

**DEPARTMENT OF THE ARMY  
LEASE TO NONPROFIT ORGANIZATION  
FOR COOPERATIVE MANAGEMENT OF  
HICKORY CREEK, WESTLAKE, AND OAKLAND PARKS  
LEWISVILLE LAKE  
DENTON COUNTY, TEXAS**

**THIS LEASE**, made on behalf of the United States, between the **SECRETARY OF THE ARMY**, acting by and through the Chief, Real Estate Division, U.S. Army Engineer District, Fort Worth, hereinafter referred to as the Lessor, and the Our Lands & Waters Foundation, a non-profit corporation duly organized and existing under and by virtue of the laws of the State of Texas, with its principal office in the City of Lewisville, Texas, hereinafter referred to as the Lessee,

**WITNESSETH:**

That the Secretary, by authority of Title 16, United States Code, Section 460d, and pursuant to a Cooperative Agreement dated September 9, 2011, hereinafter referred to as the Agreement, and for the consideration hereinafter set forth, hereby leases to the Lessee, the property identified in **Exhibit(s) A-1 and A-2** attached hereto and made a part hereof, hereinafter referred to as the premises, for the development and management, in cooperation with the Lessor.

**THIS LEASE** is granted subject to the following conditions:

**1. TERM**

Said premises are hereby leased for a term of Five (5) years, beginning November 1, 2011 and ending October 31, 2016. The Lessee shall have the right to extend the original term of the lease for four (4) successive periods ("extension terms") of five (5) years each, provided that, as to each option, lessee shall give notice to the Government of its election to extend such term at least (18) months prior to the time when the term then in force would otherwise expire; that, at the time when such notice is given, there shall not be any uncured event of default on the part of the Lessee; and that the term of this lease shall have been extended for the prior extension term, if any.

**2. CONSIDERATION**

The consideration for this lease is the operation and maintenance of the premises by the Lessee, in cooperation with the Lessor, for the benefit of the United States and the general public in accordance with the terms of this lease and those of the Agreement. It is understood and agreed that this lease will be controlling if there are any conflicts between the two documents.

**3. NOTICES**

All correspondence and notices to be given pursuant to this lease shall be addressed, if to the Lessee, to Our Lands & Waters Foundation, 1801 N. Mill St. Suite B, Lewisville, TX 75057, and if

to the United States, to the District Engineer, Attention: Chief, Real Estate Division, CESWF-RE, P.O. Box 17300, Fort Worth, Tx. 76102-0300, or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope, or wrapper, addressed as aforesaid, and deposited postage prepaid in a post office regularly maintained by the United States Postal Service.

#### **4. AUTHORIZED REPRESENTATIVES**

Except as otherwise specifically provided, any reference herein to "Lessor" shall include their duly authorized representatives. Any reference to "Lessee" shall include sublessees, assignees, transferees, concessionaires, successors, and its duly authorized representatives.

#### **5. SUPERVISION BY THE LESSOR**

The use and occupation of the premises shall be subject to the general supervision of the District Engineer, hereinafter referred to as Lessor, and to such rules and regulations as may be prescribed from time to time by Lessor, including any special provisions that may be established due to the cooperative joint management of the premises by the Lessee and the Lessor as contemplated by the Agreement.

#### **6. APPLICABLE LAWS AND REGULATIONS**

The Lessee shall comply with all applicable Federal, state, county, and municipal laws, ordinances and regulations wherein the premises are located.

#### **7. CONDITION OF PREMISES**

a. The Lessee acknowledges that it has inspected the premises, knows its condition, and understands that the same is leased without any representations or warranties whatsoever and without obligation on the part of the United States to make any alterations, repairs or additions thereto except as may be required to carry out its responsibilities pursuant to the terms of the Agreement.

b. As of the date of this lease, an inventory and condition report of all personal property and improvements of the United States included in this lease shall be made by the Lessor and the Lessee to reflect the condition of the said property and improvements. A copy of the said report is attached hereto as **Exhibits B-1, B-2, and B-3** and made a part hereof. Upon the expiration, revocation or termination of this lease, another inventory and condition report shall be similarly prepared. This report shall constitute the basis for settlement for property damaged or destroyed. Any such settlement will take into account the cooperative relationship of the parties, and will reflect an equitable apportionment of damages.

#### **8. TRANSFERS AND ASSIGNMENTS**

a. Without prior written approval of the Lessor the Lessee shall neither transfer nor assign this lease, nor sublet the premises or any part thereof nor grant any interest, privilege or license

whatsoever in connection with this lease. Failure to comply with this condition shall constitute a noncompliance for which the lease may be revoked immediately by the Lessor.

b. The Lessee shall not sponsor or participate in timeshare ownership of any structure, facilities, accommodations, or personal property on the premises. The Lessee will not subdivide nor develop the premises into private residential development.

## **9. FEES, RATES AND PRICES**

Fees may be charged by the Lessee for use of the premises or facilities constructed thereon. The Lessor shall have the right to review such fees and require an increase or reduction when it is determined that the objectives of this lease have been violated. However, no user fees may be charged by the Lessee for use of facilities developed in whole or in part with federal funds if a user charge by the Corps of Engineers for the facility would be prohibited under law. All monies received by the Lessee from operations conducted on the premises must be utilized by the Lessee for the administration, maintenance, operation and development of the premises. Any such monies not so utilized or programmed for use within a reasonable time shall be paid to the Lessor at the end of each 5 year period. The Lessee shall furnish annual statements of receipts and expenditures to the Lessor.

## **10. DEVELOPMENT AND MANAGEMENT PLANS**

The Lessee shall construct, operate and maintain the premises in accordance with the Agreement. All structures shall be constructed and landscaping accomplished in accordance with plans approved by the Lessor. The Lessee also agrees to prohibit any exclusive or private use of all or any part of the premises by any individual or group of individuals. Title to improvements constructed or placed on the premises by the Lessee shall remain vested in the Lessee, subject to the Condition on **RESTORATION**, and shall be maintained by the Lessee to the satisfaction of the Lessor.

## **11. PROTECTION OF PROPERTY**

The Lessee shall be responsible for any damage that may be caused to property of the United States by the activities of the Lessee under this lease, and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all other causes. Any property of the United States damaged or destroyed by the Lessee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Lessee to a condition satisfactory to the Lessor, or at the election of the Lessor, reimbursement made therefore by the Lessee in an amount necessary to restore or replace the property to a condition satisfactory to the Lessor.

## **12. RIGHT TO ENTER AND FLOOD**

The right is reserved to the United States, its officers, agents and employees to enter upon the premises at any time and for any purpose necessary or convenient in connection with government purposes, to make inspections, to remove timber or other material, except property of the Lessee, to

flood the premises, to manipulate the level of the lake or pool in any manner whatsoever; and/or to make any other use of the lands as may be necessary in connection with government purposes, and the Lessee shall have no claim for damages on account thereof against the United States or any officer, agent or employee thereof.

### **13. INSURANCE**

**a.** At the commencement of this lease, the Lessee shall obtain, from a reputable insurance company or companies, liability insurance. The insurance shall provide an amount not less than that which is prudent, reasonable and consistent with sound business practices or a minimum combined single limit in the amount of \$1,000,000, whichever is greater, for any number of persons or claims arising from any one incident with respect to bodily injuries or death resulting therefrom, property damage, or both, suffered or alleged to have been suffered by any person or persons resulting from the operations of the Lessee under the terms of this lease. The Lessee shall require the insurance company or companies to furnish the Lessor a copy of the policy or policies, or if acceptable to the Lessor, certificates of insurance evidencing the purchase of such insurance. The Lessor shall have the right to review and revise the amount of minimum liability insurance required.

**b.** The insurance policy or policies shall be of comprehensive form of contract and shall specifically provide protection appropriate for the types of facilities, services and activities involved. The Lessee shall require that the insurance company give the Lessor thirty (30) days written notice of any cancellation or change in such insurance. The Lessor may require closure of any or all of the premises during any period for which the Lessee does not have the required insurance coverage.

**c.** As to those structures and improvements on the premises constructed by or owned by the United States, for such periods as the Lessee is in possession of the premises pursuant to the terms and conditions of this lease, the Lessee shall procure and maintain, at the Lessee's cost, a standard fire and extended coverage insurance policy or policies on the leased premises to the full insurable value thereof. The Lessee shall procure such insurance from a reputable company or companies. The insurance policy shall provide that in the event of loss thereunder, the proceeds of the policy or policies, at the election of the United States, shall be payable to the Lessee to be used solely for the repair, restoration or replacement of the property damaged or destroyed, and any balance of the proceeds not required for such repair, restoration or replacement shall be paid to the United States. If the United States does not elect by notice in writing to the insurer within sixty (60) days after the damage or destruction occurs to have the proceeds paid to the Lessee for the purpose hereinabove set forth, then such proceeds shall be paid to the United States, provided however that the insurer, after payment of any proceeds to the Lessee in accordance with the provision of the policy or policies, shall have no obligation or liability with respect to the use or disposition of the proceeds by the Lessee. Nothing herein contained shall be construed as an obligation upon the United States to repair, restore or replace the leased premises or any part thereof.

#### **14. INDEMNITY**

The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the Lessee, or for damages to the property or injuries to the person of the Lessee's officers, agents, or employees or others who may be on the premises at their invitation or the invitation of any one of them, and the Lessee shall hold the United States harmless from any and all such claims not including damages due to the fault or negligence of the United States or its contractors.

#### **15. RESTORATION**

On or before the expiration of this lease or its termination by the Lessee, the Lessee shall vacate the premises, remove the property of the Lessee, and restore the premises to a condition satisfactory to the Lessor. If, however, this lease is revoked, the Lessee shall vacate the premises, remove said property and restore the premises to the aforesaid condition within such time as the Lessor may designate. In either event, if the Lessee shall fail or neglect to remove said property and restore the premises, then, at the option of the Lessor, said property shall either become the property of the United States without compensation therefore, or the Lessor may cause the property to be removed and no claim for damages against the United States or its officers or agents shall be created by or made on account of such removal and restoration work. The Lessee shall also pay the United States on demand any sum which may be expended by the United States after the expiration, revocation, or termination of this lease in restoring the premises.

#### **16. NON-DISCRIMINATION**

a. The Lessee shall not discriminate against any person or persons or exclude them from participation in the Lessee's operations, programs or activities conducted on the leased premises, because of race, color, religion, sex, age, handicap, or national origin. The Lessee will comply with the Americans with Disabilities Act and attendant Americans with Disabilities Act Accessibility Guidelines (ADAAG) published by the Architectural and Transportation Barriers Compliance Board.

b. The Lessee, by acceptance of this lease, is receiving a type of Federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directives 5500.11 and 1020.1, and Army Regulation 600-7. This assurance shall be binding on the Lessee, its agents, successors, transferees, sublessees and assignees.

#### **17. SUBJECT TO EASEMENTS**

This lease is subject to all existing easements, or those subsequently granted, as well as established access routes for roadways and utilities located, or to be located, on the premises,

provided that the proposed grant of any new easement or route will be coordinated with the Lessee, and the easements will not be granted which will, in the opinion of the Lessor, interfere with the use of the premises by the Lessee.

## **18. SUBJECT TO MINERAL INTERESTS**

This lease is subject to all outstanding mineral interests. As to federally owned mineral interests, it is understood that they may be included in present or future mineral leases issued by the Bureau of Land Management (BLM) which has responsibility for mineral development on federal lands. The Secretary will provide lease stipulations to BLM for inclusion in said mineral leases that are designed to protect the premises from activities that would interfere with the Lessee's operations or would be contrary to local law.

## **19. COMPLIANCE, CLOSURE, REVOCATION AND RELINQUISHMENT**

a. The Lessee and/or any sublessees or licensees are charged at all times with full knowledge of all the limitations and requirements of this lease, and the necessity for correction of deficiencies, and with compliance with reasonable requests by the Lessor. This lease may be revoked in the event that the Lessee violates any of the terms and conditions and continues and persists in such non-compliance or fails to obtain correction of deficiencies by sublessees or licensees. The Lessee will be notified of any non-compliance, which notice shall be in writing or shall be confirmed in writing, giving a period of time in which to correct the non-compliance. Failure to satisfactorily correct any substantial or persistent non-compliance within the specified time is grounds for closure of all or part of the premises, temporary suspension of operation, or revocation of the lease, after notice in writing of such intent. Future requests by the Lessee to extend the lease, expand the premises, modify authorized activities, or assign the lease shall take into consideration the Lessee's past performance and compliance with the lease terms.

b. This lease may be relinquished by the Lessee or Lessor by giving Ninety (90) days prior written notice in the manner prescribed in paragraph 3 in the Condition on **NOTICES**.

## **20. HEALTH AND SAFETY**

a. The Lessee shall keep the premises in good order and in a clean, safe condition by and at the expense of the Lessee.

b. In addition to the right of revocation for non-compliance previously stated, the Lessor, upon discovery of any hazardous condition on the premises that present an immediate threat to health and/or danger to life or property, will so notify the Lessee and will require that the affected part or all of the premises be closed to the public until such condition is corrected and the danger to the public eliminated. If the condition is not corrected Lessor will have the option to (1) correct the hazardous condition and collect the cost of repairs from the Lessee, or (2) revoke the lease. The Lessee shall have no claim for damages against the United States, or any officer, agent or employee thereof on account of action pursuant to this condition.

## 21. PUBLIC USE

The Lessee shall not forbid the full use by the public of the water areas of the project, subject however, to the authority and responsibility of the Lessee to carry out its responsibilities under this lease to manage the premises and provide safety and security to the facility users.

## 22. PROHIBITED USES

The Lessee shall not permit gambling on the premises or install or operate, or permit to be installed or operated thereon, any device which is illegal, or use the premises or permit them to be used for any illegal business or purpose. There shall not be conducted on or permitted on the premises any activity which would constitute a nuisance. As an exception, some games of chance, such as raffles, games and sporting events, may be conducted by the Lessee if permissible by state and local law. Any request to conduct a game of chance must be submitted in writing to the Lessor.

## 23. NATURAL RESOURCES

The Lessee shall cut no timber, conduct no mining operations, remove no sand, gravel, or kindred substances from the ground, commit no waste of any kind, nor in any manner substantially change the contour or condition of the premises, except as may be authorized under and pursuant to the condition on **DEVELOPMENT AND MANAGEMENT**. The Lessee may salvage fallen or dead timber on the premises for use as firewood. Except for timber salvaged by the Lessee when in the way of construction of improvements or other facilities, all sales of forest products will be conducted by the United States and the proceeds therefrom shall not be available to the Lessee under the provisions of this lease.

## 24. DISPUTES CLAUSE

a. Except as provided in the Contract Disputes Act of 1978 (41 U.S.C. § 601-613) (the Act), all disputes arising under or relating to this lease shall be resolved under this clause and the provisions of the Act.

b. "Claim", as used in this clause, means a written demand or written assertion by the Lessee seeking, as a matter of right, the payment of money in a sum certain, the adjustment of interpretation of lease terms, or other relief arising under or relating to this lease. A claim arising under this lease, unlike a claim relating to this lease, is a claim that can be resolved under a lease clause that provides for the relief sought by the Lessee. However, a written demand or written assertion by the Lessee seeking the payment of money exceeding \$50,000 is not a claim under the Act until certified as required by subparagraph C.(2) below. The routine request for rental payments that is not in dispute is not a claim under the Act. The request may be converted to a claim under the Act, by this clause, if it is disputed either as a liability or amount or is not acted upon in a reasonable time.

c. (1) A Claim by the Lessee shall be made in writing and submitted to the Lessor for a written decision. A claim by the Government against the Lessee shall be subject to a written decision by the Lessor.

(2) For Lessee claims exceeding \$50,000, the Lessee shall submit with the claim a certification that--

- (i) the claim is made in good faith; and
- (ii) supporting data are accurate and complete to the best of the Lessee's knowledge and belief; and
- (iii) the amount requested accurately reflects the lease adjustment for which the Lessee believes the Government is liable.

(3) If the Lessee is an individual, the certificate shall be executed by that individual. If the Lessee is not an individual, the certification shall be executed by --

- (i) a senior company official in charge of the Lessee's location involved; or
- (ii) an officer or general partner of the Lessee having overall responsibility of the conduct of the Lessee's affairs.

d. For Lessee claims of \$50,000 or less, the Lessor must, if requested in writing by the Lessee, render a decision within 60 days of the request. For Lessee-certified claims over \$50,000, the Lessor must, within 60 days, decide the claim or notify the Lessee of the date by which the decision will be made.

e. The Lessor's decision shall be final unless the Lessee appeals or files a suit as provided in the Act.

f. At the time a claim by the Lessee is submitted to the Lessor or a claim by the Government is presented to the Lessee, the parties, by mutual consent, may agree to use alternative means of dispute resolution. When using alternate dispute resolution procedures, any claim, regardless of amount, shall be accompanied by the certificate described in paragraph c.(2) of this clause, and executed in accordance with paragraph c.(3) of this clause.

g. The Government shall pay interest on the amount found due and unpaid by the Government from (1) the date the Lessor received the claim (properly certified if required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the said officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim. Rental amounts due to the Government by the Lessee will have interest and penalties as set out in the condition on **CONSIDERATION**.

h. The Lessee shall proceed diligently with the performance of the lease, pending final resolution of any request for relief, claim, or action arising under the lease, and comply with any decision of the Lessor.

## **25. ENVIRONMENTAL PROTECTION**

a. Within the limits of their respective legal powers, the parties to this lease shall protect the project against pollution of its air, ground and water. The Lessee shall comply promptly with any laws, regulations, conditions or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the leased area is specifically prohibited. Such regulations, conditions, or instructions in effect or prescribed by the Environmental Protection Agency, or by any federal, state, interstate or local governmental agency, are hereby made a condition of this lease. Services for waste disposal shall be provided by the Lessee as appropriate. The Lessee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The Lessee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from the Lessee's activities, the Lessee shall be liable to restore the damaged resources.

c. The Lessee must obtain approval in writing from Lessor before any pesticides or herbicides are applied to the premises.

## **26. PRELIMINARY ASSESSMENT SCREENING**

A Preliminary Assessment Screening (PAS) documenting the known history of the property with regard to the storage, release or disposal of hazardous substances thereon, is attached hereto and made a part hereof as **Exhibit C**. Upon expiration, revocation, or relinquishment of this lease, another PAS shall be prepared which will document the environmental condition of the property at that time. A comparison of the two assessments will assist the Lessor in determining the environmental restoration requirements of the Lessee. Appropriate consideration will be given to the cooperative relationship between the parties.

## **27. HISTORIC PRESERVATION**

Except as may be otherwise provided in the Agreement, the Lessee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the premises, the Lessee shall immediately notify the Lessor and protect the site and the material from further disturbance until the Lessor gives clearance to proceed.

## **28. SOIL AND WATER CONSERVATION**

The Lessee shall maintain, in a manner satisfactory to the Lessor, all soil and water conservation structures that may be in existence upon said premises at the beginning of or that may be constructed by the Lessee during the term of this lease, and the Lessee shall take appropriate measures to prevent or control soil erosion within the premises. Any soil erosion occurring outside

the premises resulting from the activities of the Lessee shall be corrected by the Lessee as directed by the Lessor.

## **29. TRANSIENT USE**

- a. Camping, including transient trailers or recreational vehicles, at one or more campsites for a period longer than thirty (30) days during any sixty (60) consecutive day period is prohibited.
- b. Occupying any lands, buildings, vessels or other facilities within the premises for the purpose of maintaining a full- or part-time residence is prohibited, except for employees residing on the premises for security purposes if authorized by the Lessor.

## **30. COVENANT AGAINST CONTINGENT FEES**

The Lessee warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bon fide employees or established commercial or selling agencies maintained by the Lessee for the purpose of securing business. For breach of violation of this warranty, the United States shall have the right to annul this lease without liability or, in its discretion, to require the Lessee to pay, in addition to the lease rental or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

## **31. OFFICIALS NOT TO BENEFIT**

No member of or delegate to congress or resident commissioner shall be admitted to any share or part of this lease or to any benefits to arise therefrom. However, nothing herein contained shall be construed to extend to any incorporated company if this lease is for the general benefit of such corporation or company.

## **32. MODIFICATIONS**

This lease contains the entire agreement between the parties hereto, and no modification of this lease, or waiver, or consent hereunder shall be valid unless the same be in writing, signed by the parties to be bound or by a duly authorized representative and this provision shall apply to this condition as well as other conditions of this lease.

## **33. DISCLAIMER**

This lease is effective only insofar as the rights of the United States in the premises are concerned; and the Lessee shall obtain any permit or license which may be required by Federal, state, or local statute in connection with the use of the premises. It is understood that the granting of this lease does not preclude the necessity of obtaining any Department of the Army permit for activities which involve the discharge of dredge or fill material or placement of fixed structures in the waters of the United States, pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (33 U.S.C. § 403), and Section 404 of the Clean Waters Act (33 U.S.C. § 1344).

**ADDED CONDITIONS:****34. OPERATIONS, MANAGEMENT, AND MAINTENANCE RESPONSIBILITIES:**

The Lessee and Lessor have management responsibilities for all recreation facilities within the premises; including; but not limited to: camp sites, picnic sites, restrooms, pavilions, swim beach, boat ramps, group use areas, courtesy docks, pavilions, etc.

a. The Lessee will perform routine maintenance activities that are of a recurring nature and park operations in cooperation with the Lessor who will perform major repairs, renovation, replacements, and non-recurring, non-routine maintenance as set forth in **Exhibit D** to the Lease, titled "Division of Responsibilities".

b. Said **Exhibit D** "Division of Responsibilities" may be modified or supplemented by the Lessor and the Lessee by mutual agreement and the new **Exhibit D** will become a part of this lease. It is understood that the lease will be controlling if there are any conflicts between the Lease the Agreement.

c. The Lessee may provide funds, materials, and/or services to be utilized within the Lessor identified area of responsibility; however, the Lessor may not expend funds for the Lessee's area of responsibility, except in emergency conditions as identified in Condition 20. Health and Safety.

**35. CAMPING EXTENSIONS:**

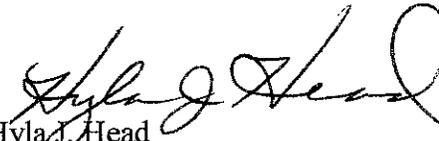
Extensions may be granted in accordance with the current Fort Worth District Recreation Policy Manual.

**36. SPECIAL ACCESS:**

The Lessee must allow users of the Radio Controlled Flying field free access into the appropriate park provided the user shows appropriate proof of insurance such as an AMA membership card.

**37.** Lease No. DACW63-1-11-0708 is subject to the Cooperative Agreement between the United States Army Corps of Engineers, Ft. Worth District and the Our Lands and Waters Foundation, attached **Exhibit E**.

**IN WITNESS WHEREOF**, I have hereunto set my hand by authority of the Secretary of the Army, this 30<sup>th</sup> day of September 2011.

  
Hyla J. Head  
Chief, Real Estate Division

**THIS LEASE** is also executed by the Lessee this 30<sup>th</sup> day of Spt, 2011.

  
Tom Burrell  
Chairman of the Board  
Our Lands & Waters Foundation

# Hickory Creek Park Lease for OLWF

[243 Acres]



Lake Lewisville

**Legend**

-  Fee Boundary
-  Lease Area
-  Roads
-  Park Boundary



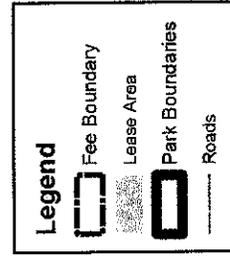
**US Army Corps  
of Engineers**  
Fort Worth District

The U.S. Army Corps of Engineers has depicted this spatial data as a representation of the various geographic information gathered from multiple sources. This data should be viewed only as a representation of the data and should not be used for any other purpose. No guarantee is made by the U.S. Army Corps of Engineers regarding the accuracy or completeness of the data or their suitability for a particular use.



# Westlake/Oakland Park Lease for OLWF

[554 Acres]



US Army Corps  
of Engineers  
Fort Worth District

The U.S. Army Corps of Engineers has depicted this spatial data as a representation of the various geographic information gathered from multiple sources. This data should be viewed only as a representation of the data and should not be used for any other purpose. No guarantee is made by the U.S. Army Corps of Engineers regarding the accuracy or completeness of the data or their suitability for a particular use.



**JOINT SURVEY AND INSPECTION OF CONDITION OF GOVERNMENT LEASED PROPERTY**

(ER 405-1-12)

**INSTRUCTIONS**

- |                                                                                                                                                                                                   |                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1. If considered necessary, use a separate ENG Form 3143a for each room surveyed.</p> <p>2. Additional sheets may be attached for physical characteristics of land and buildings: exterior</p> | <p>and interior details of buildings; service facilities; inventory of machinery and equipment; miscellaneous items and general remarks to otherwise covered in section II of this form or on ENG Form 3143a.</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

ADDED INSTRUCTIONS (Overprint, if desired)

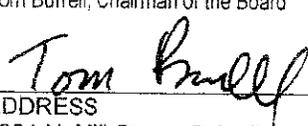
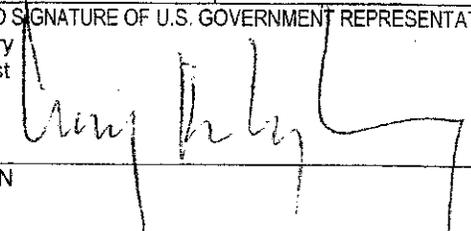
**Section I - PROPERTY DATA AND CONDITION AGREEMENT**

DATE OF SURVEY	LEASE NO.	LEASE COMMENCEMENT DATE	DATE POSSESSION TAKEN
14 Sep 2011			
ACTIVITY		TOTAL LEASED BUILDING AREA (Square feet)	
Lease of Hickory Creek Park			
DESCRIPTION AND LOCATION OF PROPERTY			

See Attached Sheet

**JOINT AGREEMENT ON THE CONDITION OF THE PROPERTY**

We, the undersigned, jointly made a survey and inspection of the condition of the property mentioned above. We agree that as of the date of survey, the condition of the property is as described herein.

THE CONDITION OF THE EXTERIOR OF THE PROPERTY IS INDICATED ON THE REVERSE SIDE OF THIS FORM. ROOM CONDITIONS ARE INDICATED ON ATTACHED ENG FORM 3143A.	NO. OF ATTACHMENTS
NAME AND SIGNATURE OF <input type="checkbox"/> OWNER <input type="checkbox"/> LESSOR/LESSEE <input type="checkbox"/> AGENT Our Lands and Waters Foundation Tom Burrell, Chairman of the Board 	NAME, TITLE, AND SIGNATURE OF U.S. GOVERNMENT REPRESENTATIVE Craig Kislingbury Realty Specialist 
ADDRESS 1801 N. Mill Street, Suite B Lewisville, TX 75057	ORGANIZATION CESWF-RE-M

**ENG FORM 3143, 1 JUN 60**

EXHIBIT 'B' 1

**JOINT SURVEY OF INSPECTION OF CONDITION  
OF GOVERNMENT LEASED PROPERTY  
HICKORY CREEK PARK**

<u>Property ID</u>	<u>Description</u>	<u>Condition</u>
LE 27104	Fee Collector Gatehouse	Fair
LE 2710	Water Tower/Fence	Fair
LE 27106	Camper Service Bldg.	Fair
LE 27107	Camper Service Bldg.	Fair
LE 27108	Camper Service Bldg.	Fair
LE 27109	Beach Change House	Fair
LE 27110	Boat Ramp	Fair
LE 27111	Pavilion	Fair
LE 27113	Boat Ramp	Fair
LE 27114	Vault Toilet	Fair
LE 27115	Vault Toilet	Fair
LE 27119	Well House	Fair
LE 27647	Foot Bridge	Fair
LE 27817	Parking	Fair
LE 27818	Parking	Fair
LE 27819	Parking	Fair
LE 27820	Parking	Fair
LE 27821	Parking	Fair

**JOINT SURVEY OF INSPECTION OF CONDITION  
OF GOVERNMENT LEASED PROPERTY  
HICKORY CREEK PARK**

<u>Property ID</u>	<u>Description</u>	<u>Condition</u>
LE 27822	Parking	Fair
LE 27823	Parking	Fair
LE 27824	Parking	Fair
LE 27825	Parking	Fair
LE 27826	Parking	Fair
LE 27827	Parking	Fair
LE 26585	Paved Roads (3.9 mi)	Fair
LE 26586	Unpaved Roads (.28 mi)	Fair
LE 38569	Waterline to City Service	Fair
LE 29135	Floating Dock	Fair
LE 29569	Playground	Fair
LE 32912	Courtesy Dock	Fair
LE 38279	Storage Building	Fair
LE 38677	Gate Attendant Shelter	Fair
LE 42338	Entrance Sign	Fair
LE 42341	3 Park Attendant Sites	Fair
LE 42342	10 Primitive Campsites	Fair
LE 42345	Hike & Bike Trail	Fair
LE 42347	Dump Station	Fair



**JOINT SURVEY OF INSPECTION OF CONDITION  
OF GOVERNMENT LEASED PROPERTY  
HICKORY CREEK PARK**

<u>Property ID</u>	<u>Description</u>	<u>Condition</u>
LE 42349	125 Campsites	Fair
LE 42350	Gravel Parking	Fair
LE 42352	Beach	Fair
LE 42357	20 Picnic Sites	Fair
LE 42360	2 Picnic Sites	Fair
LE 43220	Parking	Fair
LE 43221	Parking	Fair
LE 43223	Parking	Fair
LE 27105	Water Tower	Not in Service

**JOINT SURVEY AND INSPECTION OF CONDITION OF GOVERNMENT LEASED PROPERTY**

(ER 405-1-12)

**INSTRUCTIONS**

- |                                                                                                                                                                                            |                                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. If considered necessary, use a separate ENG Form 3143a for each room surveyed.<br><br>2. Additional sheets may be attached for physical characteristics of land and buildings: exterior | and interior details of buildings; service facilities; inventory of machinery and equipment; miscellaneous items and general remarks to otherwise covered in section II of this form or on ENG Form 3143a. |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

ADDED INSTRUCTIONS (Overprint, if desired)

**Section I - PROPERTY DATA AND CONDITION AGREEMENT**

DATE OF SURVEY	LEASE NO.	LEASE COMMENCEMENT DATE	DATE POSSESSION TAKEN
14 Sep 2011			

ACTIVITY Lease of Westlake Park	TOTAL LEASED BUILDING AREA (Square feet)
------------------------------------	------------------------------------------

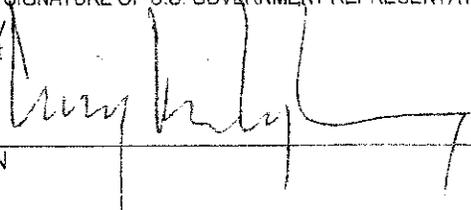
DESCRIPTION AND LOCATION OF PROPERTY

See Attached Sheet

**JOINT AGREEMENT ON THE CONDITION OF THE PROPERTY**

We, the undersigned, jointly made a survey and inspection of the condition of the property mentioned above. We agree that as of the date of survey, the condition of the property is as described herein.

THE CONDITION OF THE EXTERIOR OF THE PROPERTY IS INDICATED ON THE REVERSE SIDE OF THIS FORM. ROOM CONDITIONS ARE INDICATED ON ATTACHED ENG FORM 3143A.	NO. OF ATTACHMENTS
--------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------

NAME AND SIGNATURE OF <input type="checkbox"/> OWNER <input type="checkbox"/> LESSOR/LESSEE <input type="checkbox"/> AGENT Our Lands and Waters Foundation Tom Burrell, Chairman of the Board  	NAME, TITLE, AND SIGNATURE OF U.S. GOVERNMENT REPRESENTATIVE Craig Kislingbury Realty Specialist  
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

ADDRESS 1801 N. Mill Street, Suite B Lewisville, TX 75057	ORGANIZATION CESWF-RE-M
-----------------------------------------------------------------	----------------------------

DESCRIPTION AND LOCATION OF PROPERTY

<u>PROP ID#</u>	<u>DESCRIPTION</u>	<u>CONDITION OF PROPERTY</u>
LE-27103	Courtesy Dock	Good
LE-27790	Parking (34215.673 sq. ft.)	Good
LE-27791	Parking (7704.979 sq. ft.)	Good
LE-27792	Parking (2610.485 sq. ft.)	Good
LE-27793	Parking (4489.433 sq. ft.)	Good
LE-27794	Parking (3234.566 sq. ft.)	Good
LE-27795	Parking (15811.076 sq. ft.)	Good
LE-27796	Parking (16906.408 sq. ft.)	Good
LE-27797	Parking (1273.446 sq. ft.)	Good
LE-27798	Parking (1835.516 sq. ft.)	Good
LE-27799	Parking (13447.536 sq. ft.)	Good
LE-27800	Parking (3484.439 sq. ft.)	Good
LE-27801	Parking (15896.100 sq. ft.)	Good
LE-27802	Parking (7331.321 sq. ft.)	Good
LE-27803	Parking (2857.517 sq. ft.)	Good
LE-27804	Parking (28398.995 sq. ft.)	Good
LE-27805	Parking (15534.782 sq. ft.)	Good
LE-26576	Surfacing Paved Roads (1.973 mi.)	Good
LE-26574	Surfacing Unpaved Roads (0.689 mi.)	Fair
LE-42430	Entrance Sign	Poor
LE-42432	2 Park Attendant Campsites	Good
LE-42433	38 Picnic Sites	Poor
LE-42434	Drinking Fountain	Poor
LE-44124	Bypass Road (3,274 LF)	Fair
LE-59262	Gate House	New
LE-59762	Road in Westlake Park	Good
LE-59763	Bypass Road in Westlake Park	Good
LE-25902	Masonry Waterborne Toilet	Fair
LE-25904	Masonry Waterborne Toilet	Fair
LE-25884	Covered Pavilion	Fair
LE-25886	Covered Pavilion	Fair
LE-27100	Covered Pavilion	Fair
LE-27102	Boat Ramp	Good

(ATTACHMENT TO ENG FORM 3143)

EXHIBIT 3"

**JOINT SURVEY AND INSPECTION OF CONDITION OF GOVERNMENT LEASED PROPERTY**

(ER 405-1-12)

**INSTRUCTIONS**

1. If considered necessary, use a separate ENG Form 3143a for each room surveyed.

and interior details of buildings; service facilities; inventory of machinery and equipment; miscellaneous items and general remarks to otherwise covered in section II of this form or on ENG Form 3143a.

2. Additional sheets may be attached for physical characteristics of land and buildings: exterior

ADDED INSTRUCTIONS (Overprint, if desired)

**Section I - PROPERTY DATA AND CONDITION AGREEMENT**

DATE OF SURVEY	LEASE NO.	LEASE COMMENCEMENT DATE	DATE POSSESSION TAKEN
----------------	-----------	-------------------------	-----------------------

14 Sep 2011

ACTIVITY  
Lease of Oakland Park

TOTAL LEASED BUILDING AREA (Square feet)

DESCRIPTION AND LOCATION OF PROPERTY

See Attached Sheet

**JOINT AGREEMENT ON THE CONDITION OF THE PROPERTY**

We, the undersigned, jointly made a survey and inspection of the condition of the property mentioned above. We agree that as of the date of survey, the condition of the property is as described herein.

THE CONDITION OF THE EXTERIOR OF THE PROPERTY IS INDICATED ON THE REVERSE SIDE OF THIS FORM. ROOM CONDITIONS ARE INDICATED ON ATTACHED ENG FORM 3143A.	NO. OF ATTACHMENTS
--------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------

NAME AND SIGNATURE OF  OWNER  LESSOR/LESSEE  AGENT  
Our Lands and Waters Foundation  
Tom Burrell, Chairman of the Board

NAME, TITLE, AND SIGNATURE OF U.S. GOVERNMENT REPRESENTATIVE  
Craig Kislingbury  
Realty Specialist

*Tom Burrell*

*Craig Kislingbury*

ADDRESS  
1801 N. Mill Street, Suite B  
Lewisville, TX 75057

ORGANIZATION  
CESWF-RE-M

DESCRIPTION AND LOCATION OF PROPERTY

<u>PROP ID#</u>	<u>DESCRIPTION</u>	<u>CONDITION OF PROPERTY</u>
LE-27648	Courtesy Dock	Poor
LE-27806	Parking (3102.999 sq. ft.)	Fair
LE-27807	Parking (2623.994 sq. ft.)	Fair
LE-27808	Parking (2694.325 sq. ft.)	Fair
LE-27809	Parking (2087.445 sq. ft.)	Fair
LE-27810	Parking (1472.643 sq. ft.)	Fair
LE-26565	Surfacing Paved Rds. (2.724 mi.)	Fair
LE-26564	Surfacing Unpaved Rds. (0.43 mi.)	Fair
LE-38567	Gate Attendant Shelter #1	Good
LE-38568	Gate Attendant Shelter #2	Good
LE-29137	Waterline	Poor
LE-39271	Dump Station	Fair
LE-42375	5 Group Campsites	Poor
LE-42378	84 Campsites	Poor
LE-43222	Parking (25226.000 sq. ft.)	Fair
LE-25899	Masonry Waterborne Toilet	Poor
LE-25901	Masonry Waterborne Toilet	Poor
LE-25903	Masonry Waterborne Toilet	Poor
LE-27085	Playground Equipment	Fair
LE-27086	Playground Equipment	Fair
LE-27087	Pavilion Hex Shape	Fair
LE-27088	Boat Ramp	Good

(ATTACHMENT TO ENG FORM 3143)

## PRELIMINARY ASSESSMENT SCREENING

1. REAL PROPERTY TRANSACTION: The Corps proposes to issue a Lease, DACW63-1-11-0708, which will allow Our Lands & Water Foundation for cooperative management of Hickory Creek, Westlake, Oakland Parks at Lewisville Lake, Texas. The new Lease will become effective 1 November 2011 and will expire on 31 October 2016 with options.

a. A COMPREHENSIVE RECORDS SEARCH was conducted which included a review of the following areas:

- 1) Real Estate Division files.
- 2) Real Estate Division maps.
- 3) Lewisville Lake Master plan.
- 4) Operations Division files.
- 5) Environmental Review Guide for Operations (ERGO).

b. INTERVIEWS WERE CONDUCTED with the following: None

c. A SITE INVESTIGATION was performed by Real Estate and Operations personnel on September 14, 2011, which consisted of a visual inspection of the area.

## 2. STATEMENT OF FINDINGS

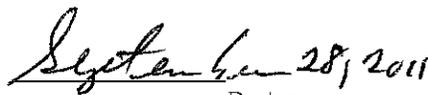
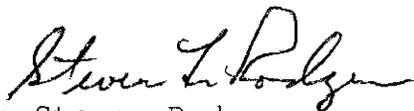
### a. COMPREHENSIVE RECORDS SEARCH SUMMARY

A complete search of the District files which pertain to the proposed lease area was made as stated in 1.a. above. The records search revealed no other evidence of any hazardous substance being stored, released or disposed of on the property involved. The operating plans and historical records also showed no other evidence of any activity which would have contaminated the property with hazardous substances.

### b. SITE INVESTIGATION SUMMARY

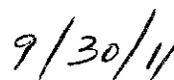
A site investigation of the proposed lease area was made as stated in 1.b. above. This visual inspection revealed no unusual odors, stained soils, stressed vegetation, suspicious seepage, manmade land features, unnatural surface features or

other evidence that would indicate the presence of hazardous wastes. Based on this inspection it was determined no hazardous substance has been stored, released or disposed of on the property involved. Project personnel have no other knowledge of past activities which might have created a hazardous situation.



Prepared By: Steven Rodgers  
Realty Specialist, M & D Branch

Date



Approved By: Hyla J. Head  
Chief, Real Estate Division

Date

## DIVISION OF RESPONSIBILITIES

**DEFINITION OF RESPONSIBILITIES:** In general, the following definitions are understood as they relate to the responsibilities, as listed below:

**a. Operations and Maintenance (O&M)** – This includes routine maintenance activities that are of a recurring nature (i.e mowing, cleaning, trash removal, custodial services, painting, minor repairs) and park operations such as fee collection, customer service to the visitors, and interpretative services.

**b. Major Maintenance, Repairs, and Replacements (MR&R)** – This includes major repairs, replacements, and non-recurring, non-routine maintenance such as roof repairs, renovation, and rehabilitation of facilities,

**c. Utilities** – Lessee will pay all utility bills (water, sewer, electric, cable, phone, etc.). Note: NRRS utilities will be paid in accordance with the NRRS Participation Agreement.

AREA OF RESPONSIBILITY		LESSEE - O&M	LESSOR - MR&R
<b>1.</b>	<b>Concessions:</b>		
	a. Sales	X	
	b. Inventory	X	
	c. Operate Sales Area	X	
<b>2.</b>	<b>Recreation Facilities:</b>		
	a. Picnic / Campsites	X	X
	b. Restrooms / Shower houses	X	X
	c. Entrance station	X	X
	d. Roads and parking area	X	*A
	e. Water system	X	X
	f. Wastewater system	X	X
	g. Shelters	X	X
	h. Boat Ramps & Courtesy Docks	X	X
	i. Swim beach	X	X
	j. Dump station	X	X
	k. Trails	X	X
	l. Playground	X	X
	m. Utilities	X	*B
	n. Rec. Facility - Mowing, Cleaning, & Ground Maintenance	X	
	o. Roadway & Park Area – Mowing, Cleaning & Ground Maintenance	X	X
	p. Amphitheater	X	X
	q. Managing Daily Customer Service to Visitors	X	
<b>3.</b>	<b>Visitor Assistance (Regulation Enforcement)</b>		*C
<b>4.</b>	<b>Law Enforcement Contracts</b>		X
<b>5.</b>	<b>O&amp;M Interpretive Services</b>	X	X
<b>6.</b>	<b>Development Plan</b>	X	X
<b>7.</b>	<b>Natural Resource Management</b>		X
<b>8.</b>	<b>Shoreline Maintenance</b>		
	a. Debris removal	X	*D
	b. Control of erosion		X
<b>NOTES:</b>			
*A	Lessor - Maintain, Repair, Renovate, and Resurface: roads, culverts, drainage ditches, and parking areas		
*B	Lessor - Utility Distribution Infrastructure.		
*C	Lessor - Ranger Patrols & Regulatory Signage (ie. Regulatory signage including - Speed Limit, Caution, Safety, Buoys, Vessel / Vehicle Barriers, etc.)		
*D	Lessor - Flood Event Debris and/or Hazardous Materials.		

**NOTE:** The above division of responsibilities' as described above, will be explicitly defined further with footnotes to this table; if needed in the future, to ensure a clear understanding of each partners responsibilities.

**EXHIBIT "D"**

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,

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

**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 public's 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 public's 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.

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

(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.

### 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.

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

- 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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Our Lands & Waters Foundation

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, amphitheaters, 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.

#### 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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Our Lands & Waters Foundation

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.

**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 30<sup>th</sup> 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 9<sup>th</sup> 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