

Cooperative Agreement between
U.S. Army Corps of Engineers, Ft. Worth District, and the
Our Lands & Waters Foundation

This Cooperative Agreement is for the mutual benefit of both parties and is between the U.S. Army Corps of Engineers, Ft. Worth District (hereinafter referred to as the "Corps") and the Our Lands & Waters Foundation (hereinafter referred to as the "OLWF"), acting through the Chairman of the Board of Directors or the Board's designee.

This Cooperative Agreement replaces 23 July 2009, Cooperative Agreement between the U.S. Army Corps of Engineers, Ft. Worth District, and the Our Lands and Waters Foundation (Amendment 1).

WITNESSETH:

WHEREAS, the Corps operates various lakes within the State of Texas to promote the Corps missions, which includes public recreation, environmental stewardship, flood control, water supply and achieves its operational goals and missions through a wide range of activities, programs and events:

WHEREAS, the Corps operates its program for the benefit of the public and the public requires information and facilities for the safe and appropriate use of Corps projects. This information is conveyed through a variety of interpretive media such as programs, exhibits, and displays, which rely heavily upon the use of audio visual materials, photographs, models, interactive displays, lectures, artifacts and other materials which illustrate the Corps, its mission and activities in and around Ft. Worth District lakes as well as the archaeological, natural and cultural history of the area;

WHEREAS, the Corps and OLWF mutually recognize that there are significant national public benefits from the operation of the Corps Lakes within the Ft. Worth District,

WHEREAS, the Corps Natural Resources Management program fosters the stewardship of our natural and cultural environment;

WHEREAS, the Corps is authorized, pursuant to 33 U.S.C. § 2328 (Section 225 of the Water Resources Development Act of 1992), to implement a program to "share the cost of operating and managing recreation facilities and natural resources" utilizing Cooperative Agreements within the Cooperating Association, Challenge Partnership, and Contributions Programs and are implemented in accordance with ER/EP 1130-2-500 Project Operations – Partners & Support; and

WHEREAS, the OLWF is a Section 501 (c)(3) non-profit corporation that supports only the Corps, their missions, and has as its purposes to: support the Corps by sharing the cost of operating, managing, and developing recreation/natural resource programs and/or facilities; promote the advancement of the work/mission of the Corps, through media and marketing; provide environmental interpretation/education of the natural, cultural, historical, and project-related features of the Corps lakes to the public through programs, exhibits, and materials to create and implement programs to raise public awareness of the Corps missions; and to raise funds to support all of these purposes,

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WHEREAS, the Corps has authority, pursuant to Section 4 of the 1944 Flood Control Act, as amended, Title 16 U.S.C. 460d, to permit the maintenance and operation of recreation facilities at water resource development projects by local interests and may enter into licenses and/or leases with non-profit organizations for park and recreational purposes, and has authority, pursuant to Title 33 U.S.C. 2328, to enter into Cooperative Agreements with non-profit organizations for the cooperative operation and management of recreation facilities at water resources development projects and to accept contribution of funds, materials, and services from non-profit organizations for the same;

WHEREAS, the Corps has the authority, pursuant to the Federal Water Recreation Act, Public Law 89-72; the National Historic Preservation Act, as amended, Public Law 89-665; The National Environmental Policy Act, Public Law 89-190; and the Archaeological Resource Protection Act, as amended, Public Law 96-95, to provide Natural Resources Management programs, activities and interpretive functions;

WHEREAS, the Corps wishes to accept and the OLWF wishes to provide the hereinafter described services in order to enhance the visiting publics experience at the Ft. Worth District Lakes and lessen the burden of the Corps;

NOW, THEREFORE, the parties agree as follows:

1. GENERAL. The Corps authorizes the OLWF to provide, and OLWF agrees to provide, the hereinafter described operation, management, and development of recreation and/or natural resource facilities/areas; interpretive, educational, and volunteer services; and contributed funds, materials supplies, and personal property to enhance the visiting publics experience at the Ft. Worth District Lakes.

2. CORPS RESPONSIBILITIES.

A. Timely Review and Approval.

The Corps agrees to review and give necessary approvals or disapprovals in a timely manner to the OLWF for any and all proposals, programs, special events, suggestions and other activities in which the OLWF might wish to engage.

B. Use of Government Shared Facilities, other than Cooperatively Jointly Managed Parks:

(1) Should the OLWF, as part of its cooperative activities, request the use of Corps Lake Headquarter Offices, Visitor Centers, or other Public Use Areas within the Ft. Worth District, and the Corps has the availability of this office/maintenance space, the Corps agrees, that in recognition of the services the OLWF is contributing to the Corps and/or public, provide at no cost to the OLWF such facilities, visitor assistance, utilities, janitorial services, routine/general maintenance, grounds maintenance, and repair to roads and parking areas when incidental to the normal operation of the facilities by the Corps; where, the OLWF cannot charge recreation use fees (ie. Corps Headquarter Offices and/or Visitor Centers). Note: Where the OLWF enters into Cooperative Joint Management of the Parks and charges recreation use fees, then the OLWF will provide within these Joint Managed Parks, all utilities, janitorial services, and routine/general maintenance of those recreation facilities as further defined in paragraph "C" below.

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(2) Should the OLWF utilize these facilities where recreation use fees are not charged; utilities and services over and above what the government would normally require for operation of the facility, or area used by the OLWF, the OLWF will reimburse the Corps at an agreed upon, but nominal cost in recognition of the services that the OLWF is contributing to the public.

(3) A separate Real Estate outgrant may be issued to the OLWF for the use of government owned real property as appropriate, and this/these instrument(s) would not merge with this Cooperative Agreement.

C. Cooperative Joint Management of Corps Parks.

If requested by the OLWF, Corps recreation and natural resource facilities may be operated in collaboration with the OLWF through this Cooperative Agreement (CA) and the issuance of the appropriate Real Estate Instrument (i.e. Cooperative Agreement "Lease to Nonprofit Organization for the Cooperative Management of identified Lakes"). As part of this CA Agreement and any resulting CA Lease, the OLWF would be able to assist in the management of the public recreation facilities and/or areas, and charge, collect, retain, and utilize recreation user fees.

If this Lease for Cooperative Management is granted, the Corps will:

(1) Provide information, support, and training necessary to ensure that OLWF management activities are in conformity with the Corps regulations and policies; including but not limited to: safety standards (EM 385-1-1), ERGO, contributed facilities authorized construction, services, and facility maintenance on Corps property.

(2) Incorporate the OLWF's development plan and activities into the Operation Management Plan (OMP), Project Management Plan (PMP), and Master Plan (MP), as appropriate.

(3) Within appropriated funding levels, the Corps will:

a. Provide Major Maintenance, Repair, and Replacement (MRR) of recreation and/or natural resource facilities. This activity will be further defined within each Cooperative Agreement Lease.

b. Provide Ranger and Law Enforcement Patrols, as necessary.

c. Provide Natural Resource management; such as, Forest/Range/Wildlife/Fire Management activities (i.e. timber sales, timber disposals, area mowing, invasive species control, firebreaks, controlled burns, specialty hunts, native plantings, etc).

d. Provide Ranger and/or Corps Volunteer interpretive programs (including water safety) to campers and day users.

e. Provide the Quality Assurance inspections for all construction and maintenance related activities for facilities developed in whole or in part with Federal Funds, including those provided by the OLWF.

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3. OLWF RESPONSIBILITIES.

A. Corporate Requirements:

(1) The OLWF's Articles of Incorporation and By-Laws shall comply with the requirements of the state(s) in which the OLWF is incorporated. Non-profit 501(c)(3) status must be maintained in accordance with state and Federal laws. The OLWF will make available for inspection, at the request of the Corps, documents demonstrating non-profit status and provide the most recent annual IRS returns (ie. IRS Forms 990 and /or 990 EZ).

(2) This agreement will automatically terminate, if non-profit 501(c)(3) status is not maintained. Any Real Estate Outgrants pursuant to this Agreement may also be terminated immediately.

(3) The OLWF shall have liability insurance which indemnifies, saves, holds harmless, and defends the United States against all fines, claims, damages, losses, judgments, and expenses arising out of, or from any omission, or activity of the OLWF in connection with activities under this CA.

(4) The OLWF will exercise reasonable care to prevent damage to any Government property used or occupied during its operation and shall, insofar as possible, protect all such property. The OLWF will be responsible, prior to any action by the Corps, to seek restoration and/or restitution for damage by third parties.

B. OLWF Interpretative and Other Activities:

(1) The OLWF may offer advocacy, educational, and interpretive services which support the missions of the Corps and/or the project. This includes assisting, planning, designing, implementing and conducting interpretive and educational programs, activities and exhibits.

(2) The OLWF may offer scientific, research, maintenance and/or other services which support the mission of the Corps and their natural resource management programs. This includes assisting, planning, designing, implementing and conducting scientific and/or maintenance programs, services, activities and exhibits.

(3) The OLWF will cooperate with the Corps in the following activities:

- a. Produce and make available to visitors, by sale or free distribution, suitable interpretive and educational literature and aids to increase the visitors understanding and appreciation of the natural history, cultural, historical, and man-made features of the Corps Lakes and the history and accomplishments of the U.S. Army Corps of Engineers.
- b. Acquire specimens and/or objects pertaining to the history, cultures, environment, or recreational activities of the project area for the purpose of adding them to the exhibits or programs at Corps visitor centers (or other Corps facilities), trails, or other such educational facilities and assist in preservation programs as appropriate.
- c. Assist in the development and improvement of public use areas, interpretive devices, and educational materials including camp/day use facilities, restroom facilities, utilities, signs, exhibits, materials, and audio-visual aids.

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- d. Assist in the sponsorship and coordination of professional workshops, training opportunities and planning and/or executing special events.
- e. Assist in all practical ways the interpretive, educational and community programs of the Corps and the project areas for the benefit of the American public.
- f. Where appropriate, conduct tours of Dams, Hydropower Plants, and/or natural resource areas as part of the interpretive services.

C. Lease for Cooperative Management of Corps Parks:

If a Lease for Cooperative Management is granted , the OLWF will:

(1) Provide Operations and Maintenance (O&M) services to recreation and/or natural resource facilities. OLWF will operate, manage, develop and maintain the recreation facilities; including, mowing, cleaning, and repairing their associated improvements; including, but not limited to: fire rings, trash receptacles, picnic tables, pavilions/shelters, drinking fountains, etc. and the immediate area around each facility. NOTE: Recreation facilities include; but are not limited to: picnic/camp sites, restrooms, group shelters amphitheatres, boat ramps, courtesy docks, associated parking lots, bulletin boards, swim beaches, playgrounds, etc.

(2) Pay for all recreation consumables such as water and electric utility costs and any cleaning equipment and/or sanitary supplies (ie. soaps, detergents, paper towels, septic enzymes, sponges, brooms, pressure washers, squeegees, light bulbs, gloves, etc.) necessary to operate and maintain these facilities in a safe, clean, and sanitary condition.

(3) Read traffic counters, provide monthly traffic counts to Lake Staff, and perform minor maintenance to the traffic counters; such as, reset counter, oil hinges, provide and change batteries, and remove insects.

(4) Operate and manage the OLWF revenue collection through the National Recreation Reservation Service (NRRS) under a separate NRRS Participation Agreement.

D. Sales Option:

(1) As part of this Agreement, the OLWF may operate a sales area on a continuous or intermittent basis.

(2) The OLWF is hereby authorized to sell and/or distribute interpretive and educational items such as publications, maps, audiovisual aids, crafts, and other objects directly related to the interpretive and educational themes of the project, visitor center, region, and Corps. The Corps may request the OLWF to sell specific items of interpretive value or items that would enhance the visitor's recreational experience.

(3) The OLWF shall order, receive, inventory, stock, and otherwise manage all items offered for sale and/or distribution.

(4) The OLWF will sell only items that are appropriate and of high quality. The OLWF will not sell any item that has not been approved by the District Engineer, or his authorized representative. The OLWF will sell items at their fair market value and prices of said items

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will be submitted and approved in writing, in advance by the District Engineer, or his authorized representative.

(5) The OLWF will not sell any original artifacts, sacred items, or antiquities to which the Archaeological Resource Protection Act, as amended, would apply, whether or not such items were discovered on lands owned or controlled by the United States.

(6) User fees may be charged by the OLWF for use of any cooperative joint managed premises or constructed facilities. However, no user fees may be charged by the OLWF for use of facilities developed whole or in part with federal funds; if, a user charge by the Corps for the facility would be prohibited under law. The OLWF may charge use fees for campsites; boat launch; swim beach; area use; visitor interpretative services or special facility use (i.e. group picnic shelters, multipurpose courts, amphitheatres, equestrian areas, auditorium usage, classroom, meeting rooms, power house tours, etc.); special events/activities (i.e. water carnivals, boat regattas, fishing tournaments, music festivals, dramatic presentations, etc.); other equipment, facilities and services (i.e. firewood, ice, laundry machine use, dump station use, parking, and recreation equipment rental such as rent-a-tent, etc.). The Corps will have the right to review such rates and prices and require an increase or reduction when it is determined that the objective of this paragraph has not been met. **NOTE: All monies received by the OLWF from operations conducted on any cooperatively managed leased premises must be utilized by the OLWF for the administration, maintenance, operation and development of the premises.**

(7) The OLWF will display the sales items in good taste and in keeping with the general design and decor of the facility which houses the sales area.

(8) OLWF sales are restricted to a location approved by the Corps, which will be kept clean and presentable at all times.

E. Security and Safety:

The OLWF will adhere to future policy and/or regulatory requirements regarding tours of Dams and Power Houses.

F. Fiscal Management:

(1) The OLWF will conduct its fiscal operations in accordance with accepted business practices. This includes the appropriate use of a funds accountability system, purchase orders, receipts, invoices, and inventory records. Note: Use fees from camping, boat launch, swim beach, and/or area use will be accounted for through the NRRS system; however, all use fees may be accounted for utilizing the NRRS system, if the OLWF so desires. These NRRS documents and records will become a part of the OLWF funds accountability system.

(2) The OLWF shall annually submit (within 135 days following the end of each OLWF fiscal year) a complete financial report to the Corps which includes a written summary of OLWF activities for the year.

(3) The Corps may review the fiscal records of the OLWF, at any time during the term of this Agreement.

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4. JOINT RESPONSIBILITIES.

A. Donation of Services, Personal Property, or Materials:

(1) The OLWF may, at the discretion of its Board, loan materials, personal property, and/or donate/contribute services to the Corps. The Corps reserves the right to accept or decline without obligation, any service, or loaned material/property offered by the OLWF.

(2) Corps will take reasonable precautions to protect items loaned by the OLWF, but assumes no other responsibility for these items. The Corps will return loaned property or items as requested by the OLWF.

A. The Corps and the OLWF shall both have Operation and Maintenance responsibilities within Cooperatively Jointly Managed recreation/natural resource areas that may be outgranted to the OLWF as defined in each section above. The responsibilities will be further explicitly defined in each real estate lease; however, generally, the OLWF and Corps will cooperate in the operation and management of; but are not limited to, the following:

- (1) Operations and maintenance of picnic areas
- (2) Operations and maintenance of restrooms/shower houses
- (3) Operations and maintenance of other buildings and facilities
- (4) Operations and maintenance of campsites including upgrades
- (5) All grounds maintenance
- (6) All tree maintenance and tree removal
- (7) Operations and maintenance of sewage treatment systems
- (8) Pesticide control
- (9) Herbicide control
- (10) Utility line replacement
- (11) Operation and maintenance of trails
- (12) Boat Ramps and courtesy docks
- (13) Maintenance and replacement of playground equipment
- (14) Correction of any safety issues

C. Personnel:

(1) The OLWF and the Corps shall each designate, in writing, a representative (and alternates) who will act as a point of contact (POC) for the purpose of implementing this Agreement and; if areas are leased, for the day to day operation of the leased premises. Note: Due to the shared responsibilities in the Operation and Maintenance of these cooperatively jointly managed recreation facilities, it is imperative that the Corps and the OLWF maintain close coordination through their POC's to ensure successful park operations.

(2) The OLWF will provide such personnel as are reasonably necessary to conduct, operate, and manage its cooperative activities. This does not preclude Corps personnel, during the course of their normal duties, from assisting the OLWF with nominal duties, including visitor assistance and sales.

(3) Corps personnel may not serve on the board, either as a voting member or non-voting member, including as an ex-officio member, or as an officer or official representative of a

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cooperating association, friends group, or other Corps partner organization. However, Corps employees may serve as liaisons, in an advisory capacity, to partner organizations as part of their official duties. Corps personnel may not act as the official representative of the OLWF in any matter relating to the Corps, or the terms of this Agreement. However, if the OLWF has a membership program, Corps personnel may join and participate in membership activities in their personal capacity.

(4) The Corps will orient all OLWF personnel, staff, and/or volunteers with regard to Corps rules, regulations, and requirements, particularly with regard to the project and facilities, safety, and appropriate emergency procedures. OLWF staff and volunteers involved in visitor contact will receive additional orientation and training in regards to interpretive services. All orientation will be conducted prior to assumption of duties. NOTE: All OLWF personnel are to be trained to identify, report, and correct any unsafe and/or unhealthy conditions as soon as they are discovered to the appropriate manager.

(5) Corps and OLWF personnel each have the responsibility, upon discovery of any hazardous condition on any cooperatively jointly managed premises that presents an immediate threat to health and/or danger to life or property, to notify both the Corps and OLWF manager and will take immediate action to close the affected part or all of the premises to the public until such condition is corrected and the danger to the public eliminated.

(6) OLWF employees, or volunteers may not wear the Corps uniform, or items of clothing that resemble the uniform. Employees and volunteers of the OLWF, when working at duties that bring them into contact with the public, will wear visible identification that identifies them as an OLWF employee or volunteer.

D. Annual Meeting:

The OLWF Board representatives and the District Engineer (or his designated representative) shall meet annually to discuss prior completed activities and proposed projects that will be carried out by the OLWF for joint Corps/OLWF benefit. A business plan shall be presented by the OLWF at such meeting to identify funds, labor, materials and equipment available for implementation of projects conducted pursuant to this Agreement.

5. ASSIGNMENT.

No transfer or assignment of this Agreement or any part thereof or interest therein, directly or indirectly, voluntary or involuntary, shall be made by the OLWF unless approved in writing by the Corps.

6. MODIFICATION AND AMENDMENTS.

Modifications and amendments to this agreement in the form of Supplemental Agreements may be made from time to time upon the mutual written consent of the District Commander for the Corps and the Board of Directors of the OLWF.

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7. DURATION.

This agreement shall be effective for five years commencing on the day following the ratification of this agreement by the Corps. This agreement will automatically renew for another five-year period on October 1 of the last year, unless notice of cancellation is given by either party before the date of renewal. The Corps reserves the right to terminate the agreement, or any part thereof, at any time upon written notice. Prior to giving such notice, the Corps will meet with the OLWF to set forth the reasons for such termination. All leases to the OLWF will be terminated if the Agreement expires or is cancelled for any reason.

8. MISCELLANEOUS.

A. The rights and benefits conferred by this agreement shall be subject to the laws of the United States governing the U.S. Army Corps of Engineers and to the rules and regulations promulgated thereunder whether now in force or hereafter enacted or provided; and the mention of specific restrictions, conditions, and stipulations herein shall not be construed as in any way impairing the general powers of supervision, regulation and control by the Corps.

B. This Agreement in no way obviates the responsibilities of the Corps, or the OLWF, as may be required by a real estate instrument. In situations where the OLWF leases facilities or areas from the Corps, this Cooperative Agreement would automatically become null and void, for those facilities and/or areas, upon the termination or cancellation of the Lease Agreement. NOTE: Multiple Real Estate instruments may be issued under this SWF District wide agreement. The termination/cancellation of any one of these real estate instruments at a Lake will not have an effect on the Cooperative Agreement and/or Real Estate instruments at other Lakes recreation facilities and/or areas.

C. The OLWF agrees that all its activities shall be conducted in accordance with all applicable laws and regulations; Local, State, and Federal.

IN WITNESS WHEREOF, the OLWF has caused this amendment to the agreement to be executed this 30th day of September, 2011.

OUR LANDS & WATERS FOUNDATION

By Thomas L. Burrell
Thomas L. Burrell
Chairman of the Board
Our Lands and Waters Foundation

IN WITNESS WHEREOF, The Corps has caused this amendment to the agreement to be ratified this 9th day of September, 2011.

United States Army Corps of Engineers

By Richard J. Muraski, Jr.
Richard J. Muraski, Jr.
Colonel, Corps of Engineers
District Commander