

COOPERATIVE AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA
AND
COLLIN COUNTY , TEXAS
FOR
THE PROVISION OF ADDITIONAL LAW ENFORCEMENT SERVICES

This agreement, entered into by the U.S. Army Corps of Engineers, Fort Worth District (hereinafter referred to as the Corps) and Collin County, Texas (hereinafter referred to as the Cooperator), witnesseth that:

WHEREAS, the construction of Lavon Lake (hereinafter called the "Project") was authorized by the Rivers and Harbors Act, Public Law 14, 71st Congress, approved 2 March 1945, and the provision of recreation resources in Lavon Project was authorized by Section 4 of the 1944 Flood Control Act, as amended (16 U.S.C. 460d); and

WHEREAS, it is the responsibility of the Corps, in administering the Project lands, to provide the public with safe and healthful recreational opportunities; and

WHEREAS, the Cooperator has the authority to enforce the state and local laws for Collin County, Texas on such lands, and WHEREAS, Section 120 of the Water Resources Development Act of 1976 (Public Law 94-587) authorizes the Corps to contract with states and their political subdivisions for the purpose of obtaining increased law enforcement services on project lands to meet needs during peak visitation periods; and

WHEREAS, it is in the best interests of the Corps to obtain the assistance of the Cooperator in the enforcement of state and local laws on project lands.

NOW, THEREFORE, the parties hereto mutually agree as follows:

Article 1. Plan of Operation.

(a) The Corps and the Cooperator have agreed to a Plan of Operation which describes the scope and extent of law enforcement services to be provided by the Cooperator in accordance with this agreement. Such Plan of Operation, as concurred in by the Cooperator, is attached hereto as Appendix A and made a part hereof.

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(b) It is recognized and understood that the Corps and the Cooperator may, at the request of either, renegotiate the Plan of Operation. The renegotiated Plan of Operation shall, upon written acceptance thereof by both parties, supersede Appendix A.

Article 2. Obligations of the Cooperator.

(a) The Cooperator agrees to furnish additional law enforcement services as follows:

(1) Normal, emergency, or unanticipated enforcement of civil and criminal laws of the state and local jurisdiction on Project lands and waters without claim for reimbursement under this agreement. This agreement does not diminish or otherwise limit the existing law enforcement responsibilities of state or local law enforcement agencies.

(2) The enforcement of the civil and criminal laws of the state and applicable local laws on project lands in accordance with the schedules and duties described in the Plan of Operation, with payment by the Corps in accordance with Article 3 of this agreement.

(b) The Cooperator agrees to provide personnel, equipment, and supplies which are required in order to provide the law enforcement services requested by the Corps in accordance with subparagraph (a) above.

(c) The Cooperator agrees to prepare a Daily Enforcement Log of a format provided or approved by the Corps and to submit this log to the Corps at least once a month throughout the effective period of the current Plan of Operation.

(d) The Cooperator agrees to assign only those personnel who are qualified and trained pursuant to the requirements of state and local laws and regulations to undertake the law enforcement services to be provided under Article 2(a)(2). Where state and local standards for the qualifications of law enforcement personnel do not exist, the Cooperator will advise the Corps of the experience, qualifications and training of those personnel expected to be assigned law enforcement duties under this agreement and assign such duties to them only with the approval of the Corps.

Article 3. Obligation of the Government. Subject to the availability of funds, the Corps agrees to pay the Cooperator for the total cost of the law enforcement services to be provided in accordance with the obligations agreed to be undertaken by the Cooperator in Article 2(a)(2), including the costs of operation and maintenance of such equipment as is required for the provision of such services identified in the Plan of Operation under Article 1. At the request of the Cooperator, partial payments may be made as the law enforcement services are performed based on billings as identified in the Plan of Operation under Article 1 and approved by the Corps.

Article 4. Period of Services. The period of this agreement shall be from the date of execution until terminated by mutual agreement, or on written notice from either party to the other, as set forth in Articles 6 and 10.

Article 5. Disputes (Jul 2002) FAR 52.233-01.

(a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the contractor seeking the payment of money exceeding \$50,000 is not a claim under the Act until certified as required by subparagraph (d)(2) below. A Voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d) (1) A claim by the contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) For Contractor claims exceeding \$50,000, the Contractor shall submit with the claim a certification that-

(i) The claim is made in good faith;

(ii) Supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and

(iii) The amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable.

(3) (i) If the Contractor is an individual, the certification shall be executed by that individual.

(ii) If the Contractor is not an individual, the certification shall be executed by-

(A) A senior company official in charge at the contractor's plant or location involved; or

(B) An officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For Contractor claims of \$50,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$50,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) At the time a claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative means of dispute resolution. When using alternated dispute resolution procedures, any claim, regardless of amount, shall be accompanied by the certification described in paragraph (d)(2) of this clause, and executed in accordance with paragraph (d)(3) of this clause.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date the contracting Officer receives the claim (properly certified if required), of (2) the date payment otherwise would be due, if that date is later, until the date of payment. 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 Contracting Officer 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.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

Article 6. Default. In the event that either party to this agreement fails to meet any of its obligations hereunder, the other party may immediately terminate the whole or any part of this agreement. Such termination shall be effected by written notice of either party to the other.

Article 7. Exclusion of Federal Employee Benefits. It is understood and agreed that the services to be provided by the Cooperator and its employees shall not be considered to fall within the scope of Federal employment, that the Cooperator and its employees shall not be considered as agents or employees of the Federal government, and that none of the benefits of Federal employment will be conferred under the terms of this agreement.

Article 8. Release of Claims. To the extent permitted by law, the Cooperator agrees to hold and save the Corps, its officers, agents or employees, harmless from liability of any nature or kind, for or on account of any claims for damages that may arise during the performance of the law enforcement services by the Cooperator under this agreement.

Article 9. Transfer or Assignment. The Cooperator shall not transfer or assign this agreement, nor any rights acquired thereunder, nor grant any interest, privilege, or license whatsoever in connection with this agreement without the approval of the Corps.

Article 10. Termination for Convenience (Apr 1984) FAR 52.249-04. The Corps or Cooperator may, on 30 days written notice, terminate this agreement, in whole or in part, when it is in the best interests of either party. If this agreement is so terminated, the Corps shall be liable only for payment in accordance with the payment provisions of this agreement for services rendered prior to the effective date of termination.

Article 11. Equal Opportunity (Apr 2002) FAR 52.222-26.

(a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs (b)(1) through (11) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(b) During performing this contract, the Contractor agrees as follows:

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and order of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. Standard Form 100 (EEO-1), or any successor form, is the prescribed form to be filed within 30 days following the award, unless filed within 12 months preceding the date of award.

(8) The Contractor shall permit access to its books, records, and accounts by the contracting agency or the Office of Federal Contract Compliance Programs (OFCCP) for the purposes of investigation to ascertain the Contractor's compliance with the applicable rules, regulations, and orders.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of subparagraph (b)(1) through (11) of this clause in every subcontract or purchase order that is not excepted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing these terms and condition, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States. (c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

Article 12. Gratuities (Apr 1984) FAR 52.203-311.

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative-

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) above, the Government is entitled-

(1) To pursue the same remedies as in a breach of the contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

Article 13. Examination of Records by Comptroller General. The Cooperator agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this agreement or such less time specified in Appendix M of the Defense Acquisition Regulation have access to and the right to examine any directly pertinent books, documents, papers, and records of the Cooperator involving transactions related to this agreement.

Article 14. Audit by Department of Defense. Upon request, the Cooperator shall provide, and the Corps shall have the right to examine, books, records, documents, and other evidence of accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this agreement.

Article 15. Service Contract Act of 1965, as Amended (Jul 2005) FAR 52.222-41

(a) *Definitions.* "Act," as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351, *et seq.*).

"Contractor," as used in this clause or in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

"Service employee," as used in this clause, means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) *Applicability.* This contract is subject to the following provisions and to all other applicable

provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.

(c) Compensation.

(1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2)

(i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request For Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)

(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option, or extension of an existing

contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with subparagraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) *Adjustment of compensation.* If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) *Obligation to furnish fringe benefits.* The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) *Minimum wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) *Successor contracts.* If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or

not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) Notification to employees. The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(h) Safe and sanitary working conditions. The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) Records.

(1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Act --

(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) *Pay periods.* The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(k) *Withholding of payments and termination of contract.* The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) *Subcontracts.* The Contractor agrees to insert this clause in all subcontracts subject to the Act.

(m) *Collective bargaining agreements applicable to service employees.* If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining

agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) *Seniority list.* Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) *Rulings and interpretations.* Rulings and interpretations of the Act are contained in Regulations, 29 CFR Part 4.

(p) *Contractor's certification.*

(1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) *Variations, tolerances, and exemptions involving employment.* Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub.L.92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Act for the employment of apprentices,

student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) *Apprentices*. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Office of Apprenticeship Training, Employer, and Labor Services (OATELS), U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) *Tips*. An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531. However, the amount of credit shall not exceed \$1.34 per hour beginning January 1, 1981. To use this provision --

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; and

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(t) *Disputes concerning labor standards*. The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

Article 16. Any changes in the provisions of this agreement, which are necessary and proper will be made by formal amendment signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first written above.

**U.S. ARMY CORPS OF ENGINEERS
FORT WORTH DISTRICT**

BY: June C. Wohlbach
June Wohlbach
Contracting Officer

DATE: 20 May 09

COLLIN COUNTY

BY: Keith Self
Keith Self
County Judge

DATE:

RESUME OF NEGOTIATIONS

On 16 April 2009, Natural Resource Manager James Murphy contacted Maj. Chuck Ruckel concerning an agreement for additional surveillance by the Collin County Sheriff's Office at Lavon Lake during the summer of 2009. The proposed schedule of services would be for approximately 836 hours of surveillance.

The County Commission approved a Resolution Order _____ for consideration and approval of request that the Collin County Sheriff's Office enter into an agreement with the U. S. Army Corps of Engineers for law enforcement services around Lavon Lake.

The City Auditor computed the hourly rate to be \$ 60.61 per man-hour as shown in the projection of costs for the contract. The projection of costs is based on 836 hours total using one or two patrol officers each week as scheduled, including all required equipment.

(initials)
#6434 2009-331-05-11

Collin County officials agree with the Lake Manager that additional law enforcement surveillance is needed at Lavon Lake and that this additional surveillance is only possible by contract. The Collin County Sheriff's Office will continue to answer calls and provide the existing level of surveillance without compensation.



JAMES A. MURPHY 27 Apr 2009 Date
Natural Resource Manager
Lavon Lake Office
Department



MAJ. CHUCK RUCKEL 5/1/09 Date
Collin County Sheriff's Office

COLLIN COUNTY SHERIFF'S OFFICE 2009 LAKE PATROL CALCULATIONS

Auto Expense:		\$6,181
	Lease based on:	
	102 Shifts	
	120 Miles per Shift Estimated	
	12240 Miles Total	
	\$0.505 per Mile Cost	
Radio Expense:		\$1,020.00
	102 Shifts	
	\$10.00 Cost per Shift	
Labor Expense:		
Salary:	Patrol Deputy	\$37,169
	836 Hours	
	\$44.46 Average OT Rate	
Salary:	Administrative Support	\$490
	10 Hours	
	\$49.03 Cost per Hour	
Salary:	Clerical Support	\$627
	20 Hours	
	\$31.34 OT Rate (Tawana)	
Overhead:		
	FICA	\$2,929
	Retirement	\$4,977
	Unemployment	\$191
	Supplemental	\$111
	LTD	\$96
		\$46,590
Total:		\$53,791
	\$53,791 / 836 = \$64.34 per Hour	

Appendix A

1. The Collin County Sheriff's Department agrees to provide supplemental law enforcement services (enforcement of state criminal and civil laws and local criminal and civil laws above and beyond normal coverage) on U.S. Government Property within Collin County at Lavon Lake. Standard surveillance will be concentrated primarily in developed park areas. Standard surveillance will include vehicular patrol of the areas listed below and other areas of government property as requested by Corps Personnel (e.g. outlying areas of government property experiencing problems with off-road vehicles, etc.).

Lavon Lake: Brockdale Park, Highland Park, Bratonia Park, Clear Lake Park, Tickey Creek Park, Twin Groves Park, Caddo Park, Elm Creek Park, Pebble Beach Park, Little Ridge Park and Lakeland Park.

2. Collin County Sheriff's Department agrees to provide the following law enforcement services:

- a. Patrol the areas listed in paragraph one.
- b. Maintain order in the park areas.
- c. Control traffic by visual observation and other means normally utilized by the Department.
- d. Inform park users of federal, state, and local laws and regulations through personal contacts.
- e. Cite or arrest violators committing applicable offenses.
- f. Respond to calls for assistance by Corps of Engineer Park Rangers.
- g. Assist with the nightly 10:00 p.m. closure of Tickey Creek, Pebble Beach, Little Ridge and Lakeland Parks or other areas requested by Corps personnel.

3. Patrols will begin on the first scheduled day shown on the patrol schedule after receiving notice that this agreement has been approved.

4. Collin County Deputies will adjust their patrol schedules and routes to serve specific parks or other areas as requested by Corps personnel. Permanent park rangers may make temporary adjustments in patrol schedules and routes, as they deem necessary.

5. The Sheriff of Collin County (or his designee) and the Lavon Lake Manager will agree to and approve all permanent schedule adjustments.

6. Deputies will prepare a Daily Law Enforcement Log in accordance with the attached Attachment 2 format. The log will be completed in detail and submitted to Lavon Lake Office at

the end of each week. Copies of arrest reports and accident reports (for arrests and accidents occurring on government property) will be submitted or faxed to the Lavon Lake Office as soon as possible. The fax number for the Lavon Lake Office is 972/442-1109. Copies of log sheets for Collin County records will be the responsibility of the Sheriff's Department.

7. Lake Patrol Deputies will remain in the lake area (in the parks and/or moving between parks or other areas of government property). If an emergency situation arises that makes it necessary for a deputy to leave the lake area, that officer will, if possible, contact the permanent park ranger on duty and advise him or her of the situation. The officer will also note the time he or she left the lake area, the purpose for having to leave, and the time returned to the lake area on the Daily Law Enforcement Log.

8. All officers will wear the standard uniforms normally worn by Collin County Sheriff's Department personnel.

9. All patrol vehicles will have the standard insignia and markings normally used by Collin County Sheriff's Department. Patrol vehicles will also be equipped with standard law enforcement type lights, radios, and any other equipment necessary to perform the required services. Collin County will be responsible for all vehicle costs. This includes insurance, fuel, maintenance, and any other costs associated with the operation of each vehicle.

10. Deputies will notify the permanent park ranger on duty of any accidents, fatalities, missing persons, or serious crimes that occur on government property.

11. The duration of this agreement will be for a total of **836** man-hours.

12. The cost per patrol unit, for providing law enforcement services described in paragraph 2, will be **\$60.61** per man-hour. A patrol unit will consist of a vehicle, one certified law enforcement officer, and all the equipment necessary for the performance of the officer's duties. The costs for utilization, operation, maintenance, and repair of the equipment and supplies used in performing the services are:

$$\text{\$ 60.61 /man-hour x 836 man-hours = \$ 50,674.66}$$

13. Collin County will provide the Lake Manager with a request for payment for reimbursable services performed each month. The request for payment will be based on the number of patrol hours involved. The request for payment must include the starting and ending dates of the billing period in question. The request for payment will be submitted no later than five calendar days after the close of the month being reported. Failure to meet the criteria mentioned above may result in delayed payment. The total cost of services provided during the term of this agreement may not exceed **\$ 50,674.66**.

14. The following individuals are designated to issue and receive requests for reimbursable law enforcement services under this agreement:

Corps of Engineers Representative

James Murphy
Natural Resource Manager
3375 Skyview Drive
Wylie, TX 75098
972/442-3141
Fax 972/442-1109

Collin County Sheriff's Department Representative

Terry Box
Collin County Sheriff
4300 Community Blvd.
McKinney, TX 75070
972/424-4797

15. The Lake Manager or his representative will conduct an orientation for all officers and supervisors that will be participating in this agreement. The purpose of this orientation will be to familiarize the law enforcement personnel with the policies and procedures of the Corps of Engineers and to familiarize Corps personnel with the functions and duties of the Collin County Sheriff's Department. If an officer begins providing the services of this agreement after the initial orientation, he or she will be required to meet with the Lake Manager or his representative before beginning work.

16. State and local law enforcement agencies generally have the same authority and responsibilities on U.S. Army Corps of Engineers' property as they do elsewhere in their respective jurisdictions. Therefore, requests by the Corps of Engineers for emergency law enforcement or responses by Collin County Sheriff's Department to situations occurring outside of the scope of this agreement will not be reimbursable. (E.g. deputies responding to a call on government property after the scheduled patrol hours, officers working a call on government property and having to stay past the scheduled patrol time, etc.)

17. The initial patrol schedule will be as follows:

Normal Schedule May 23, 2009 - September 7, 2009

Day	Shift	No./Type of Unit	Man-Hours
Monday	1900 - 2300	1 / 1-man unit	4
Tuesday	1900 - 2300	1 / 1-man unit	4
Wednesday	1900 - 2300	1 / 1-man unit	4
Thursday	1900 - 2300	1 / 1-man unit	4
Friday	1900 - 2300	1 / 1-man unit	4
Saturday	1300 - 2100	1 / 1-man unit	8
	1500 - 2300	1 / 1-man unit	8
Sunday	1300 - 2100	1 / 1-man unit	8
	1500 - 2300	1 / 1 man unit	8

Special Schedules*

Date	Shift	No./Type of Unit	Man-Hours
May 25, 2009	1300 - 2100	1 / 1-man unit	8
	1500 - 2300	1 / 1-man unit	8
July 4, 2009	1300 - 2100	1 / 1-man unit	8
	1600 - 2400	1 / 1-man unit	8
Sept. 7, 2009	1300 - 1900	1 / 1-man unit	6
	1700 - 2300	1 / 1-man unit	6

