will comply with all requirements imposed by or pursuant to the regulations of the Department of the Interior as in effect on the date of this Amended Quitclaim Deed (43 C.F.R. Part 17) issued under the provisions of Title VI of the Civil Rights Act of 1964; (2) this covenant shall be subject in all respects to the provisions of said regulations; (3) the Grantee, its successors and assigns, will promptly take and continue to take such action as may be necessary to effectuate this covenant; (4) the United States shall have the right to seek judicial enforcement of this covenant; (5) the Grantee, its successors or assigns, will (a) obtain from each other person (any legal entity) who, through contractual or other arrangement with the Grantee, its successors or assigns, is authorized to provide services or benefits under said program, a written agreement pursuant to which such other persons shall, with respect to the services or benefits which he is authorized to provide, undertake for himself the same obligations as those imposed upon the Grantee, its successors and assigns, by this covenant, and (b) furnish a copy of such agreement to the Secretary of the Interior, or his successor; and that (6) this covenant shall run with the land hereby conveyed, and shall in any event, without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity for the benefit of, and in favor of the Grantor and enforceable by the Grantor against the Grantee, its successors and assigns.

5. *Reversion to Grantor.* In the event there is a breach of any of the conditions and covenants herein contained by the Grantee, its successors and assigns, whether caused by the

legal or other inability of the Grantee, its successors and assigns, to perform said conditions and covenants, or otherwise, all or any portion of the right, title, and interest in and to the said premises shall, in its then existing condition, revert to and become the property of the Grantor at its option, which in addition to all other remedies for such breach shall have the right of entry upon said premises, and the Grantee, its successors and assigns, shall forfeit all right, title, and interest in said premises and in any and all of the tenements, hereditaments and appurtenances thereunto belonging; provided, however, that the failure of the Secretary of the Interior to require in any one or more instances complete performance of any of the conditions or covenants shall not be construed as a waiver or relinquishment of such future performance, but the obligation of the Grantee, its successors and assigns, with respect to such future performance shall continue in full force and effect.

6. At the request of any person undertaking a revenue-producing project under a lease from the Grantee (or any subsequent sublease), the Secretary, on behalf of the Grantor, shall enter into a commercially reasonable Subordination Attornment and Non-disturbance Agreement with respect to its rights under the reverter set forth in paragraph 5, that provides that upon reversion to Grantor, Grantor shall attorn to any lease entered into by Grantee and lessee and shall maintain possession of the property subject to the lease pursuant to the terms of the of the lease between the Grantee and the lessee without any disturbance. Provided further that said Subordination Attornment and Non-disturbance Agreement must be reasonably agreeable to both the lessee and its lenders.

IN WITNESS WHEREOF, the United States of America has caused this Amended Quitclaim Deed to be executed in its name and the Seal of the National Park Service to be hereunto affixed on this \_\_\_\_\_ day of \_\_\_\_\_, 2014.



COUNTY OF \_\_\_\_\_ ) SS

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a notary public within and for the said county, personally appeared [Name, Title, and Agency], State of Minnesota, to me known to be the person described and who executed the foregoing instrument and who acknowledged that he executed the same as the free act and deed of the State of Minnesota.

In witness whereof, I have hereunto set my hand and official seal.

NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

This instrument was drafted by the U.S. Department of the Interior, National Park Service, Midwest Region, in Omaha, Nebraska.