

DRAFT PROGRAMMATIC AGREEMENT

AMONG

THE U.S. ARMY CORPS OF ENGINEERS; THE MISSOURI STATE HISTORIC PRESERVATION OFFICER; AND JACKSON COUNTY, MISSOURI

REGARDING

REPURPOSE OR DEMOLITION OF THE LONGVIEW FARM GARAGE/APARTMENT AND POWERHOUSE BUILDING AND THE GREENHOUSE MANAGER'S HOUSE AT LONGVIEW LAKE IN JACKSON COUNTY, MISSOURI

WHEREAS, the United States Army Corps of Engineers, Kansas City District (the "Corps") plans to carry out the repurpose or demolition of the Longview Farm Garage/Apartment and Powerhouse Building and the Greenhouse Managers House (undertaking) pursuant to the 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

WHEREAS, at this time it is not possible to define the scope of the undertaking which may include rehabilitation or demolition of the buildings. Therefore, this programmatic agreement for this project has been developed in order to establish the procedure for determining a use and resolving effects once a use is known; and

WHEREAS, the undertaking consists of the Corps' proposal to repurpose or demolish the Longview Farm Garage/Apartment and Powerhouse Building constructed in 1914 and the Greenhouse Managers House constructed in 1924, located on Corps fee-owned property (Figures 1 and 2) at Longview Lake because the leaseholder, Jackson County, Missouri, has vacated the structures and both are in deteriorating condition. The repurposing or demolition is intended to ultimately fulfill Jackson County's operations and maintenance obligations under section 2 of the lease, DACW41-1-87-34 ("1987 Lease") (Attachment 1), with respect to the two structures; and

WHEREAS, the Corps has defined the undertaking's area of potential effects (APE) as the footprint of each structure plus 30 feet in all directions from the exterior walls; and

WHEREAS, the Corps has determined that the undertaking may have an adverse effect on both structures that are eligible for the National Register of Historic Places (NRHP) and associated with the NRHP-listed Longview Farm and has consulted with the Missouri State Historic Preservation Office (SHPO) pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

WHEREAS, this Programmatic Agreement (PA) establishes procedures for consultation and coordination among the Corps, the SHPO, Jackson County, Missouri, and other consulting parties, as listed in Attachment 2, for compliance with Section 106 of the NHPA regarding the proposed repurposing or demolition of the Longview Farm Garage/Apartment and Powerhouse Building and the Greenhouse Managers House. This PA also establishes the procedures for treatment measures that must be completed to resolve any adverse effects that result from the proposed repurposing or demolition of either or both structures.

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), the Corps has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation, and the ACHP has chosen *not to* participate (in a letter dated 3 November 2020) in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

Whereas, the Corps has issued a notice for public comment on the proposed repurposing or demolition of the Longview Farm Garage/Apartment and Powerhouse Building and the Greenhouse Managers House and no formal comments were received; and

WHEREAS, the Corps has consulted with the Osage Nation, and has not been informed that the property holds any religious or cultural significance to that Tribe; and

WHEREAS, the Corps has consulted with the Osage Nation and Jackson County regarding the effects of the undertaking on historic properties and has invited them to sign this Programmatic Agreement (PA) as an invited signatory; and

NOW, THEREFORE, the Corps, SHPO, and Jackson County agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account possible adverse effects of the undertaking on the historic properties.

STIPULATIONS

The Corps and Jackson County shall take all reasonable and necessary steps to ensure that the following measures are carried out:

I. APPLICABILITY

At such time as the Corps reasonably determines that each structure has been successfully either repurposed or demolished in accordance with the requirements of this PA, Jackson County's operations and maintenance requirements with respect to the structure, as defined by section 2 of the 1987 Lease, shall be considered completed in full. Such determination must be made in writing by the Operation Project Manager at Longview Lake. No other requirement of the 1987 Lease shall be affected by this PA.

II. ROLES AND RESPONSIBILITIES

- A) The Corps is the lead Federal agency responsible for compliance with this PA.
- B) The Corps and Jackson County will ensure that individuals carrying out historic preservation compliance work on its behalf meet the Secretary of the Interior's *Professional Qualification Standards* (36 CFR Part 61) and have the knowledge to assess the resources within the Undertaking's APE. The qualified staff shall have professional qualifications, training, and experience relevant to the technical requirements of a given undertaking. For example: Historians, Architectural Historians or Historical Architects will be utilized to survey historic buildings, while Archaeologists will be utilized to perform archaeological evaluations.

- C) The Corps is responsible for consultation with the Tribes. This responsibility may not be carried out by another entity.

III. PROCESS FOR REPURPOSING STRUCTURES

- A) While a Request for Proposals process and document is developed by the parties, Jackson County will continue to implement mothballing activities that are currently underway as recommended in Longview Farm Greenhouse Complex limited property Assessment and Report: Garage/Apartment and Powerhouse and Greenhouse Manager's House prepared for Jackson County Parks and Recreation and adhere to provisions in the National Park Service Brief 47: Maintaining the Exteriors of Small and Medium Sized Buildings; National Park Service, Brief 31: Mothballing Historic Buildings; and English Heritage, Vacant Historic Buildings: An Owner's Guide to Temporary Uses, Maintenance and Mothballing as able. Jackson County completed the initial phase of mothballing activities on or about December 1st, 2021.
- B) The Longview Farm Garage/Apartment and Powerhouse Building (properties) will be advertised for reuse through the Request for Proposals process.
- 1) The Corps and Jackson County, in consultation with the Missouri SHPO and other consulting parties, shall develop a request for proposals (RFP) for reuse of the properties and a process for evaluating proposals received for the reuse of the properties.
 - 2) The Corps will take the lead in managing the RFP process including advertisements to the public, hosting of public meetings, and receipt of any submitted proposals through standard Corps protocols.
- C) The RFP process will include development of a plan for how and where the RFP will be advertised; a timeline for soliciting, receipt, and consideration for reuse proposals for both structures; protocol for interested parties to visit and inspect the structures; and criteria by which proposals will be evaluated and scored including the requirements necessary to prove demonstrated ability to fund rehabilitation and provide upkeep.
- 1) The structures may be advertised for use together or individually.
 - 2) Prospective parties proposing reuse of the structure(s) must demonstrate ability to fund rehabilitation, maintenance, and operation of the structures in their proposal. This demonstrated ability should include but is not limited to:
 - a. A financial letter of commitment from the proposed project sponsor backed up by documentation from their financial institution(s).
 - b. Fund raising sources.
 - c. A demonstrated past ability to successfully undertake and fund similar projects that involve reuse and re-purposing of historic structures.
 - 3) The RFP will be aimed at gauging interest from potential third parties in purposes allowable under Corps Outgrant policy in the following two categories:
 - a. Recreational opportunities complementary to Jackson County facilities and programs at Longview Lake and other locations, as well as complementary to

other existing recreational services provided by other agencies and entities in the area, and,

- b. Non-recreational functions, complementary to Corps and Jackson County facilities and programs and the surrounding area that would add value and benefit to Longview Lake and Jackson County.
- D) Submitted proposals for re-use of the Garage/Apartment and Powerhouse Building and the Greenhouse Manager's House either separately or together will be evaluated by the Corps and Jackson County to determine if the proposed reuse meets the criteria in the RFP, and there is a demonstrated ability to fund rehabilitation and provide upkeep. Those proposals determined to have a demonstrated ability will be submitted to the consulting parties for review and comment. For each of the proposals submitted to consulting parties:
- 1) The Corps will apply the Criteria of Adverse Effect pursuant to 36 C.F.R. § 800.5(a)(1) to assess the effects of eligible proposals on the structure(s).
 - 2) The Corps shall submit the finding of effect along with a copy of the acceptable proposals to all consulting parties for a review and comment. The consulting parties will have a period of 30 business days to provide their review of the proposals and the effects to historic properties. The Corps will take into account and respond to all comments received. The Corps will attempt to resolve any disagreements among the consulting parties, through consultation. If agreement cannot be reached through consultation, the Corps will proceed in accordance with the dispute resolution measures detailed in Stipulation IX.
 - 3) If after consultation the proposed repurpose is determined to have no adverse effect, the proposed repurpose may proceed.
 - 4) Any changes in plans that may alter the NRHP eligibility of either structure or is not in keeping with 36CFR 800.5(2)(ii) would be required to be reviewed by the consulting parties prior to approval.
 - 5) If after consultations the proposed reuse is determined to have an adverse effect on the structures, the Corps and Jackson County would develop a treatment plan in consultation with consulting parties to fully mitigate the adverse effects in accordance with Stipulation IV.
- E) If no interested parties are identified or interested parties cannot provide the demonstrated ability to fund rehabilitation and provide upkeep to either structure, the Corps and Jackson County will consult with SHPO and other interested parties prior to the demolition of the structure(s) to determine appropriate treatment measures in accordance with Stipulation IV.

IV. RESOLUTION OF ADVERSE EFFECTS TO HISTORIC PROPERTIES

- A) Prior to physical work that will have an adverse effect on the historic property beginning, mitigation measures will be developed by the Corps and Jackson County in consultation with the consulting parties to this PA.
 - 1) If mitigation measures are required to address adverse effects, Jackson County will

develop a treatment plan that the Corps will review.

- a. Mitigation measures may include, but are not limited to, oral history, history markers, an historic context, photographs, interpretive brochures, publications, and documentation in accordance with the Historic American Building Survey (HABS).
 - b. After the Corps and Jackson County have developed their mitigation recommendations, these recommendations will be provided by the Corps to SHPO and other consulting parties either electronically or physically to review and comment on the recommendations. The recommendation shall include:
 - i. Measures that will be completed to mitigate the adverse effects to historic properties
 - ii. Qualifications of professionals who will complete the work
 - iii. Project specifications that outline the work to be completed and associated deliverables.
 - c. The SHPO and other consulting parties shall have thirty (30) calendar days to review and comment on the proposed mitigation measures.
 - d. After the thirty (30) calendar days review period, the Corps, Jackson County, SHPO, and other consulting parties will participate in a meeting either in person or via virtual meeting to discuss the recommended mitigation.
 - e. The Corps and Jackson County will take into account and respond to all comments from SHPO and other consulting parties.
 - f. Jackson County and the Corps shall agree upon a revised draft plan of the mitigation measures, which shall then be provided to SHPO and consulting parties to this PA, who shall provide any comments within a period of thirty (30) business days. The Corps and Jackson County will respond to all comments received from SHPO and consulting parties within this period and will consider these comments in the formulation of the final mitigation measures.
 - g. Corps shall provide the SHPO with a copy of the final proposal for mitigation measures which will include specifications for the implementation of the mitigation measures.
 - h. Prior to beginning the process of completing the mitigation measures and within thirty (30) days of receipt of the final mitigation proposal, SHPO will provide the Corps with a letter concurring the mitigation measures are appropriate.
- B) The Corps will attempt to resolve any disagreements among signatories through consultation. If agreement cannot be reached through consultation, the Corps will proceed in accordance with Stipulation IX of this PA. Any amendments that may arise during consultation would follow amendment stipulation X. Any work on the project should halt until an amendment can be executed.

V. POST-REVIEW EFFECTS AND DISCOVERIES.

- A) If unanticipated effects on historic properties occur during implementation of the repurpose

of the structure(s) the Corps and Jackson County, in compliance with 36 CFR § 800.13(b)3, determine actions that it can take to resolve potential adverse effects and notify via phone SHPO and other Consulting Parties as appropriate within forty-eight (48) hours of the Corps' awareness of the effects. The notification shall describe the nature of the unanticipated effects and proposed actions to resolve any adverse effects. The SHPO and other Consulting Parties shall respond within two (2) business days of the notification by phone or e-mail. The Corps and Jackson County shall take into account the Consulting Parties' recommendations regarding the proposed actions, and then carry out appropriate actions. Jackson County shall provide the SHPO and other Consulting Parties with a report of the actions when they are completed.

B) Plan for Discovery of Unanticipated Cultural Resources Sites and Artifacts Encountered During Construction: The following procedures shall be used in the event that previously unreported and unanticipated cultural resource sites are encountered during the construction or maintenance activities. The procedures are intended to ensure that the Project is in compliance with all applicable federal and state laws and regulations, including Section 106 of the NHPA. The Corps will ensure the following procedures are undertaken.

1) All work within a 50-foot radius must stop immediately and Jackson County shall immediately notify the Corps archeologist, Mr. Timothy Meade (timothy.m.meade@usace.army.mil; or 816-389-3138) of the discovery.

- a. The Corps will notify the SHPO and Indian Tribes that might attach religious and cultural significance to the affected property, pursuant to 36 C.F.R. § 800.13 as well as any other affected party, of the discovery, and implement interim measures to protect the discovery from looting and vandalism. Construction may continue outside the 50-foot radius. Within forty-eight (48) hours of receipt of notification of the discovery, the Kansas City District Corps Archaeologist or District Tribal Liaison, as appropriate, shall:
 - b. inspect the work site to determine the extent of the discovery and ensure that work activities have halted within the 50-foot radius buffer zone.
 - c. clearly mark the area of the discovery.
 - d. implement additional measures, as appropriate, to protect the discovery from looting and vandalism; and
 - e. provide an initial assessment of the site's condition and eligibility to the Indian Tribes and SHPO; and
 - f. notify other consulting parties, if applicable, of the discovery.
 - g. Notification to consulting parties will be via e-mail to the designated point of contact.

2) If the Corps determines that the cultural resource site or artifact is or may be eligible, the Corps will consult with the SHPO, Indian Tribes, and other consulting parties regarding appropriate measures for site treatment pursuant to 36 C.F.R. § 800.6(a). The

Indian Tribes and SHPO will have seven (7) business days to provide their objections or concurrence on the proposed actions. These measures may include:

- a. formal archaeological evaluation of the site.
 - b. visits to the site by the Indian Tribes and/or SHPO.
 - c. exploration of potential alternatives to avoid the site.
 - d. preparation and implementation of a mitigation plan by the Corps in consultation and concurrence with the Indian Tribes and SHPO.
- 3) If the Corps archaeologist, in consultation with SHPO, Indian Tribes, and other consulting parties, determines the site is either isolated, completely disturbed by construction activities, or will not be further disturbed by construction activities, the SHPO, Tribes, and consulting parties will be notified of this determination and construction may resume within the 50-foot radius buffer zone.
- C) If human remains, funerary objects, sacred objects, or objects of cultural patrimony are encountered during the undertaking, the Corps will consult with appropriate Federally recognized Indian Tribes as required by the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), as amended (25 U.S.C. §§ 3001-3014) and its implementing regulations (43 C.F.R. Part 10); and the Archeological Resources Protection Act of 1979 (ARPA) (16 USC 470aa-mm) and its implementing regulations, (43 CFR Part 7). If any human remains are not American Indian, the Corps will comply with the Missouri Unmarked Human Burials Act (Mo. Rev. Stat. 191.400-410 (2017)).

VI. EMERGENCY SITUATIONS.

Should an emergency situation occur which represents an imminent threat to public health or safety, or creates a hazardous condition, Jackson County shall immediately notify the SHPO and other consulting parties via phone call or e-mail of the condition which has initiated the situation and the measures taken to respond to the emergency or hazardous condition. SHPO will be notified in emergency situations via their mainline phone number (573) 751-7858. Should the SHPO or the ACHP desire to provide technical assistance to the Corps, they shall submit comments within seven (7) calendar days from notification if the nature of the emergency or hazardous condition allows for such coordination.

VII. DURATION.

This PA will expire if its terms are not carried out within ten (10) years from the date of its execution. Prior to such time, the Corps may consult with the other signatories to reconsider the terms of the PA and amend it in accordance with Stipulation X below.

VIII. MONITORING AND REPORTING.

Each year following the execution of this PA until it expires or is terminated, the Corps shall provide all parties to this PA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the Corps' efforts to carry out the terms of this PA. If a party

wishes to object to any action that was described within the contents of a report, or to the contents themselves, it shall do so within thirty (30) days of receiving that report, following the Dispute Resolution process outlined in Stipulation IX of this PA, else the objection shall be waived.

IX. DISPUTE RESOLUTION.

Should any signatory to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented, the Corps shall consult with such party to resolve the objection. If the Corps determines that such objection cannot be resolved, the Corps will:

- A) Forward all documentation relevant to the dispute, including the Corps' proposed resolution, to the ACHP. The ACHP shall provide the Corps with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Corps shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The Corps will then proceed according to its final decision.
- B) If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the Corps may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Corps shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the PA and provide them and the ACHP with a copy of such written response.
- C) The Corps' responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

X. AMENDMENTS.

This PA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

XI. ANTI-DEFICIENCY ACT.

The Corps' and Jackson County's obligations under this PA are subject to the availability of appropriated funds, and the stipulations of this PA are subject to the provisions of the Anti-Deficiency Act. The Corps shall make reasonable and good faith efforts to secure the necessary funds to implement this PA in its entirety. If compliance with the Anti-Deficiency Act alters or impairs the Corps' ability to implement the stipulations of this agreement, the Corps shall consult in accordance with the amendment and termination procedures found at Stipulation XII of this agreement.

XII. TERMINATION.

- A) If any signatory to this PA determines that its terms are not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation X, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories. Once the PA is terminated, and

prior to work continuing on the undertaking, the Corps must either (a) execute an PA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The Corps shall notify the signatories as to the course of action it will pursue.

- B) If the PA should be terminated by any party without the Corps having determined that the Longview Farm Garage/Apartment and Powerhouse Building and the Greenhouse Managers House have been successfully either repurposed or demolished, as provided in Stipulation I.B, then this PA and the activities performed thereunder shall not serve to complete or otherwise affect the operations and maintenance requirements of section 2 of the 1987 Lease with respect to the structures.

XIII. SEVERABILITY.

Should any portion of this PA be judicially determined to be illegal or unenforceable, the remainder of the PA shall continue in full force and effect.

XIV. EXECUTION AND IMPLEMENTATION

- A) Nothing in this PA is intended to prevent the Corps from consulting more frequently with the Signatories and Invited Signatories concerning any questions that may arise or on the progress of any actions falling under or executed by this PA.
- B) In accordance with 36 CFR § 800.6(b)(1)(iv), the Corps shall submit an executed copy of this PA and supporting documentation, pursuant to 36 CFR 800.11(f), to the ACHP prior to approving the undertaking.
- C) Each party agrees a person may execute this document by electronic symbol or process attached to or logically associated with the document, with an intent to sign the document and by a method that must include a feature to verify the identity of the signer and the authenticity of the document, commonly referred to as verified electronic signature. Each party further agrees to accept in-person signature with ink for such party who agrees but does not wish to or have access to adequate technology to sign electronically.
- D) This PA may be executed in counterparts.
- E) Execution of this PA by the Signatories and Invited Signatories and implementation of its terms evidence that the Corps has taken into account the effects of this Undertaking on historic properties and afforded the ACHP an opportunity to comment.

**THE U.S. ARMY CORPS OF ENGINEERS; JACKSON COUNTY, MISSOURI;
THE MISSOURI HISTORIC PRESERVATION OFFICER REGARDING
REPURPOSE OR DEMOLITION OF THE LONGVIEW FARM
GARAGE/APARTMENT AND POWERHOUSE BUILDING AND THE GREENHOUSE
MANAGER’S HOUSE AT LONGVIEW LAKE IN JACKSON COUNTY, MISSOURI**

Signed:

A. Required Signatories:

By: _____ Date _____
Travis J. Rayfield, PE, PMP
Colonel, Corps of Engineers
District Commander

By: _____ Date _____
TONI M. PRAWL, Ph.D.
Missouri State Historic Preservation Office
Director and Deputy State Historic Preservation Officer

B. Invited signatory

By: _____ Date _____
Michele Newman, Director
Jackson County Parks + Rec



Figure 1. Boundary of Longview Lake showing location of buildings.

DRAFT PROGRAMMATIC AGREEMENT AMONG THE U.S. ARMY CORPS OF ENGINEERS, KANSAS CITY DISTRICT JACKSON COUNTY, MISSOURI; AND THE MISSOURI STATE HISTORIC PRESERVATION OFFICER REGARDING REPURPOSE OR DEMOLITION OF THE LONGVIEW FARM GARAGE/APARTMENT AND POWERHOUSE BUILDING AND THE GREENHOUSE MANAGER'S HOUSE AT LONGVIEW LAKE IN JACKSON COUNTY, MISSOURI

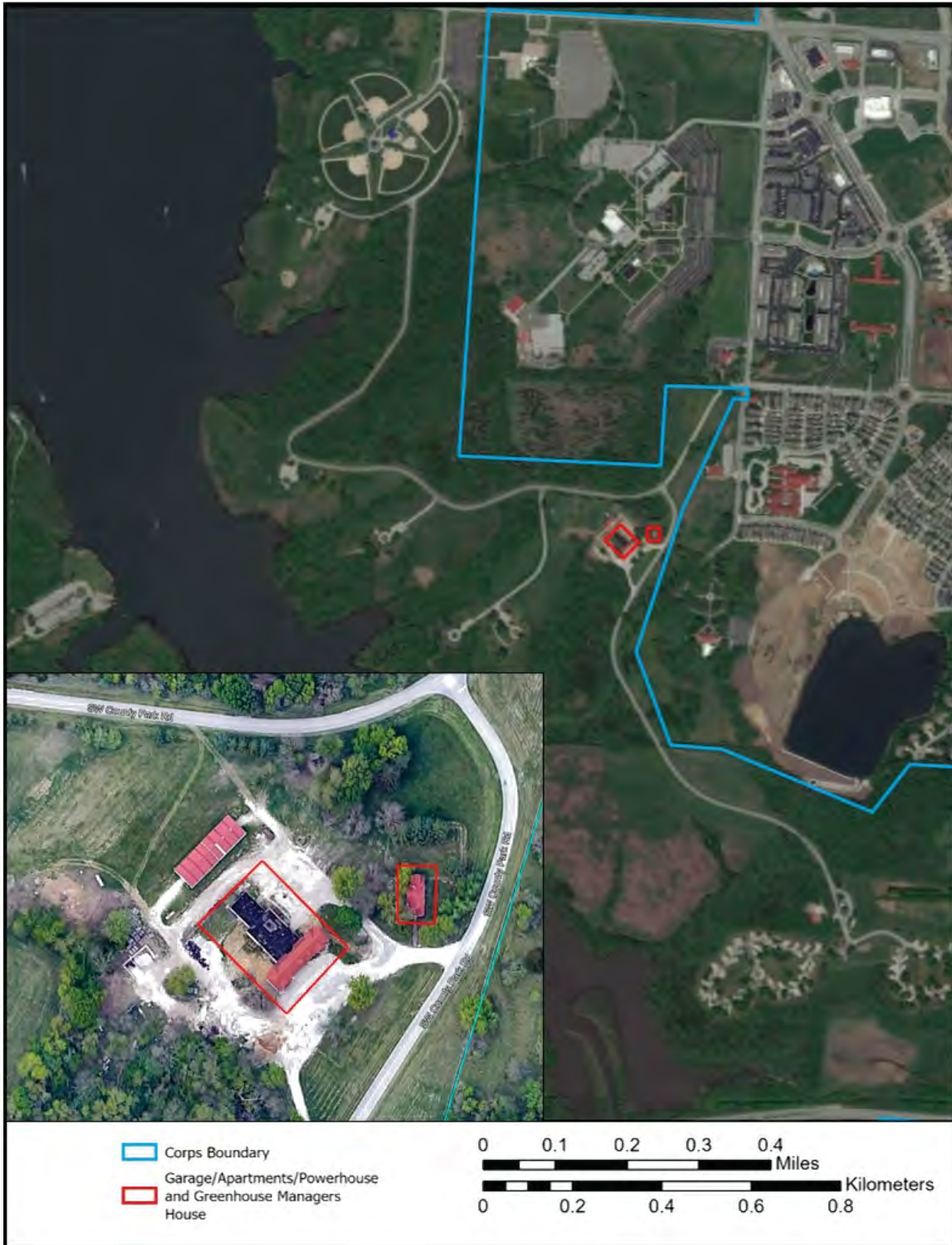


Figure 2. Overview map and inset, showing Longview Farm Garage/Apartment and Powerhouse Building (left) and Greenhouse Managers House (right).

Attachment 1

DACW41-1-87-34

DEPARTMENT OF THE ARMY
LEASE
FOR PUBLIC PARK AND RECREATIONAL PURPOSES

THE SECRETARY OF THE ARMY under authority of Section 4 of the Act of Congress approved 22 December 1944, as amended (16 U.S.C. 460d), and the Federal Water Project Recreation Act, 79 Stat. 214 (16 U.S.C. 460L-13), and pursuant to an agreement (DACW41-74-C-0040) entered into on 20 May 1974 (hereinafter referred to as The Agreement), by and between the United States of America, and the county of Jackson County, Missouri, hereby grants to the county of Jackson County, Missouri (hereinafter referred to as lessee), a political subdivision of the State of Missouri, a lease for a period of fifty (50) years commencing on 8 July 1986 and ending on 7 July 2036, to use and occupy approximately 4620 acres of land and water areas under the primary jurisdiction of the Department of the Army in the Longview Lake, Missouri, Project Area, hereinafter referred to as the premises, as shown on attached Exhibit "A" and deleted areas in more detail as shown on attached Exhibit "B".

THIS LEASE is granted subject to the following conditions:

1. The lessee shall conform to such regulations as the Secretary of the Army may issue to govern the public use of the project area, and shall comply with the provisions of the above-cited Acts of Congress. The lessee shall protect the premises from fire, vandalism, and soil erosion, and may make and enforce such regulations as are necessary and within its legal authority, in exercising the privileges granted in this lease, provided that such regulations are not inconsistent with those issued by the Secretary of the Army or with provisions of the above-cited Acts of Congress.

2. The lessee agrees to administer the land and water areas included in the lease for recreation, and to bear the costs of operation, maintenance and replacement of all facilities and improvements on the premises at the commencement of this lease or added during its term. As used in this lease the term "replacement" shall be construed to mean the replacement in whole or part of any structure or improvement so worn or damaged by any cause as to no longer adequately serve its designed function with normal maintenance. The lessee shall be guided by an Annual Plan of Operation and Maintenance in furtherance of the Plan of Recreation Development and Management (Master Plan and its additions) adopted pursuant to Article 2(c) of the Agreement and by this reference made a part hereof. On or before the anniversary date of the lease each year, the parties shall agree on the Annual Plan which shall include, but is not limited to, the following:

a. Plans for management activities to be undertaken by the lessee including improvements and other facilities to be constructed thereon in accordance with The Agreement.

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b. Report of the management, maintenance and development accomplishments of the lessee for the preceding year.

c. Significant modifications of policies or procedures which have developed or are to be applied.

d. Minor modifications of the Plan of Recreation Development and Management (major modifications to be accomplished by amendment of the Plan).

3. In addition to the fee and charges authorized under the provisions of Article 5 of The Agreement, the lessee and its sub-lessees may conduct such revenue-producing activities as are within the scope of Article 4 of The Agreement. In furtherance of the development and conservation of fish and wildlife, forest and other natural resources, the lessee may plant or harvest timber or crops, either directly, by service contract, sharecrop, or cooperative agreements with local farmers. Any proceeds derived from the sale of crops or timber, in accordance with an approved management plan, may be used in furtherance of the above uses within the demised premises. The balance of the proceeds not so used shall be paid to the United States at the expiration of each 5-year period. Proceeds shall not be used for general administrative expenses. Land or resources shall not be managed solely for the production of revenue, and any lands not managed for recreation and related resource conservation will be made available for timber or crop sale or lease by the District Engineer under conditions not incompatible with the lessee's use of the property.

4. The use of improvements on Acquisition Tracts 102, 109, 110, 300, and 325 is hereby granted. The inventory and condition reports included as parts of Lease DACW41-1-85-280, covering these improvements are transferred to Lease DACW41-1-87-34. Copies of said inventory and condition reports shall be attached hereto and become parts hereof. From time to time there shall be added to said inventory such additional improvements as may be constructed pursuant to the cost sharing agreement or additional existing improvements made available by the Government. Upon the expiration, revocation, or termination of this lease, a similar inventory and condition report shall be prepared and submitted to the said officer, said inventory and condition report to constitute the basis for settlement by the lessee with said officer for leased property shown to be lost, damaged, or destroyed, any such property to be either replaced or restored to the condition required by Condition 16 of the lease or at the election of the Government reimbursement made therefor by the lessee at the then current market value thereof. Occupancy and management of all areas within the subject leasehold are restricted until approval to occupy and manage is granted in writing to the lessee by the District Engineer.

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5. The lessee may grant permits and licenses, and sublease all or portions of the leased property for purposes which are consistent with the terms and conditions of this lease and with the Plan of Recreation Development and Management (Master Plan and its additions). All such grants shall state that they are granted subject to the provisions of this lease. In order to protect the investments of sublessees, the District Engineer is authorized to approve subleases which require the Government to continue to honor such parts of the sublease which may be necessary to assure the continuation of the subleased activities upon a default which would result in a revocation of the prime lease under Condition 15 hereof.

6. No permits, licenses or subleases will be granted to adjacent private property owners for use, alteration, improvement, addition of facilities, or any other purpose which would confer upon them privileges not available to the general public or which would infer or imply exclusive private use of public lands. Any permits, licenses or subleases granted to adjacent private property owners for use, alteration, improvement, addition of facilities, or any other purposes will be conditioned such as:

- a. Not to restrict use thereof by the general public.
- b. To permit free and unimpeded passage along the shore.
- c. To be compatible with the Forest Management Plan and the Environmental Impact Statement adopted for the project.
- d. To have signs posted to the effect that "This is public property open to general public use."

7. The lessee shall establish and maintain adequate records and accounts and render annual statements of receipts and expenditures to the District Engineer, except for annual or weekly entrance fees which are honored at other recreational areas operated by the lessee. The District Engineer shall have the right to perform audits of the lessee's records and accounts, and to require the lessee to audit the records and accounts of sublessees, and furnish the District Engineer a copy of the results of such an audit.

8. The rates and prices charged by the lessee or its grantees for revenue producing activities shall be reasonable and comparable to rates charged for similar goods and services by others in the community and on the project. The government shall have the right to review such rates and prices and require an increase or reduction where it finds the objective of this paragraph has been violated.

9. The right is hereby reserved to the United States, its officers, agents, and employees, to enter upon the premises at any time to make inspections concerning the operation and maintenance

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of the lands and facilities provided hereunder, and for any purpose necessary or convenient in connection with river and harbor and flood control work, and to remove timber or other material required for such work, to flood the premises when necessary, and/or to make any other use of the land as may be necessary in connection with public navigation and flood control, and the lessee shall have no claim for damages of any character on account thereof against the United States or any agent, officer or employee thereof.

10. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the lessee, or for damages to the property or injuries to the person of the lessee's officers, agents, servants, or employees or others who may be on the premises at their invitation or the invitation of any one of them, arising from or incident to the flooding of the premises by the Government or flooding from any other cause, or arising from or incident to any other governmental activities, and to the extent that it may legally do so the lessee shall hold the United States harmless from any and all such claims, not including damages due to the fault or negligence of the United States or its Contractors.

11. The lessee, who is self-insured, shall include in his permits, licenses, and subleases, granted under Condition 5 of this lease, a condition requiring its grantees to obtain liability or indemnity insurance as required under the provisions of Article 8(b) of The Agreement.

12. That the lessee or its grantees shall not discriminate against nor exclude from participation in its operations any person(s) on the basis of race, religion, color, national origin, sex, age, or handicap. The lessee has furnished as a part of the Agreement an assurance (Exhibit "C") that it will comply with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d) and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300, issued as Department of Defense Directive 5500.11, December 28, 1964, as amended) issued pursuant to that title, the Age Discrimination Act of 1975 (42 USC 6102); and the Rehabilitation Act of 1973, as amended (29 USC 794).

13. This lease is subject to all existing easements, and easements subsequently granted, for roadways, and utilities and for other purposes located or to be located on the premises, provided that the proposed grant of any easement will be coordinated with the lessee and easements will not be granted which will, in the opinion of the District Engineer, interfere with development, present or proposed, by the lessee.

14. That, within the limits of their respective legal powers, the parties to this lease shall protect the project against pollution of its water. The lessee shall comply promptly with any

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regulations, conditions or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency and/or a state, interstate, or local governmental water pollution control agency having jurisdiction to abate or prevent water pollution. Such regulations, conditions, or instructions in effect or prescribed by the Environmental Protection Agency, state, interstate or local governmental agency are hereby made a condition of this lease.

15. This lease may be revoked by the Secretary of the Army in the event the lessee violates any of the terms and conditions of this lease and continues and persists therein for thirty (30) days after notice thereof, in writing, by the District Engineer. Such a termination shall not derogate or diminish such other remedies in law as may be available to the Government and in no way shall it act to relieve the lessee of his responsibilities and obligations under The Agreement. In lieu of revocation, the District Engineer, in his discretion, upon finding that violation constitutes a health or safety hazard may suspend the use of that operation or facility until such deficiency is rectified.

16. At the expiration of this lease, provided the premises remain available for the purposes specified in this lease and the lessee has satisfactorily performed, the lessee will be given first consideration in the continuing leasing of the premises. On or before the date of expiration of this lease, the lessee shall vacate the premises, remove its property therefrom, and restore the premises to a condition satisfactory to the District Engineer. If, however, this lease is revoked the lessee shall vacate the premises, remove its property therefrom, and restore the premises as aforesaid within such time as the Secretary of the Army may designate. In either event, if the lessee shall fail or neglect to remove its property and so restore the premises, then its property shall become the property of the United States without compensation therefor, and no claim for damages against the United States, or its officers or agents shall be created by or made on account thereof.

17. All notices to be given pursuant to this lease shall be addressed, if to the lessee, to the County Executive, Jackson County Courthouse, 415 East 12th Street, Kansas City, Missouri 64106, if to the Government, to the District Engineer, Kansas City District, Corps of Engineers, 700 Federal Building, 601 East 12th Street, Kansas City, Missouri 64106-2896, or as may from time to time be directed by the parties. Notice shall be deemed to have been duly given if and when deposited in a properly sealed envelope or wrapper, addressed as aforesaid and deposited postage prepaid in a post office or branch post office regularly maintained by the United States Government.

18. That the lessee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological,

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architectural or other cultural artifacts, relics, vestiges, remains or objects of antiquity. In the event such items are discovered on the premises, the lessee shall immediately notify the District Engineer, Kansas City District, and the site and the material shall be protected by the lessee from further disturbance until a professional examination of them can be made or until clearance to proceed is authorized by the District Engineer.

19. The lessee shall comply with all applicable Federal laws and regulations and with all applicable laws, ordinances, and regulations of the state, county, and municipality wherein the premises are located.

20. The right is hereby reserved to the Government, but subject to the prior approval of the lessee, to accomplish maintenance of any portion of the premises in such a manner as may be agreeable to the parties hereto. The vegetative maintenance of the premises by the Government may include mowing and weed control through public hay sales.

21. Lease DACW41-1-85-280 will terminate with the effective date of this lease.

22. Occupancy and management of all areas within the subject leasehold are restricted until approval to occupy and manage is granted in writing to the lessee by the District Engineer.

23. In order to assure continuing compliance with the National Historic Preservation Act, as amended, and other relevant cultural resources legislation and MOA's, the lessee agrees that no land disturbing activity of any nature will be undertaken without written concurrence of the District Engineer. The two presently known prehistoric archaeological sites eligible for the National Register of Historic Places are located in Tracts 111, 112, 125, 244, and 247.

24. The Longview Farm (Tract 300) has been determined eligible for the National Register of Historic Places. A Memorandum of Agreement for these structures has been developed by the Corps of Engineers, the Advisory Council on Historic Preservation and the Missouri State Historic Preservation Officer. Therefore, the lessee agrees not to alter, modify or repair these buildings without first consulting with and receiving written approval from the Kansas City District Engineer that such work will not affect the integrity of these structures as properties eligible for inclusion on the National Register.

25. The right is hereby reserved to the United States, its officers, agents, and employees, to enter upon the premises at any time to inspect, alter or repair any flood control structures. The right is reserved to the United States to close any area to the

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public adjacent to the flood control structures including the outlet works parking lot and service Road C to allow investigative or remedial action.

26. The lessee agrees to reserve at least one area at which access to the waters and shores of the reservoir may be reached without the imposition of fees of any kind. No facilities need be provided at this area by the lessee, but normal maintenance and clean-up will be provided.

27. No construction work or structures may be erected or altered upon the premises unless and until the type of use, design and proposed location or alteration shall have been approved in writing by the District Engineer.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of SEPTEMBER, 1987, by direction of the Assistant Secretary of the Army (I&L).



Gordon M. Hobbs
Assistant for Real Property
OASA(I&L)

THIS LEASE is also executed by the lessee this 15th day of April, 1987.

JACKSON COUNTY, MISSOURI

BY: Bill Waris
BILL WARIS
County Executive


J. S. Smith

CERTIFICATE OF AUTHORITY

I, Bernice J. Conley, hereby certify that I am the Clerk of the Legislature of the COUNTY OF JACKSON described in and which executed the foregoing agreement with the United States of America; that said County is organized under the law of the State of Missouri; that the seal affixed to said instrument is the seal of said County; that Bill Waris who executed said agreement as County Executive of said County was then County Executive of said County, and has been duly authorized to execute said instrument on behalf of said County; that I know the signature of said Bill Waris; and that the signature affixed to subject instrument is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, this 15 day of April 1987.

SEAL


BERNICE J. CONLEY

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF DEFENSE
DIRECTIVE UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF
1964 AND SUBSEQUENT ACTS AND SECTION 504 OF THE
REHABILITATION ACT OF 1973 (AS AMENDED)

JACKSON COUNTY, MISSOURI (hereinafter called "Applicant or Recipient")

HEREBY AGREES THAT it will comply with Title VI of the Civil Rights Act of 1964 (42 USC 2000d) and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300, issued as Department of Defense Directive 5500.11, December 28, 1964, as amended) issued pursuant to that title; the Age Discrimination Act of 1975 (42 USC 6102); Section 504 of Public Law 93-112, Rehabilitation Act of 1973, September 26, 1973 (29 U.S.C. 794) (1976); Section 111 of Public Law 93-516, Rehabilitation Act Amendments of 1974, December 7, 1974 (29 U.S.C. 706, 780, 790) (1976); and Section 119 of Public Law 95-602, Rehabilitation Comprehensive Services, and Development Disabilities Amendments of 1978, November 6, 1978 (Section 794, Note 29, United States Code) (supp III 1979)), to the end that, in accordance with Title VI of that Act, the Directive, the Age Discrimination Act and the Rehabilitation Acts, no person in the United States shall, on the ground of race, color, religion, sex, age, handicap or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant or Recipient receives Federal financial assistance from the Department of the Army and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

If any personal property or real property, or interest therein, or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant or Recipient by the Department of the Army, or if such assistance is in the form of personal property or real property, or interest therein, or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant or Recipient by the Department of the Army, or if such assistance is in the form of personal property or real property, or interest therein or structure thereon, then this assurance shall obligate the Applicant or Recipient, or in the case of any transfer of such property, any transferee for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for the period during which it retains ownership or possession of the property whichever is longer. In all other cases, this assurance shall obligate the Applicant or Recipient for the period during which the Federal financial assistance is extended to it by the Department of the Army.

The Department of the Army representatives will be allowed to visit Recipient facilities to ensure compliance with the above stated laws. THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant or Recipient by the Department of the Army, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date.

The Applicant or Recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant or Recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant or Recipient.

Dated April 15th 1987 ✓

JACKSON COUNTY, MISSOURI

(Applicant or Recipient)

By Bill Wilcox ✓

County Court House
415 East 12th Street

Kansas City, Missouri

(Applicant or Recipient's Mailing Address)

Smithville-Longview

(Project or Installation)

ATTACHED TO AND MADE A
PART OF DAC W41-1-87-34

EXHIBIT "C"

MRK FORM AUG 86 83A