

COOPERATIVE AGREEMENT BETWEEN THE
U.S. ARMY CORPS OF ENGINEERS AND THE
HARTFORD AREA CHAMBER OF COMMERCE

This Cooperative Agreement is for the mutual benefit of both parties and is between the United States Army Corps of Engineers, New England District(hereinafter referred to as the Corps) and the Hartford Area Chamber of Commerce (hereinafter referred to as the Chamber), acting through the President or the President's designee.

WITNESSETH:

WHEREAS, the Corps operates North Hartland Lake for flood control, public recreation, natural resources management and the understanding of the Corps mission; 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 programs 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, events 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 the North Hartland Lake Project as well as the archaeological, natural and cultural history of the area; and,

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

WHEREAS, the Chamber has the authority and the capacity to assist the Corps in its presentation of the natural, cultural, historical and project related features of the North Hartland Lake Project to the public through programs, events, exhibits and materials; and,

WHEREAS, the Corps has the authority, pursuant to Section 4 of the 1944 flood Control Act, 16 U.S.C. 460d, to permit the maintenance and operation of recreational facilities at water resource development projects by local interests, and may enter into leases with non-profit organizations for park and recreation purposes; 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 890665; The National Environmental Policy Act, Public Law 89-190; and the Archaeological Resource Protection Act, as amended, Public Law 96-95, to provide Recreation and Natural Resources Management programs, activities and interpretive functions; and,

WHEREAS, the Chamber's Mission Statement declares: The Hartford Area Chamber of Commerce is organized as a non-profit organization to develop, promote, and foster business and a sense of community in the Hartford area, and

WHEREAS, the Chamber raises funds to support its mission through various fund raising events, including but not limited to, the hosting of an annual hot air balloon festival, the sale of balloon festival posters and tee shirts, raffle tickets, and the sale of other proprietary items, and

WHEREAS, the Chamber's business offices are currently located in the train station on Railroad Row, White River Junction, Vermont and the Chamber desires to maintain an office in the Quechee Gorge Regional Visitor Center, and

WHEREAS, the Corps wishes to accept and the Chamber wishes to provide the hereinafter described staffing, and other services to the visiting public at the Quechee Gorge Regional Visitor Center.

NOW THEREFORE, the parties agree as follows:

The Corps authorizes the Chamber to provide, and the Chamber agrees to provide staffing and other services for the Quechee Gorge Regional Visitor Center (hereinafter referred to as Visitor Center), including but not limited to, approved community, informational and educational programming and events, approved interpretive displays and literature, entertainment and interpretive programming for the operation of the Visitor Center.

I. CORPS RESPONSIBILITIES

A. Timely Review and Approval

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

B. Use of Corps Facilities

1. In recognition of the services the Chamber is contributing to the public, the Corps agrees to provide the Chamber with the use of the Visitor Center. The Corps will be responsible for the capital improvements and maintenance costs of the building at no cost to the Chamber.

2. The Chamber will be responsible for the daily operation of the Visitor Center. It is understood that the Chamber will maintain its business offices in the Visitor Center to better meet the needs of this Agreement and the needs of the Chamber.

3. The Chamber will not operate a retail sales outlet at the Visitor Center, but will be allowed to continue to sell proprietary type sale and fundraising items which are usually sold in the Chamber's normal course of business, as described in Appendix A. The Chamber shall provide to

the Corps on an annual basis no later than January 1st, a list of proprietary type sale and fundraising items it intends to sell. The list shall be approved annually by the District Commander or his designee if any additions to Appendix A. In the event there are any changes to the items set out in this Appendix, the Chamber agrees to present these items for approval to the Corps prior to offering these items for sale at the Visitor Center.

4. The Corps reserves the right to staff the Visitor Center with full time personnel.

5. The Corps shall also have the right to display interpretative data at the Visitor Center, including but not limited to, promotional, educational and interpretive materials that support the mission of the Corps and the North Hartland Lake project.

C. Facilities

1. The Corps shall be responsible for the cost of electricity.

2. The Corps shall be responsible for all water and sewer costs and fees including cleaning of the septic tank and maintaining the leach field.

3. The Corps shall be responsible for all heating costs and maintenance/repairs of heating units.

4. The Corps shall contract for janitorial services for the public restroom. The schedule of cleaning shall not conflict with the operation of the Visitor Center.

5. The Corps shall be responsible for the costs and expenses to maintain/repair the elevator.

6. The Corps shall be responsible for the cost of the operation and maintenance of the security system in the building.

7. The Corps assumes responsibility for all capital improvements, preventive maintenance, scheduled and unscheduled repairs associated with the Visitor Center, excluding any repairs needed as a result of damage caused by activities associated with the Chamber. In the interest of good maintenance, the Chamber personnel will notify the Corps representative of any needed maintenance covered under the terms of this Agreement.

8. The Corps reserves the right to alter the days and/or hours that the facility is open on an as needed basis. Circumstances that would cause this include but are not limited to, changes in personnel, budget and staffing.

II. CHAMBER RESPONSIBILITIES

A. Corporate Requirements

1. The Chamber agrees to operate the Visitor Center by opening the facility to the public and staffing the facility during hours of operation to dispense information of interest to visiting travelers, including brochures and information on its members and local businesses in the Upper Valley and the State of Vermont, dispensing information to the public on programs sponsored by the Corps, and providing information and facilities for the public for the safe and appropriate use of Corps projects.

2. The Chamber's Articles of Incorporation and By-Laws shall comply with the requirements of the state in which the Chamber is incorporated. Nonprofit tax-exempt status must be maintained in accordance with state and Federal laws. The Chamber will make available for inspection upon reasonable notice, at the request of the Corps, documents demonstrating its nonprofit status. The Chamber will also make its Articles of Incorporation and any amendments thereto available to the Corps.

3. This Agreement will automatically terminate if the Chamber does not maintain its non-profit tax-exempt status.

4. The Chamber shall have liability insurance with coverage limits of \$1,000,000.00 for personal injury, death and property damage naming the United States as an additional insured 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 Chamber in connection with activities under this Agreement. The Chamber shall furnish the Corps with current insurance certificates for the coverages maintained, providing that the coverages shall not be terminated or modified on less than thirty (30) days advance written notice to the Corps. The Corps reserves the right to require the Chamber to increase its liability insurance limits from time to time during the term of this Agreement in order to maintain commercially reasonable levels of insurance. The Chamber shall also maintain, at its cost and expense, fire and casualty insurance for the Chamber's equipment and personal property in such amounts and coverages as the Chamber deems appropriate.

5. The Chamber 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 Chamber may offer promotional, educational and interpretive services that support the mission of the Corps and the North Hartland Lake Project. This includes promoting, assisting, planning, designing, implementing and conducting interpretive, educational, and recreational programs, activities, exhibits and events.

2. The Chamber will cooperate with the Corps in the following activities:

a. Make available to visitors by distribution, suitable interpretive and educational literature and aids to increase visitor understanding and appreciation of the natural history, cultural,

historical, and man-made features of the North Hartland Lake Project area (or other Corps site) and the Corps of Engineers and other agencies or organizations directly related to fulfilling the Corps mission and strategic vision.

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

c. Assist in all practical ways the interpretive, educational and community outreach programs of the Corps, such as the Volunteer Program, Public Lands Cleanup Day, Wildlife Habitat Improvements, natural resource, interpretative or visitor service activities, and other programs for the benefit of the American public.

d. The Corps will provide interpretive media in forms suitable for use in the Visitor Center. These may include brochures, displays, and interactive hardware and software. At times the Corps will provide a park ranger to provide interpretive programs at the Visitor Center and to lead interpretive walks in the Quechee Gorge area.

e. The Chamber shall notify the Corps, in advance, of all events (interpretative, educational, promotional, and demonstrational) that will be presented by any outside group(s) on Corps property.

C. Information Dissemination

1. The Chamber shall staff a reception area for visitors and make available public information about the Corps of Engineers, the North Hartland Lake Project and other Corps projects.

2. The Corps may, through the use of its Volunteer Program, make available to the Chamber, volunteers to assist in the greeting of the visitors and disseminating information.

D. Facilities

1. The Chamber shall provide office furniture, equipment and supplies that will be exclusively used by the Chamber that are typical of an office setting. The Chamber shall be responsible for all costs and expenses.

2. Any alteration or renovation of any or all facilities covered under this agreement shall have the prior approval of the District Engineer or his authorized representative.

3. The Chamber shall be responsible for all costs and expenses to maintain its own data systems, including but not limited to, internet, telephone and cable.

4. The Chamber shall be responsible for all costs associated with advertising fees.

5. The Chamber shall be responsible for all costs and expenses for the rental of rugs.

6. The Chamber shall be responsible for staffing, payroll and insurance costs and expenses for Chamber staff.

7. The Chamber shall be responsible for all snow and ice removal, including but not limited to, the parking lot, roof, all entrances, exits, and walkways. The Chamber shall be responsible for all costs and expenses.

8. The Chamber shall be responsible for supplies for vending machines and/or coffee machines. The Chamber shall be responsible for all costs and expenses.

9. The Chamber shall be responsible for janitorial services and supplies for cleaning of the Visitor Center, including but not limited to emptying trash receptacles, sweeping/mopping floors, vacuuming and removing stains from carpets, dusting horizontal surfaces, replacing light bulbs, and general house keeping but excluding the maintenance/cleaning of the public restroom. The Chamber shall be responsible for all costs and expenses.

10. The Chamber shall be responsible for all grounds maintenance, including but not limited to, mowing and maintaining all plantings and lawns. The Chamber shall be responsible for all costs and expenses.

E. Fiscal Management

1. The Chamber shall maintain complete and accurate records and no later than 120 days following the end of the Chamber's fiscal year shall submit to the District Engineer reports and data for the preceding year to include a financial statement for the activity covered by this Agreement and compiled by an independent certified public accountant or by an independent licensed public accountant certified or licensed public accountant certified or licensed by a regulatory authority of the state.

2. The District Engineer shall have the right at any time (1) to verify the financial reports and copy the books, correspondence, memoranda, income tax returns and other records of the Chamber and of the records or proprietary or affiliated companies, if any related to this Agreement during the period of the Agreement. This right shall extend for such time thereafter as may be necessary to accomplish such verification, but in no event more than five (5) years after the close of the business year of the Chamber; (2) to require the Chamber to furnish an audited financial statement; or (3) to require the Chamber to furnish an audited statement of gross receipts for the concession operation, including the gross income of any sublease operation, and certification of the accuracy of the reported income.

3. Statements will be prepared by an independent certified public accountant or by a licensed public accountant certified or licensed by a regulatory authority of a state. Audits will be in accordance with the auditing standards and procedures promulgated by the American Institute of Certified Public Accountants. Financial statements requiring audits and accompanied by remarks such as "prepared from client records without audit" are unacceptable. Audited and reviewed financial statements shall contain appropriate footnotes. The independent licensed or certified public accountant shall include a statement to the effect that the amounts included in the

financial report are consistent with those included in the Federal tax returns. If the amounts are not consistent, then a statement showing differences shall be included. An audit of the Chamber's tax return is not required.

III. JOINT RESPONSIBILITIES

A. Donation of Interpretive Services or Materials

1. The Chamber may, at the discretion of its officers, loan materials and services to the Corps. The Corps reserves the right to accept or decline without obligation; any service or loan by the Chamber.

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

B. Personnel

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

2. The Chamber will provide such personnel as are reasonably necessary to conduct, operate and manage its cooperative activities with the Corps. This does not preclude Corps personnel, during the course of their normal duties from assisting the Chamber with normal duties, including the dissemination of interpretive information. The Chamber will provide personnel to greet and inform the public in accordance with the minimum operational hours as defined in the Operations Plan.

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

4. The Corps will orient and train Chamber management personnel so they may train Chamber staff and volunteers with regard to Corps rules, regulations, and requirements, specifically concerning the project and facilities, safety and appropriate emergency procedures. Chamber staff and volunteers involved in visitor contact shall receive additional orientation with regard to interpretive services. All orientation will be conducted prior to assumption of duties.

5. Chamber employees or volunteers shall not wear the Corps uniform, or items of clothing that resemble the uniform. Chamber representatives shall wear appropriate dress when addressing the public. Employees and volunteers of the Chamber, when working at duties that bring them into contact with the public will wear visible identification that identifies them as a Chamber

employee or volunteer. A sign will be posted that identifies who and what the Chamber is and how funds generated from sales are used.

6. The Visitor Center will be subject to inspections by the Corps. The Corps may require the Chamber to perform periodic maintenance for such items which include but are not limited to washing of walls, general housekeeping, cleaning of light fixtures and replacement of bulbs, and other small housekeeping tasks. In such cases, the Corps will provide a detailed list of maintenance to be performed by the Chamber with an expected completion date for each maintenance item. Failure to respond to a maintenance work order may result in termination of this Agreement.

7. The Chamber will operate the visitor center and provide staff on Friday-Sunday starting November 1 through the weekend before Memorial Day. Hours of operation during this period will be 10:00 AM - 4:00 PM. The Chamber will operate the visitor center and provide staff seven days per week from the Friday of Memorial Day weekend until October 31. Hours of operation during this period will be 9:00 AM - 5:00 PM. For Federal holidays, which include Veterans Day, Martin Luther King Day and President's Day that fall on a Monday, the Chamber will staff the visitor center during normal off season hours. The visitor center will be closed Thanksgiving, Christmas, New Year's and Easter holidays, but open on any other holidays not listed.

C. Annual Meeting

The Chamber and the Corps shall meet at least once per calendar year to discuss the operational plans for the Visitor Center, including but not limited to staffing, hours/days of operation, maintenance, repairs, and interpretative programs.

IV. GENERAL

A. Safety

The Corps and the Chamber shall operate and maintain the assigned facilities in a manner consistent with EM 385-1-1, Occupational Safety and Health Administration regulations, and good safety practices. The Corps reserves the right to enter and inspect any and all areas under the responsibility of the Chamber at any time to perform safety inspections. Under the terms of this Agreement, Corps personnel have the right and responsibility to immediately correct any safety concerns, demand safety compliance and take all reasonable and prudent steps to ensure a safe and healthful environment.

B. Compliance

All Chamber employees and volunteers shall comply with the regulations stated in Title 36 Code of Federal Regulations, Chapter III, Part 327 Rules and Regulations Governing Public Use of Water Resources Development Projects Administered by the Chief of Engineers.

C. Security

1. The Chamber will be provided sufficient keys of the type and variety to ensure appropriate ingress and egress into necessary areas within the building.
2. The Corps will be immediately notified of any threat, direct, implied or otherwise, made to agents of the Chamber against personnel or Corps facilities. Training on receiving such threats shall be given to the Chamber during initial orientation, and as otherwise warranted.

D. Signs

The Corps will provide external and internal directional and identification signs. The placement and composition of any signs shall be approved in writing, in advance, by the District Engineer or his designee. Best efforts shall be made to have any signage comply with the requirements established by the Chamber for overall continuity.

E. Reports

The Chamber will provide the Corps, no later than February 15 of each calendar year, an annual report of the activities of the prior year, which supported the Corps efforts at the North Hartland Lake Project. This will be part of a regular review process to demonstrate how visitors are benefited, and to provide a mechanism to update annual activity lists and integrate into future programs.

V. 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 Chamber unless approved in writing by the Corps.

VI. MODIFICATIONS 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 Officers for the Chamber.

VII. DURATION

This Agreement shall be effective for five (5) years commencing on the day following the execution of this Agreement by the Corps. The Chamber shall have the right to extend the term of this Agreement for four (4) additional five-year periods, under the same terms and conditions, as of the day following the occupancy date of the facility by the Chamber, unless either party gives notice in writing of cancellation at least one hundred twenty (120) days before the commencement of the succeeding renewal term. The Corps and Chamber both reserve the right to terminate this

Agreement or any part thereof, at any time upon one hundred twenty (120) days written notice. Prior to giving such notice, the Corps and Chamber will meet with each other to discuss and attempt resolution of the reason(s) for such termination.

VIII. MISCELLANEOUS

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

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

IX DISPUTES CLAUSE

A. Except as provided in the Contract Disputes Act of 1978 (41 U.S.C. 601-613)(the Act), all contract disputes arising under or relating to this Agreement 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 Chamber seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of Agreement terms, or other relief arising under or relating to this Agreement. A claim arising under this Agreement, is a claim that can be resolved under a clause herein that provides for the relief sought by the Chamber. However, a written demand or written assertion by the Chamber seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph c. (2) below. 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. Claims

1. A claim by the Chamber shall be made in writing and submitted to the District Engineer for a written decision. A claim by the Government against the Chamber shall be subject to a written decision by the District Engineer.

2. For the Chamber claims exceeding \$100,000, the Chamber 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 Chamber's knowledge and belief;

(iii) and the amount requested accurately reflects the lease adjustment for which the Chamber believes the Government is liable.

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

(i) a senior official in charge of the Chamber's location involved; or

(ii) an officer or general partner of the Chamber having overall responsibility of the conduct of the Chamber's affairs.

D. For the Chamber's claim of \$100,000 or less, the District Engineer must, if requested in writing by the Chamber, render a decision within 60 days of the request. For Chamber- certified claims over \$100,000, the District Engineer must, within 60 days, decide the claim or notify the Chamber of the date by which the decision will be made.

E. The District Engineer's decision shall be final unless the Chamber appeals or files a suit as provided in the Act.

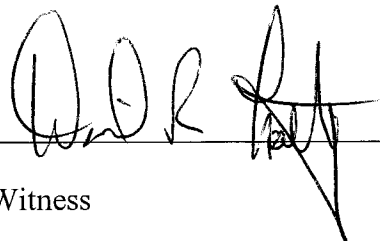
F. At the time a claim by the Chamber is submitted to the District Engineer, or a claim by the Government is presented to the Chamber, the parties, by mutual consent, may agree to use alternative means of dispute resolution. When using alternate dispute resolution procedures, any claim, regardless of 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 or the amount found due and unpaid by the Government from (1) the date the District Engineer 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.


H. 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 District Engineer 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. The Chamber shall proceed diligently with the performance of the Agreement pending final resolution of any request for relief, claim, or action arising under the Agreement and comply with any decision of the District Engineer.

IN WITNESS WHEREOF, the Hartford Area Chamber of Commerce has caused this Agreement to be executed this 13 day of December, 2011

HARTFORD AREA CHAMBER OF COMMERCE



Witness


By 

William Blaiklock
President, duly authorized

IN WITNESS WHEREOF, the Corps has caused this Agreement to be ratified
this _____ day of _____, 2011

UNITED STATES ARMY CORPS OF ENGINEERS

Witness

By 

Charles P. Samaris
Colonel, Corps of Engineers
District Engineer

APPENDIX A

Cooperative Agreement Between The
U.S. Army Corps of Engineers And The
Hartford Area Chamber of Commerce
1 January 2012

The Chamber will not operate a retail sales outlet at the Visitor Center, but will be allowed to continue to sell proprietary type sale and fundraising items which are usually sold in the Chamber's normal course of business and described as follows:

1. Balloon Festival Tickets;
2. Balloon Festival Posters;
3. Balloon Festival Tee Shirts;
4. Balloon Rides;
5. Books of Local Interest Such as the History of the Area, Hiking and Nature Trails, and Recreational Activities;
6. Tickets for other Chamber sponsored events such as the Glory Days of the Railroad, Vermont Symphony Orchestra and other contemporary music concerts, Food Festivals.
7. Postcards depicting area scenes
8. Locally made insect repellent
9. Walking sticks
10. Posters of the Long Trail, State of Vermont and fall leaf identification
11. Photographs of area
12. Quilt raffle tickets
13. Furniture