

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS
AND
THE NATIONAL FISH AND WILDLIFE FOUNDATION

ARTICLE I - PURPOSE

This Memorandum of Understanding (MOU) is entered into by and between the U.S. Army Corps of Engineers (USACE) and the National Fish and Wildlife Foundation (NFWF), collectively "the Parties," in jointly supporting the creative and sustainable solutions to water resources challenges, and actively pursuing the protection, restoration, and enhancement of fish and wildlife habitat, and the myriad species which rely on the habitat adjacent to facilities or lands under the control of the USACE or its Defense Department clients consistent with the USACE Civil Works, Regulatory and Real Estate missions.

ARTICLE II - BACKGROUND

USACE provides national leadership in the development, management, conservation and restoration of the nation's water resources and provides real estate services for the agencies of the U.S. Department of Defense. The NFWF is a charitable, non-profit organization established by law (16 USC 3701 et seq.) to assist federal agencies in undertaking and conducting such activities as will further the conservation and management of fish, wildlife, plants, and other natural resources. The NFWF has an extensive and active network of conservation partnerships; a proven ability to invest and leverage federal and non-federal funds; and a unique position as a facilitator with other Federal agencies, as well as a variety of local, state, and non-governmental organizations. Both USACE and the NFWF have worked successfully together on projects of significant mutual interest and value to the nation and want to continue this national partnership. In accordance with applicable laws, regulations, and Army policies, this MOU establishes a framework for continuing this partnership based on the following:

- (1) Shared commitments to the management of water resources consistent with the need for sustainable land use, development and conservation;
- (2) Shared commitments to the value of working in partnerships, both public and private, and engaging communities and diverse stakeholders by identifying, understanding, and resolving water resource management challenges;
- (3) Shared commitments to the value of developing, implementing and exploring market-based incentive tools for environmental services and in lieu fee programs for compensatory mitigation that can effectively conserve and restore aquatic species and

aquatic resources (i.e., under Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act, etc).

(4) Shared desire to exchange and disseminate conservation and environmental information.

ARTICLE III – AUTHORITY

USACE and the NFWF intend to conduct the activities contemplated in this agreement in accordance with existing authorities including NFWF's Authorization Act, as amended (16 USC 3701 et seq.). If any provisions of this MOU are determined to be inconsistent with existing laws or regulations or directives governing the signatories, then the provisions of this MOU not affected by a finding of inconsistency shall remain in full force and effect.

ARTICLE IV – UNDERSTANDING OF THE PARTIES

(1) The USACE and the NFWF desire to conserve freshwater, estuarine and coastal water resources, and natural communities inhabited by native animals and plants.

(2) The USACE and the NFWF desire to promote greater use of natural infrastructure approaches to flood protection and navigation projects, and mitigation of stormwater impacts on water resources at various scales.

(3) The USACE and the NFWF desire to promote innovative thinking about conservation needs to maintain healthy water resources and associated natural communities.

(4) The USACE and the NFWF desire to encourage water management approaches that benefit natural communities of plants and animals while simultaneously meeting the present and future needs of human communities.

(5) The USACE and the NFWF desire to support the development of appropriate partnerships with Federal, state, local and tribal agencies as well as non-governmental organizations that are necessary to meet the challenges of protecting and enhancing habitat for fish and wildlife species.

(6) Subject to the availability of resources and in accordance with applicable laws, regulations, Army policies, and NFWF policies; the USACE and the NFWF desire to do demonstration projects to improve fish and wildlife management or to test promising restoration strategies and techniques, and evaluate their effectiveness in meeting multiple objectives.

(7) The USACE will benefit from the NFWF's extensive and active network of conservation partnerships, from NFWF's ability to invest and leverage federal and non-federal funds, from NFWF's conservation expertise and evaluation and monitoring

capabilities, and from NFWF's unique position as a facilitator with other Federal agencies, and a variety of local, state, and non-governmental organizations, to explore innovative conservation approaches and joint ventures.

(8) The NFWF will benefit from the USACE's nationwide presence and expertise in water resource management; its support to the civilian and military missions of the Defense Department on United States soil; and its leadership in water resource restoration.

ARTICLE V - RESPONSIBILITIES

Subject to the availability of resources and in accordance with applicable laws, regulations, Army policies, and The NFWF policies:

(1) USACE will notify its Division and District Offices, relevant laboratories and commissions of the establishment of this MOU.

(2) NFWF will notify its Regional Offices and, on a case-by-case basis, other partners, of the establishment of this MOU.

(3) The USACE and the NFWF will cooperate in identifying opportunities to promote the conservation and/or restoration of fish and wildlife habitat, water resources and natural ecosystems both on a project-specific level and at a strategic watershed or other relevant scale, and to promote natural infrastructure and sustainable development consistent with the USACE mission and authorities to protect water resources. These opportunities may include developing in lieu fee programs, mitigation banks, restoration projects, reservoir conservation plans, and other efforts to assist the USACE in executing its responsibilities under its authorities.

ARTICLE VI – PERSONNEL

Each Party is responsible for all costs of its personnel, including pay and benefits, support, and travel. Each Party is responsible for supervision and management of its personnel.

ARTICLE VII – GENERAL PROVISIONS

(1) Funding: This MOU is neither a fiscal nor funds obligation document. The MOU does not commit or authorize the expenditure of any funds. Any endeavor involving reimbursement or contribution of funds between the parties to the MOU will be handled in accordance with applicable laws, regulations, and procedures. Such endeavors, if any, will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This MOU does not provide such authority.

(2) Cooperation: This MOU is intended only to improve cooperation between USACE and the NFWF, and is not intended to create any right or benefit, substantive or procedural, enforceable by law by any party against the United States, its agencies, its officers, or any person.

(3) Endorsement: Nothing in this MOU may be interpreted to imply that the United States or its agencies endorse any of the NFWF's products, services or policies.

(4) Exclusivity: This MOU in no way restricts USACE or NFWF from participating in similar activities or arrangements with other public or private agencies, organizations or individuals. Nothing in this MOU shall be construed as affording the either organization any preferential treatment, exclusive rights or privileges.

(5) Trademarks and Promotion: USACE does not permit the use, reproduction, copying or redistribution of its brands, trademarks, and logos without written permission from the Department of the Army. The NFWF will obtain prior approval of all press releases, published advertisements, or other statements intended for the public that refer to this agreement or to the agencies, or the name or title of any employee of the agencies in connections with this agreement.

(6) Modification of MOU: This MOU may only be modified by the written mutual agreement of the Parties, duly signed by their authorized representatives. This MOU will be reviewed annually or on around the anniversary of its effective date for progress in planning, implementing and evaluating the success of projects undertaken as a result of this MOU.

(7) Disputes: Any disputes relating to this MOU will, subject to any applicable law, Executive order, directive, or instruction, be resolved by consultation between the Parties.

(8) Termination: This MOU may be terminated at will by either Party at any time upon providing sixty (60) days advance notice in writing.

(9) Transferability: This MOU is not transferable except with the written mutual consent of the Parties.

(10) Entire Understanding: It is expressly understood and agreed that this MOU embodies the entire understanding between the Parties regarding the MOU's subject matter.

(11) Severability: Nothing in this MOU is intended to conflict with current law, regulation, or USACE policies. If a term of this MOU is inconsistent with such authority or policy, then that term shall be invalid, but the remaining terms and conditions of this MOU shall remain in full force and effect.

(12) Effective Date: This MOU takes effect beginning on the day after the last Party signs.

(13) Expiration Date: This MOU expires on 30 August 2023.

ARTICLE VIII – POINTS OF CONTACT

The Point of Contact for USACE in regards to this MOU is Mr. Jeremy Crossland, Program Manager for Land Use. Mr. Crossland may be contacted directly at 202-761-4259, or Jeremy.M.Crossland@usace.army.mil

The Point of Contact for NFWF in regards to this MOU is Mr. Jody Olson, Director of Federal Relations. Mr. Olson may be contacted directly at 202-595-2481, or jody.olson@nfwf.org

APPROVED:

For the U.S. ARMY CORPS OF ENGINEERS

For the NATIONAL FISH
AND WILDLIFE FOUNDATION



James C. Dalton, P.E.
Director of Civil Works



Jeff Trandahl
Executive Director

Date: OCT 06 2017

Date: 10/16/17