

Project Cow Creek
State Oklahoma

OPERATION AND MAINTENANCE AGREEMENT

THIS AGREEMENT, made and entered into the 25th day of March, 1975, by and between the Soil Conservation Service, United States Department of Agriculture, hereinafter referred to as the "Service," and the City of Duncan, hereinafter referred to as the "City" relates to the operation and maintenance of the following described Works of Improvement:

Multipurpose Structure No. 16R, Recreational Facility, and Basic Facilities relating thereto, comprising the public recreational development, hereinafter referred to as the "Development," located in Stephens County, Oklahoma.

Name of Sponsor City of Duncan

By [Signature] Title Mayor

This action was authorized at an official meeting of the Sponsor named immediately above on March 25, 1975 at Duncan, State of Oklahoma.

Attest [Signature] Title City Clerk

Soil Conservation Service, United States Department of Agriculture
By [Signature] Title STATE CONSERVATIONIST

I. OPERATION

A. Structural Measures

1. The Service will provide such technical services as are available for assistance in the proper operation of the works of improvement.
2. The City will:
 - a. Be responsible for operation of the works of improvement simultaneously with acceptance of the works of improvement from the contractor.
 - b. Prohibit the installation of gates or other obstructions of any kind being placed in any portion of the principal or emergency spillway(s).
 - c. Prohibit any works to raise any portion of the spillway above the planned elevation or to deflect or decrease the planned flow through the spillways in any manner.
 - d. Prohibit the installation of dikes or other structures which may decrease the capacity of the flood channel or deflect the flow from the constructed channel bottom.
 - e. Take all other necessary steps to insure that the works of improvement are permitted to function in the manner for which they were designed, and are operated in accordance with any applicable State law.

B. Basic Facilities

1. The Service will:
 - a. Provide such technical services as are available in the operation of the Development.
 - b. At least annually review with the City the operation of the Development, and prepare and provide the City with a copy of the Service's recommendations for corrective action, where necessary, and suggestions for improvement of operations including changes in the rates provided for in paragraph I-B-2-j.
2. The City will:
 - a. Be responsible for the operation of the Development effective on a date to be agreed to by the Service and the City. This date will be established as soon as the City and the Service can determine the date the Development, or any part thereof, will be ready for use by the public.
 - b. Operate the Development for the use of the public generally, and not limit its use to certain segments of the public or organized groups.

- c. Keep the Development available for use by the public during the period beginning _____ and ending _____ of each year. During this period have a representative, employee, or concessionaire of the City on the Development at all times when the Development is being used by the public.
- d. Comply with all State and local laws and regulations regarding safety, health, and sanitation.
- e. Insure orderly conduct at all times by the public, and by employees, representatives, and concessionaires of the City.
- f. Prohibit the posting of commercial advertising signs on the premises.
- g. Take all reasonable precautions to prevent trespass and unauthorized use of the Development, and to prevent damage of the Development other than that resulting from normal wear and tear.
- h. Dispose of garbage and other refuse generated within the Development as often as necessary to keep the Development in a sanitary and orderly condition.
- i. Equip each employee of the City and of its concessionaires who will be in contact with the public with a numbered badge or other appropriate identification insignia.
- j. Charge, or allow concessionaires to charge reasonable fees and prices for facilities, services and commodities made available to the public. At least 60 days prior to the date to be established in accordance with the provisions of paragraph I-B-2-a submit to the Service for its review and, if acceptable, approval (a) a list of all recreational facilities and services to be provided and the rate of charge for each, and (b) a list by major commodity groupings of commodities to be dispensed and the rate for each.
- k. Prohibit the installation of any structures or facilities that will interfere with operation or maintenance of the dam or reservoir in and for the purposes constructed, and the installation of any structures or facilities which would impair the use of the water and land areas devoted to recreational purposes.
- l. Prepare, post, and maintain at prominent locations within the Development for the information of the public a set of rules and regulations covering use of the Development by the public.
- m. At least annually review with the Service the operations of the Development. Carry out in a prompt and timely manner any corrective actions recommended by the Service.

II. MAINTENANCE

A. Structural Measures

1. The Service will:

- a. Inspect the works of improvement at least annually.
- b. Prepare and furnish to the City a report of inspection findings including recommendations for maintenance work needed and when such work should be completed.
- c. Provide such technical services as are needed and available for preparing plans, designs and specifications for needed maintenance of the works of improvement.

2. The City will:

- a. Be responsible for maintenance of the works of improvement simultaneously with acceptance of the works of improvement from the contractor.
- b. Inspect the works of improvement at least annually and after every major storm or the occurrence of any other unusual condition that might adversely affect the works of improvement to insure proper functioning and to check for possible damage or deterioration. Items to be checked at time of inspection may include, but not be limited to, the following:

(1) Principal spillways.

- (a) Damage or obstructions.
- (b) Condition of outlet and riser.
 - Signs of seepage.
 - Separation of joints.
 - Cracks or breaks.
 - Differential settlement.
- (c) Sediment level in relation to top of riser.

(2) Emergency spillways - drainageways.

- (a) Erosion.
- (b) Sedimentation.
- (c) Weeds, logs and other obstructions or accumulations reducing channel capacity.
- (d) Conformity with original design (deposition or sloughing).

(3) Reservoir area.

- (a) Undesirable vegetative growth.
- (b) Cut or fallen trees.
- (c) Slash and other debris.

(4) Embankments.

- (a) Settlement or cracking.
- (b) Erosion.
- (c) Leakage.
- (d) Rodent, wildlife or livestock damage.
- (e) Condition of vegetative cover.

- (5) Flood channel.
 - (a) Sedimentation.
 - (b) Bank Cutting.
 - (c) Debris accumulation.
 - (d) Condition of riprap and other works.
 - Undermining.
 - Damage or deterioration.
 - Adjacent channel scouring.
 - (e) Adjacent property damage.
 - (6) Fences and Gates.
 - (a) General Condition - Repairs Needed.
 - Loose or damaged posts.
 - Loose or broken wires.
 - Accumulated debris.
 - Open gates.
- c. Perform, in accordance with any applicable State laws, all maintenance needs indicated by inspections and reports thereof within the time limits specified, if any, in such manner as not to damage the works of improvement in any way. Maintenance may include, but not be limited to, the following:
- (1) Remove and burn debris.
 - (2) Refill, smooth and vegetate rilling on embankments, spillways, and drainageways.
 - (3) Realign disposal channel where needed.
 - (4) Repair damaged riprap or other works.
 - (5) Repair fences and gates where needed.
 - (6) Other maintenance work as indicated in Service inspection reports.
- d. Prepare a report for each inspection performed and furnish one copy to the Service. Maintain a record of all maintenance work performed and make such records available for review by the Service.
- e. Perform operation and maintenance by Force Account with City-owned equipment, by contract where equipment needed not available to the City.
- f. Obtain operation and maintenance funds by bond sales, other City funds, supplemented by fees for use of the recreational facility.

B. Basic Facilities

- 1. The Service will:
 - a. Provide such technical assistance as is needed and is available for preparing plans, designs and specifications for needed maintenance of the Development.
 - b. Inspect the Development at least annually in _____ and prepare and furnish to the City a report of the inspection findings including recommendations for maintenance work needed and when such work should be completed.

2. The City will:

- a. Be responsible for the maintenance of the Development effective at the time each basic facility has been installed and is accepted from the contractor, or, if force account methods are employed, simultaneously with completion of each separately identifiable facility.
- b. Maintain the Development in a good and usable condition at all times; comply with any applicable State law. Take prompt and proper action to carry out in a timely manner such maintenance needs as are indicated as a result of its inspections and those of the Service.
- c. Inspect the Development as follows:
 - (1) At a time sufficiently in advance of the beginning date specified in paragraph I-B-2-c to assure performance of needed maintenance prior to said beginning date.
 - (2) Each month during the operating season specified in paragraph I-B-2-c.
 - (3) Immediately after every major storm or the occurrence of any other unusual condition that might adversely affect operation, security, or condition of the Development.
- d. Prepare a written report of all maintenance needs found as a result of its inspections including plans for performing needed maintenance. Provide the Service with a copy of each report. Maintenance may include, but is not limited to, the following:
 - (1) Removal from land and water areas weeds, logs, slash and other debris which may interfere with use of the Development.
 - (2) Repair of damaged posts and loose or broken wires of fences and gates.
 - (3) Interior or exterior painting, or both, of buildings and other structures and facilities such as docks, bathhouses, latrines, and shelters.
 - (4) Mowing to maintain a sightly appearance and eliminate fire hazards.
 - (5) Cleaning and shaping of drainage ditches, culverts, and outlets.
 - (6) Blading or resurfacing of roads and trails and parking areas.
 - (7) Blading, filling and packing of clay blankets, and redistribution of sand covers comprising beach areas.

- (8) Repair or replacement of damaged or deteriorated items such as picnic tables and benches, fireplaces and fireplace grates, windows, lockers, seats in toilets and bathhouses, water and electrical outlets, boat docks and ramps, and utility poles and lines.
- (9) Control of brush.
- (10) Revegetation of land areas and shoreline.
 - e. Maintain a record of all maintenance work performed and make such records available for review by the Service.
 - f. Other than during the period specified in paragraph I-B-2-c furnish such on-site services as may be necessary to adequately secure and protect the Development.
 - g. Secure prior Service approval of any agreement to be entered into with other parties for maintenance of the Development. Provide the Service with a copy of the agreement after it has been signed by the City and the other party.

III. IT IS MUTUALLY AGREED THAT:

- A. The date established in compliance with paragraph I-B-2-a hereof will be recorded by a supplement to this agreement as soon as such date has been determined.
- B. When the rate schedule provided for in paragraph I-B-2-j hereof has been approved, it will be recorded by a supplement to this agreement. Any subsequent rate schedule changes will be recorded in a like manner.
- C. The City may arrange in writing with another party or parties, for operation or maintenance or both in whole or in part of the Development. Any such arrangement must be consistent with the intent of this agreement and must have the prior approval of the Service.
- D. Government representatives shall have the right of free access to the Development at any time for operations review and maintenance inspection purposes.
- E. Whenever possible, representatives of the City will accompany Service representatives when conducting the annual inspection provided for in paragraph II-B-1-b.
- F. No member of Congress or resident commissioner shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.