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June 11, 1999

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*To manage and
conserve the natural
and cultural resources
of Texas for the use and
enjoyment of present
and future generations.*

Honorable Mitchell Davenport
Jack County Judge
Jack County Courthouse
Jacksboro, Texas 76548

Honorable Jerry Craft
Mayor of Jacksboro
112 West Belknap
Jacksboro, Texas 76458

Dear Judge Davenport and Mayor Craft:

Please allow me to introduce myself. My name is Walt Dabney and I am the new Texas State Parks Director. From what I have learned after six weeks on the job, the partnership efforts at Fort Richardson and the Lost Creek Reservoir State Trailway are remarkable. Hopefully, I can get out your way soon to see the park first hand.

I am pleased to transmit the enclosed executed Memorandum of Agreement (MOA) for the Lost Creek Reservoir Trailway. I understand that this has been a lengthy and, at times, arduous process. You and the others who worked on this project should be proud that the MOA is finally in place.

I know that there have been concerns regarding Parks and Wildlife's plans and funding for development of the fifty-acre tract. The MOA between TPW, Jack County and the City of Jacksboro provides appropriate legal authority for Texas Parks and Wildlife to make capital improvements to the property. However, Texas Parks and Wildlife does not have funding to develop or operate recreational facilities, beyond what has already been approved for the tract. Furthermore, we do not anticipate funding for additional facilities in the foreseeable future.

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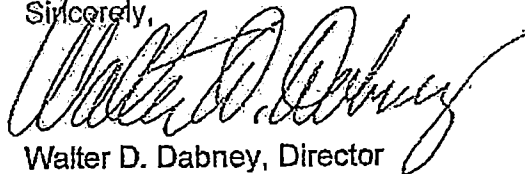
Judge Davenport and Mayor Craft
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As we agreed, preparation of conceptual plans and drawings for development of the fifty-acres is currently underway. Park Planner Don Koenig of our Infrastructure Division visited the park last month, and anticipates that plans should be ready within six months. The idea at this time is to include a swimming beach, picnic area, equestrian camping area, and waterfront campsites. Although Parks and Wildlife will not have funding to develop or operate any additional development to the area, hopefully we can continue to contribute to this effort. Parks and Wildlife can provide technical assistance and expertise to assist our partners with efforts to explore alternative funding methods for development and operation of recreational facilities on the fifty-acres.

I believe that we are now making good progress toward providing additional recreational opportunities at the Lost Creek Reservoir State Trailway. The MOA and Lease have been signed, work on the trailhead parking area has begun, and we have funding in place to build a restroom and headquarters for the trailhead. In addition, we cleared another major hurdle last month when resource survey and clearance for the fifty-acre tract was secured from the Texas Historical Commission. I hope that you will agree that we are on track for continuing to improve upon this wonderful addition to the State Park System.

Thank you for your diligence and support for Fort Richardson State Historical Park and the Lost Creek Reservoir State Trailway, and Texas Parks and Wildlife. I look forward to meeting both of you soon. Please let me know if you need additional information.

Sincerely,



Walter D. Dabney, Director
State Parks Division

cc: Mr. Michael Webb
Mr. Andrew Sansom
Mr. Robert L. Cook
Mr. Michael Herring
Mr. Bruce Bunn
Mr. Danny Peterson

MEMORANDUM OF AGREEMENT

The Texas Parks and Wildlife Department (hereinafter referred to as the "Department"), and Jack County (hereinafter referred to as the "County"), and the City of Jacksboro (hereinafter referred to as the "City"), each entity acting by and through duly authorized officers, enter into the following MEMORANDUM OF AGREEMENT:

WHEREAS, the Department is an agency of the State of Texas responsible for acquiring, maintaining, and operating a system of public parks for the benefit of the people generally; and

WHEREAS, the City is a Municipal Corporation; and

WHEREAS, the County is a political subdivision of the State of Texas;

NOW THEREFORE, for and in consideration of the premises and the mutual benefits hereof, the parties hereto agree as follows:

I. PURPOSE:

This Memorandum of Agreement (Agreement) is to establish a framework within which the Department, the County, and the City cooperatively work to promote the preservation, protection, and operation of the natural and cultural resources of the corridor known as Lost Creek Reservoir State Trailway (Trail). The Trail corridor, lying in Jack County, Texas, is particularly described in Exhibit A and is attached hereto and made a part hereof for descriptive purposes.

The County and City will assist the Department to:

1. Develop a management plan to ensure the protection and appropriate use of the Trail.
2. Work to preserve and protect the natural and cultural resources of the Trail.
3. Develop educational programs on the natural and cultural resources of the Trail.
4. Build a constituency of support for the Trail.
5. Promote volunteerism for the Trail.
6. Provide access for hiking, biking, and equestrian use of the Trail.
7. Operate, maintain, and repair facilities associated with the Trail.

The Department will:

1. Provide overall coordination, supervision and management of the Lost Creek Reservoir State Trailway.

II. ROLES AND RESPONSIBILITIES

1. The Department will assume responsibility for management, maintenance and operation of the Trail and may implement Capital Improvement Projects as appropriate.
2. The County and the City's roles are to act in a supportive manner of the Department in the management and use of the Trail. Assistance from the County and City is on a voluntary basis unless otherwise arranged among the Department, the County and the City. The County and the City will perform tasks in good faith, with deadlines and deliverables specified as needed and mutually agreed upon on a case-by-case basis.
3. The Department will designate a person to serve as liaison/point of contact with the County and the City.
4. The City or County may undertake certain activities and projects on behalf of the Department.
5. Before any activity or project is initiated on the Trail, it is the responsibility of the County and the City, through its designated representatives, to seek and obtain approval of the Department. No activity or project may be carried out on the Trail or on its behalf without this approval by the Department.
6. Certain projects may require supplies, equipment, or other associated materials that the Department cannot reasonably provide. In these cases, the City and the County will assist as necessary. These responsibilities will be determined on a case-by-case basis, and as County and City resources allow.
7. The Department's designee will share reports and information with the City and the County that list, define, or delineate known sensitive features, areas, and natural and cultural resources which the County and the City must avoid unless given specific authorization. The Department should update this information as needed. The Department, the County and the City will strive to avoid those resources. If for any reason a City or County-approved project will result in soil excavation or disturbance, then the City or County will be responsible for securing the appropriate resource clearance so as to meet the Department's obligation as outlined in the Memorandum of Agreement with the Texas Historical Commission. The Department will not be liable nor responsible for these costs, nor for any previous or subsequent resource clearance issues.
8. The Department's designee will be responsible for transmitting copies of appropriate reports outlining said assistance and resultant benefit to the Department.

III. CONCEPT OF MANAGEMENT AND OPERATION

In recognition of the complexities of managing and operating the Trail and the resultant need for specialized, professional expertise, the parties hereto understand and agree to the following basic management and operation principles:

1. Overall responsibility for management, maintenance and operation of the Trail is vested in the Department under the administration of Fort Richardson State Historic Park.
2. The County and the City shall assist the Department, where possible, with certain supplies, equipment, and other associated materials that the Department cannot reasonably provide. All situations shall be addressed on an individual, case-by-case basis.
3. The Department's designee shall monitor all activities as they relate to the Texas Parks and Wildlife Department's Commission Environmental Policy and make determinations regarding any necessary resource clearance requirements. Any required resource clearances shall be secured by the party initiating the action.
4. The existing mountain bike trail constructed by the City will continue to be used under the following conditions:
 - (a) The mountain bike trail will be operated and maintained by the City according to the Department's policies and procedures in all areas where the mountain bike trail is situated on property described as "Department-managed;"
 - (b) The City will provide all labor and expenses for the mountain bike trail;
 - (c) The City will relocate the trail as the Department deems necessary to promote safety and resource protection;
 - (d) The mountain bike trail must not be extended and must not deviate from its present location unless approved by the Department;
 - (e) The City must obtain approval from the Department's designee before pursuing any activities associated with the mountain bike trail;
 - (f) The City will construct, erect, and maintain signs in all City-controlled access points, advising users that travel on any Department-managed areas require a permit and associated fees;
 - (g) If any of the previously stated conditions cannot be accomplished or if the City cannot meet these conditions, then the mountain bike trail may be abandoned in these areas, if the Department so desires.

IV. NATURE OF AGREEMENT

The County, the City and the Department expressly acknowledge that this Agreement is in the nature of an operational agreement, and that the Department has not assigned any of its control, management, direction or policy to the City or the County.

V. GENERAL

All obligations of the Department hereunder are subject to the availability of funds and to State law.

VI. INDEMNIFICATION

The County and the City will indemnify and hold harmless the Department from and against all losses, damages, expenses, claims, demands, suits, and actions by any party against the State of Texas in connection with the work performed or activities conducted by the County and the City relating to the Trail, except for acts of negligence, gross negligence or willful or wanton acts of the Department, to the extent allowed by law. Conversely, the Department will indemnify and hold harmless the County and the City from and against all losses, damages, expenses, claims, demands, suits, and actions by any party against the County or the City in connection with the work performed or activities conducted by the Department relating to the Trail, except for acts of negligence, gross negligence or willful or wanton acts of the County or the City, to the extent allowed by law.

VII. TPWD DESIGNEE

Under normal circumstances, the designee of the Department will be the Park Superintendent of Fort Richardson State Historic Park. The Department's designee will have full authority and responsibility for such matters as are specifically referred to in this Agreement as capable of being performed within the authority of the position. If differences of opinion arise which the County, the City, and the Park Superintendent cannot resolve, any of the parties may appeal in writing at each level of the supervisory chain to the Executive Director of the Department.

VIII. NON-ASSIGNABILITY

This agreement or any part hereof or the administration or performance of any activity or service performed by the County and the City hereunder cannot be assigned or sublet, contracted away, or in any manner transferred without prior written consent and full approval by the Department or its Executive Director. Conversely, this Agreement or any part thereof, or the administration or performance of any activity or service performed by the Department hereunder cannot be assigned or subleased, contracted away, or in any manner transferred without prior written consent and full approval of the County and the City.

IX. COMPLIANCE WITH LAWS

The County, the City, and the Department will observe and comply with all deed restrictions of record, management plans and planning process, and comply with rules and regulations and laws now in effect or which may be promulgated during the continuance of this Agreement by the Department or by any municipality, county, state or federal authority having jurisdiction in regard to the land of the Trail. The Department may establish any law enforcement policies and rules it deems necessary to maintain and operate a safe and enjoyable trail. The Department shall have the right to file a criminal complaint or institute civil proceedings to insure public safety and resource protection.

X. NON-DISCRIMINATION

1. The County, the City and the Department will not discriminate in its employment practices against any individual because of race, color, religious creed, ancestry, age, sex, national origin, or disability.
2. The County, the City and the Department will comply with the requirements of the Texas Commission on Human Rights Act, Tex. Rev. Civ. Ann., Article 5221k as amended, and will not deny to any person because of his or her race, color, sex, religious creed, ancestry, national origin, or handicap or disability, any of the accommodations, advantages, facilities, or privileges of the premises or anything made available in connection with activities conducted on the premises.
3. The County, the City and the Department will comply with all other applicable provisions of the Texas Commission of Human Rights Act, Tex. Rev. Civ. Stat. Ann. Article 5221k as amended.

XI. TERMINATION

Any party will have the right to terminate this Agreement upon one year's written notice to the others. In the event of termination, operation, maintenance and repair of the trail will remain the responsibility of the Department until a new, mutually agreeable, Plan of Operation is developed. This agreement is effective upon the date of execution and will remain in effect for ninety-nine (99) years, unless otherwise terminated.

XII. ENTIRE AGREEMENT

This Agreement sets forth the entire agreement and understanding among the parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings not specifically set forth herein. This Agreement may not be modified or changed other than by an agreement in writing executed by all of the parties hereto.

XIII. NOTIFICATION AND COMMUNICATION

Written communication shall be addressed as follows:

If to the Department:

Park Supt., Ft. Richardson State Historical Park
Lost Creek Reservoir State Trailway
P. O. Box 4
Jacksboro, Texas 76458

If to the County:

County Judge
Jack County Courthouse
Jacksboro, Texas 76548

If to the City:

City Manager
112 West Belknap
Jacksboro, Texas 76458

XIV. CONSENT TO BREACH NOT WAIVER

No term or provision of this Agreement will be deemed waived and no breach excused, unless such waiver or consent is in writing and signed by an authorized representative of the party agreeing to the waiver or consent. Any consent by one party to or waiver of a breach by another party, whether expressed or implied, will not constitute a consent to or waiver of or excuse for any other different or subsequent breach. The failure by one party to this Agreement to enforce a breach of any provision of this Agreement by another party shall not be deemed a waiver of same, and the waiver on any one provision shall not constitute a waiver of any other provision of this Agreement.

IN WITNESS THEREOF, the duly authorized representatives of all parties hereunto set their hands.

JACK COUNTY

By: 

Mitchell Davenport, County Judge

CITY OF JACKSBORO

By: 
Jerry Craft, Mayor

TEXAS PARKS & WILDLIFE DEPT.

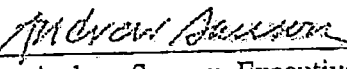
By: 
Andrew Sansom, Executive Director

EXHIBIT A

The boundaries defined will be the responsibility of the Department for management, operations and maintenance. The Department will maintain all boundary fencing constructed with ISTEAF funding.

Trail boundaries are defined as follows:

- Upon entering Sewell Park from the State Park side to the US 281 bridge, the boundaries will extend to 5 feet on each side of the trail;
- Between the US 281 bridge and the causeway on Lake Jacksboro, the boundaries will extend from fence line to fence line and from the water edge to fence line;
- Between the causeway on Lake Jacksboro and the south end of the airport, the boundaries will extend from the water's edge to 5 feet above the trail;
- The airport boundaries will be from the fence line to 5 feet on the West side of the trail;
- Boundaries from the airport to the dam on Lake Jacksboro will be from the water's edge to 5 feet above the trail on the East side;
- Boundaries from the dam at Lake Jacksboro will be from the fence to 5 feet on the West side of the trail until double fencing begins. After leaving double fencing near Spear's cabin, the boundaries will be from the water's edge to the fence line around Lost Creek Reservoir.