

**COOPERATING ASSOCIATION AGREEMENT
COOPERATIVE AGREEMENT BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS AND
THE SEQUOIA PARKS CONSERVANCY**

This Cooperative Agreement is for the mutual benefit of both parties and is between the United States Army Corps of Engineers, Terminus Dam, Lake Kaweah (hereinafter referred to as the "Corps") and the Sequoia Parks Conservancy (hereinafter referred to as the "Conservancy"), acting through the Chairman of the Board of Directors or the Board's designee.

WITNESS:

WHEREAS, The Corps operates Terminus Dam, Lake Kaweah for public recreation and the understanding of the Corps mission in the Terminus Dam, Lake Kaweah area; and,

WHEREAS, The Corps achieves its operational goals for natural resources management through a wide range of activities, programs and events; and,

WHEREAS, The Corps operates its program for the benefit of the public, 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, displays and publications which illustrate the Corps, its mission and activities at Terminus Dam, Lake Kaweah, as well as the archaeological, natural, and cultural history of the area and the relationship to Sequoia National Park and other public lands; and,

WHEREAS, The Corps and the Conservancy mutually recognize there are significant national public benefits to a visitor center which uses interpretive techniques and supports the Corps interpretive goals for education, perpetuation of national pride, preservation of national heritage, safety, and enjoyment of the people of the United States; and,

WHEREAS, The Corps natural resource management program fosters the stewardship of our natural and cultural environment; and,

WHEREAS, The Conservancy has as its purpose the interpretation and education for the public's benefit activities at sites of historical and environmental significance through the use of programs, exhibits, display, publications, and other materials; and,

WHEREAS, The Conservancy has the authority to assist the Corps in its presentation to the public of the natural, cultural, historical, environmental, recreational, and project related features of Terminus Dam, Lake Kaweah through programs, exhibits and materials; and,

WHEREAS, The Corps has the authority in its presentation to the public of the natural, cultural, historical, and project related features of Terminus Dam, Lake Kaweah through programs, exhibits and materials; and,

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; and,

WHEREAS, The Corps has the authority, pursuant of section 4 of the 19M Flood Control Act, 16 U.S.C. 460d, to permit the maintenance and operation of recreation facilities at

water resources development projects by local interests and may enter into leases with non-profit organizations for park and recreation purposes; and,

WHEREAS, the Corps wishes to accept, and the Conservancy wishes to provide the hereinafter described interpretive and educational services to the visiting public at Terminus Dam, Lake Kaweah;

NOW, THEREFORE, the parties agree as follows:

1. The Corps authorizes the Conservancy to provide, and the Conservancy agrees to provide, the hereinafter described interpretive and educational services; and/or research and scientific services, to the visiting public and/or the Corps.

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 Conservancy for all proposals, programs, special events, suggestions, and other activities that the Conservancy might wish to engage in.

b. Use of Government Facilities.

(1) Should the Conservancy, as part of its cooperative activities, require the use of Corps facilities at Terminus Dam, Lake Kaweah or the Lake Kaweah Visitor Center the Corps agrees, that in recognition of the services the Conservancy is contributing to the public, to provide at no cost to the Conservancy such facilities, utilities, janitorial services, and routine and general maintenance when incidental to the normal operation of the facility by the Corps.

(2) Should the Conservancy require facilities, utilities, and services over and above what the government would normally require for operation of the facility, or area used by the Conservancy, the Conservancy will reimburse the Corps at an agreed upon, but nominal cost in recognition of the services that the Conservancy is contributing to the public.

3. CONSERVANCY RESPONSIBILITIES.

a. Corporate Requirements.

(1) The Conservancy's Articles of Incorporation and By-Laws shall comply with the requirements of the state in which the Conservancy is incorporated. Non-profit 501(c)(3) status must be maintained in accordance with state and Federal laws. The Conservancy will make available for inspection, at the request of the Corps, documents demonstrating non-profit status.

(2) This agreement will automatically terminate if non-profit 501(c)(3) status is not maintained.

(3) The Conservancy agrees to indemnify, hold harmless, and defend the United States against all fines, claims, damages, losses, judgments, and expenses resulting from any fault of the Conservancy in connection with operating the facilities under this Agreement. The Conservancy does not indemnify, defend, and hold harmless the United States or anyone else against any fines, claims, damages, losses, judgments, or expenses resulting in whole or in part from the conduct, activity or fault of the United States, and the Conservancy shall not be liable for any fines, claims, costs, losses, judgments, or expenses resulting from the conduct or fault of others.

(4) The Conservancy shall procure and employ liability insurance with respect to the activities of the Conservancy and its employees. The United States shall be named as an additional insured on all such policies. All such policies shall specify that the insurer shall have no right of subrogation against the United States for payment of any premiums or deductible hereunder.

(5) The Conservancy 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.

b. Interpretive Activities.

(1) The Conservancy may offer educational and interpretive services, which support the mission of the Corps and/or the project and other public lands in the area including national parks and national forests. This includes assisting, planning, designing, implementing, and conducting interpretive and educational programs, activities and exhibits.

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

(3) As part of this Agreement, the Conservancy may 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 Terminus Dam, Lake Kaweah (or other Corps sites), the Corps of Engineers, and other public lands in the area including national parks and national forests.

(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 exhibitory or programs at Corps visitor centers (or other Corps facilities) and assist in preservation programs as appropriate.

(c) Assist in the development and improvement of interpretive devices, and educational materials including signs, exhibits, materials, and audio-visual aids.

(d) Assist in the sponsorship and coordination of professional workshops, training opportunities and special events.

(e) Assist in all practical ways the interpretive, educational and community programs of the Corps (or other Corps site) for the benefit of the American public.

c. Sales Option.

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

(2) The Conservancy is hereby authorized to sell and/or distribute interpretive and educational items such as publications, maps, audio/visual aids, crafts, theme related gifts, and other objects directly related to the interpretive and educational themes of the area, visitor center (or other facility), region, and Corps. The Corps may request the Conservancy to sell specific items of interpretive value.

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

(4) The Conservancy will sell only items that are appropriate and of high quality. The Conservancy will not sell any item that has not been approved by the Corps District Commander or his/her authorized representative. The Conservancy will sell items at their fair market value and prices of said items will be submitted and approved in writing, in advance by the District Commander or his/her authorized representative.

(5) The Conservancy 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) The Conservancy 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.

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

(8) The Conservancy may redesign and renovate sales facilities as necessary and at its own expense, including renovation of display structures, furnishing, equipment, signing, display lighting, and lighting in the immediate area of the facility, provided that all plans are approved in advance by the Corps. Equipment, displays, and furnishings provided by the Conservancy for bookstore operations shall remain the property of the Conservancy unless donated to the Corps.

d. Donor Funds Management.

(1) The Conservancy is hereby authorized to set up and administer the collection and distribution of funds deposited in a visitor center donation box. Such funds will be kept on site and may only be expended in support of the interpretive and educational programs at Terminus Dam, Lake Kaweah or as approved by the Corps.

(2) The Conservancy is hereby authorized to administer on behalf of the Corps, major gifts of value designated by a donor for the benefit of the site. The Conservancy will account for such funds as designated gifts and will hold such funds until the Corps authorizes their expenditure.

e. Fiscal Management.

(1) The Conservancy 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.

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

(3) The Corps may review the fiscal records of the Conservancy as they pertain to the execution of this Agreement at any time during the term of this Agreement.

4. JOINT RESPONSIBILITIES.

a. Donation of Interpretive Services or Materials.

(1) The Conservancy may, at the discretion of its Governing Board, donate to the Corps a percentage of prior year sales from the outlet for the express purpose of supporting

the interpretive, educational, and natural resource protection programs at the site. The Corps reserves the right to accept or decline without obligation, any donation of funds, materials, services, or loan by the Conservancy.

(2) All donations received in an SPC donation box located at Terminus Dam, Lake Kaweah will be utilized to fund programs and projects at Terminus Dam, Lake Kaweah.

b. Personnel.

(1) The Conservancy and the Corps shall each designate, in writing, a Conservancy member and a Corps person and alternate who will act as points of contact for the purpose of implementing this Agreement.

(2) The Conservancy 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 Conservancy with nominal duties, including sales. The Conservancy shall have sole responsibility and right to compensate, hire, terminate, promote, advance, and direct the work activities of its employees.

(3) The Corps personnel may not serve in a voting capacity on the governing board, or as Treasurer for the Conservancy. Corps personnel may serve in an advisory capacity on the Conservancy's governing board or committees. Corps personnel may not act as the official representative of this Conservancy in any matter relating to the Corps, or the terms of this Agreement. However, if the Conservancy has a membership program, Corps personnel may join and participate in membership activities.

(4) The Corps will orient all Conservancy 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. Conservancy staff and volunteers involved in visitor contact will receive additional orientation in regard to interpretive services. All orientation will be conducted prior to assumption of duties.

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

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 Conservancy 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 Conservancy.

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 either party gives notice of cancellation before the date of renewal. Either party at any time during the term of the Agreement upon 90 days written notification to the other may terminate the agreement.

Prior to giving such notice, the Corps will meet with the Conservancy to set forth the reasons for such termination.

8. MISCELLANEOUS.

a. The rights and benefits conferred by this agreement shall be subject to the laws of the United States governing the Corps of Engineers and to the rules and regulations promulgated hereunder 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 Conservancy as may be required by a Lease Agreement. In situations where the Conservancy leases facilities or areas from the Corps, this Agreement would automatically become null and void upon the termination or cancellation of the Lease Agreement.

c. The Conservancy agrees that all its activities shall be conducted in accordance with all applicable laws and regulations, both state and Federal.

IN WITNESS WHEREOF, the Conservancy has caused this agreement to be executed this.

_____ day of _____, 2023

By _____

Mathew Macia
Chairperson, Board of Directors

WITNESS WHEREOF, The Corps has caused this agreement to be ratified this.

_____ day of _____, 2023

By _____

Chad W. Caldwell, P.E.
Colonel, U.S. Army
Commander and District Engineer