

COOPERATING ASSOCIATION AGREEMENT BETWEEN THE
U.S. ARMY CORPS OF ENGINEERS Oahe Project AND
SOUTH DAKOTA MISSOURI RIVER TOURISM

This Agreement is for the mutual benefit of both parties and is between the United States Army Corps of Engineers, Omaha District Oahe Project (hereinafter referred to as the "Corps") and South Dakota Missouri River Tourism (hereinafter referred to as "Tourism"), acting through the Chairman of the Board of Directors or the Board's designee.

WITNESSETH:

WHEREAS, The Corps operates the Oahe Visitor Center at the Oahe Project, South Dakota, for public recreation and the understanding of the Corps mission at Oahe; 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, 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 Oahe as well as the archaeological, natural and cultural history of the area; and,

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

WHEREAS, Tourism has as its purpose the interpretation for the public's benefit and education of the archeological, natural, cultural, and historical environment, and Tourism intends to assist the Corps in its interpretive activities at Oahe through the use of its programs, exhibits, displays, and materials at the Oahe Visitor Center:

WHEREAS, Tourism has the authority to assist the Corps in its presentation to the public of the natural, cultural, historical and project related features of the Oahe Project through programs, exhibits and materials;

WHEREAS, the Corps has authority, pursuant to Section 4 of the 1944 Flood Control Act, 16 460d, to permit the maintenance and operation of recreation facilities at water resource development projects by local interests and may enter into leases with non-profit organizations for park and recreational purposes;

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 Tourism wishes to provide the hereinafter described interpretive and educational services to the visiting public at the Oahe Project;

NOW, THEREFORE, the parties agree as follows:

1. The Corps authorizes Tourism to provide, and Tourism agrees to provide, the hereinafter described interpretive and educational services to the visiting public and 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 Tourism for any and all proposals, programs, special events, suggestions and other activities that Tourism might wish to engage in.

- B. Use of Government Facilities

1. Should Tourism, as part of its activities, require the use of Corps facilities at the Oahe Visitor Center, the Corps agrees that in recognition of the services Tourism is contributing to the public, that it will provide at no cost to Tourism such facilities, utilities, and routine and general maintenance incidental to the normal operation of the facility by the Corps. Tourism is allowed the use of two offices, a storage room, and wall space adequate for display of member materials within the Oahe Visitor Center and three parking spaces in the adjoining parking lot. Utilities provided will include water and electricity so long as reasonable usage and conservation practices are observed. The Corps will allow Tourism the use of trash disposal services at the Oahe Administration Office for trash accumulated due to normal usage of the building as an office space. Usage of additional space and resources may be allowed on an as-needed basis if agreed to by both parties. Phone and internet service are not provided by the Corps. The Corps reserves the right to direct removal of any Tourism item which is inconsistent with the mission of the Corps.

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

3. A separate Real Estate License instrument will be granted to Tourism for the use of government owned real property. The instrument will not merge with the Agreement.

3. TOURISM RESPONSIBILITIES.

A. Corporate Requirements.

1. Tourism's Articles of Incorporation and By-Laws shall comply with the requirements of the state(s) in which they are incorporated. Non-profit 501(c)(6) status must be maintained in accordance with state and Federal laws. Tourism 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)(6) status is not maintained.

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

4. Tourism 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.

5. Tourism will have the visitor center open during normal business hours for the visiting public to the extent possible considering staff availability and Tourism's own business requirements. Core business hours shall be 9:00 to 12:00 and 13:00 to 16:00 Monday through Friday. During times of high visitation, efforts should be made to coordinate with the Corps to provide coverage when Tourism is unable to maintain core business hours.

B. Interpretive Activities.

1. Tourism may offer educational and interpretive services which support the mission of the Corps and/or the project. This includes assisting, planning, designing, implementing and conducting interpretive and educational programs, activities and exhibits.

3. Tourism 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 project area and the 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 exhibitions or programs at Corps visitor centers 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 and the project for the benefit of the American public.

C. Sales Option

1. As part of this Agreement, Tourism may operate a sales area on a continuous or intermittent basis.

2. Tourism 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 Tourism to sell specific items of interpretive value.

3. Tourism shall order, receive, inventory, stock, and otherwise manage all items offered for sale and/or distribution.

4. Tourism will sell only items that are appropriate and of high quality. Tourism will not sell any item that has not been approved by the District Commander or his authorized representative. Tourism 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 authorized representative.

5. Tourism 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. Tourism 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. Tourism sales are restricted to a location approved by the Corps, which will be kept clean and presentable at all times.

D. Fiscal Management.

1. Tourism 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. Tourism 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 Tourism activities for the year.

3. The Corps may review the fiscal records of Tourism at any time during the term of this Agreement.

4. JOINT RESPONSIBILITIES.

A. Donation of Interpretive Services or Materials.

1. Tourism may, at the discretion of its Governing Board, loan materials and/or services to the Corps. The Corps reserves the right to accept or decline without obligation, any service, or loan by Tourism.

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

B. Personnel.

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

2. Tourism will provide such personnel as are reasonably necessary to conduct, operate, and manage its activities. This does not preclude Corps personnel, during the course of their normal duties, from assisting Tourism with nominal duties.

3. Corps personnel may not serve in a voting capacity on the governing board, or as Treasurer for Tourism. Corps personnel may serve in an advisory capacity on Tourism's governing board or committees. Corps personnel may not act as the official representative of

Tourism in any matter relating to the Corps, or the terms of this Agreement. However, if Tourism has a membership program, Corps personnel may join and participate in membership activities.

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

6. Both parties agree to meet at least annually to discuss activities, goals, challenges, and opportunities for the benefit of both parties. Additional meetings can be called by either party to address pertinent topics which affect both parties.

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 Tourism 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 Tourism.

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 Tourism 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 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 Tourism as may be required by a Lease Agreement. In situations where Tourism 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. Tourism agrees that all its activities shall be conducted in accordance with all applicable laws and regulations, both state and Federal.

IN WITNESS WHEREOF, Tourism has caused this agreement to be executed this

23rd day of September, 2022.

SOUTH DAKOTA MISSOURI RIVER TOURISM

By Kyra R. Burgin

Executive Director

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

24th day of October, 2022.

UNITED STATES ARMY CORPS OF ENGINEERS

By CLH

District Commander