

COOPERATING ASSOCIATION AGREEMENT BETWEEN THE  
U.S. ARMY CORPS OF ENGINEERS AND THE  
FRIENDS OF W. KERR SCOTT LAKE

This Agreement is for the mutual benefit of both parties and is between the United States Army Corps of Engineers, Wilmington District (hereinafter referred to as the "Corps") and The Friends of W. Kerr Scott Lake (hereinafter referred to as the "Association"), acting through the Chairman of the Board of Directors or the Board's designee.

This agreement replaces the Cooperative Agreement between the United States Army Corps of Engineers, Wilmington District and The Friends of W. Kerr Scott Lake dated March 7, 2011.

WITNESSETH:

WHEREAS, The Corps operates the W. Kerr Scott Dam and Reservoir in Wilkesboro, North Carolina including a Visitor Assistance Center/Environmental Education Center, campgrounds, parks, trails, wildlife management areas, lake and shoreline activities, for public recreation, environmental stewardship, flood risk management, water supply, and the understanding of the Corps mission at the W. Kerr Scott Dam and Reservoir; 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 the W. Kerr Scott Dam and Reservoir as well as the archaeological, natural and cultural history of the area; and,

WHEREAS, The Corps and the Association mutually recognize there are significant national public benefits to a Visitor Assistance Center/Environmental Education Center which use 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, the Association has as its purpose the enhancement of the environment through research, education and scientific activities and intends to assist the Corps in the conduct of its natural resource management programs and activities; and,

WHEREAS, the Association has as its purpose the interpretation for the public's benefit and education of the archeological, natural, cultural, and historical environment, and the Association intends to assist the Corps in its interpretive activities at the W. Kerr Scott Dam and Reservoir through the use of its programs, exhibits, displays, and materials at the Visitor Assistance Center /Environmental Education Center, project recreation facilities, educational institutions, and community outreach events;

WHEREAS, the Association has the authority to assist the Corps in its presentation to the public of the natural, cultural, historical and project related features of the W. Kerr Scott Dam and Reservoir 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 licenses and/or 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;

NOW, THEREFORE, the parties agree as follows:

1. The Corps authorizes the Association to provide, and the Association agrees to provide, the hereinafter described contributions to include interpretive and educational services; research and scientific services, maintenance services; and funds, materials, supplies, and personal property to the enhance the visiting public's experience.

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 Association for any and all proposals, programs, special events, suggestions and other activities in which the Association might wish to engage.

- B. Use of Government Facilities

1. Should the Association, as part of its activities, require the use of Corps facilities at the Visitor Assistance Center/Environmental Education Center or project recreation sites the Corps agrees, that in recognition of the services the Association is contributing to the public, provide at no cost to the Association 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 Association require facilities, utilizes and services over and above what the government would normally require for operation of the facility, or area used by the Association, the Association will reimburse the Corps at an agreed upon, but nominal cost in recognition of the services that the Association is contributing to the public.

3. A separate real estate instrument will be granted to the Association for the use of government owned real property. The instrument will not merge with the Agreement.

3. ASSOCIATION RESPONSIBILITIES.

- A. Corporate Requirements.



1. The Association's Articles of Incorporation and By-Laws shall comply with the requirements of the state(s) in which the Association is incorporated. Non-profit 501(c)(3) status must be maintained in accordance with state and Federal laws. The Association 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 Association 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 the Association in connection with activities under this Agreement.

4. The Association 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 Association 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.

2. The Association may offer scientific, research, maintenance 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 and/or maintenance programs, activities and exhibits.

3. The Association 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.

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 the Visitor Assistance Center/Environmental Education Center 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, the Association may operate a sales area on a continuous or intermittent basis.

2. The Association is hereby authorized to sell and/or distribute interpretive and educational items such as publications, maps, audio-visual aids, crafts, and other objects directly related to the interpretive and educational themes of the project, region and Corps. The Corps may request the Association to sell specific items of interpretive value. Additionally, the Association is authorized to sell firewood and ice at campgrounds.

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

4. The Association will sell only items that are appropriate and of high quality. The Association will not sell any item that has not been approved by the Operations Project Manager. The Association will sell items at their fair market value and prices of said items will be submitted and approved in writing, in advance by the Operations Project Manager.

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

#### D. Fiscal Management.

1. The Association 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 Association 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 Association activities for the year.

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

#### 4. JOINT RESPONSIBILITIES.

##### A. Donation of Interpretive Services or Materials.

1. The Association 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 the Association.



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

#### B. Personnel.

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

2. The Association 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 the Association with nominal duties, including sales.

3. Corps personnel may not serve on the Association's 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 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 Association in any matter relating to the Corps, or the terms of this Agreement. However, if the Association has a membership program, Corps personnel may join and participate in membership activities in their personal capacity.

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

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

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

30<sup>th</sup> day of April, 2021.

THE FRIENDS OF W. KERR SCOTT LAKE

By Michael R. Kennedy

Chairperson, Board of Directors

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

20<sup>th</sup> day of July, 2021.

UNITED STATES ARMY CORPS OF ENGINEERS

By Benjamin A. Bennett

Colonel, U.S. Army  
District Commander