

CHALLENGE PARTNERSHIP AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, ST. LOUIS DISTRICT  
MARK TWAIN LAKE  
AND  
MARK TWAIN LAKE FRIENDS OF RECREATION AND ENVIRONMENTAL  
STEWARDSHIP (FOREST) COUNCIL

THIS AGREEMENT, entered into this 19<sup>th</sup> day of December, 2013,  
by and between the Department of the Army (hereinafter the "Government"), represented by the  
Chief of Operations, Readiness and Regulatory Division, U.S. Army Corps of Engineer, St.  
Louis District, and Mark Twain Lake Friends of Recreation and Environmental Stewardship  
(FOREST) Council, represented by Mr. Roger Wilson (hereinafter the "Partner").

WITNESSETH THAT:

WHEREAS, the Government manages lands and waters at Mark Twain Lake which  
includes many outdoor recreational and educational opportunities for the public, and

WHEREAS, the development of the Frank Russell Pond Barrier Free Access and Fishing  
Facility will support the mission of Mark Twain Lake, the Northeast Missouri Environmental  
Stewardship Demonstration Area, and the Frank Russell Recreation Area, and

WHEREAS, it is mutually beneficial to the Government and the Partner to work  
cooperatively to develop the Frank Russell Pond Barrier Free Access and Fishing Facility in the  
Frank Russell Recreation Area, and

WHEREAS, the Partner, in order to assist the Government in this project, has voluntarily  
agreed to support a portion of the cost through the contribution of in-kind services, and

WHEREAS, Section 225 of the Water Resources Development Act of 1992, PL 102-580,  
(Oct 31, 1992), authorized the Secretary of the Army to accept contributions from the Partner  
and apply those contributions to the Project, and

WHEREAS, the Government and the Partner have the full authority and capability to  
perform as hereinafter set forth and intend to cooperate in financing and challenge cost-sharing  
in accordance with the terms of this agreement;

NOW THEREFORE, the Government and the Partner agree as follows:

## ARTICLE I - DEFINITIONS AND GENERAL PROVISIONS

For purposes of this agreement:

- a. The term "Project" shall mean the development of the Frank Russell Pond Barrier Free Access and Fishing Facility in the Frank Russell Recreation Area as generally described in The Master Plan, Design Memorandum No. 9, Clarence Cannon Dam and Mark Twain Lake, Salt River, Missouri, St. Louis District.
- b. The term "total project costs" shall mean all costs incurred by the Government and the Partner directly related to the development of the Frank Russell Pond Barrier Free Access and Fishing Facility.
- c. This agreement in no way restricts the Government from participating in similar activities or arrangements with, or accepting contributions from, other public and private agencies, organizations, and individuals.
- d. All donated property, facilities and improvements placed on Government land as well as any work accomplished under this agreement shall become the property of the Government.

## ARTICLE II - OBLIGATIONS OF THE PARTIES

- a. The Government, subject to and using funds appropriated by the Congress of the United States (hereinafter "Congress"), and using funds or services provided by the Partner, shall expeditiously construct the Project, applying those procedures usually applied to Federal projects, pursuant to Federal laws, regulations, and policies. The award of contracts, modifications, or change orders, and performance of all work on the Project (whether the work is performed under contract or by Government personnel) shall be exclusively within the control of the Government.
- b. The Government will provide goals, objectives, materials, and technical oversight of the Project; shown in Appendix A-1.
- c. The Partner shall provide in-kind construction services and materials, representing 33% of the total cost associated with the development of the Project; shown in Appendix A-2.

- d. The Government will perform a final accounting to determine the contributions provided by all parties to this agreement and to determine whether each has met its obligations under paragraphs b and c of this Article.
- e. No Federal funds may be used to meet the Partner's total project costs under this Agreement.
- f. The Partner shall not use Government-supplied materials and equipment, or allow their use, for other than authorized project purposes.

### ARTICLE III - METHOD OF PAYMENT

- a. The Government will maintain current records of supplies and materials provided by the Partner, and a current projection of total project costs. The Government will provide the Partner with a report stating the monetary value of the Partner's in-kind services provided to date for the total project costs as required in accordance with Article II.d of this Agreement. On the effective date of this Agreement, total project costs are estimated to be \$45,000.00, shown in Appendix B, and the Partner's contributions required under Article II. c. of this Agreement is projected to be 33% of the total project cost. Such amounts are estimates subject to adjustment and are not to be construed as the total financial responsibilities of the Government and the Partner.
- b. The Partner shall provide services required under Article II. c.
- c. Upon completion of the Project and resolution of all relevant claims and appeals, the Government shall conduct a final accounting and furnish the Partner with the results of the final accounting. The final accounting shall establish total project costs, each party's contribution provided thereto, and each party's required share thereof.

### ARTICLE IV - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to both parties. The parties shall each pay 50 percent of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

## ARTICLE V - FEDERAL AND STATE LAWS

In the exercise of their respective rights and obligations under this Agreement, the Government and the Partner agree to comply with all applicable Federal and State laws and regulations, including, but not limited to, Section 601 of Title VI of the Civil Rights Act of 1964, PL 88-352, and the Department of Defense Directive 5500.11 issued pursuant thereto and published in Part 300 of Title 32, Code of Federal Regulations, as well as Army Regulations 600-7, entitled "Non-discrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army."

## ARTICLE VI - RELATIONSHIP OF PARTIES

- a. In the exercise of its rights and obligations under this Agreement, the Government and the Partner each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.
- b. In the exercise of its right and obligations under this Agreement, no party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights such other parties may have to seek relief or redress against such contractor either pursuant to any cause of action that such other party may have or for violation of any law.

## ARTICLE VII - OFFICIALS NOT TO BENEFIT

No member of or delegate to the Congress, or resident commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom.

## ARTICLE VIII - INDEMNIFICATION

The Partner shall hold and save the Government free from all damages arising from services it performs or provides for the construction, operation, maintenance, repair, replacement, and rehabilitation of the Project, except for damages due to the fault or negligence of the Government or its contractors.

## ARTICLE IX - TERMINATION OR SUSPENSION

- a. If at any time any Partner fails to fulfill its obligations under this Agreement, the Chief of Operations shall terminate this Agreement or suspend future performance under this Agreement unless he/she determines that continuation of work on the Project is in the interest of the United States or is necessary in order to satisfy agreements with any other non-Federal interests in connection with the Project.

- b. If the Government fails to receive annual appropriations in amounts sufficient to meet Project expenditures for the then-current or upcoming fiscal year, the Government shall so notify the Partner, and 60 calendar days thereafter any party may elect without penalty to terminate this Agreement or to suspend future performance under this Agreement. In the event that any party elects to suspend future performance under this Agreement pursuant to this paragraph, such suspension shall remain in effect until such time as the Government receives sufficient appropriations or until either the Government or the Partner elects to terminate this Agreement.
- c. In the event that any party elects to terminate this Agreement pursuant to this Article, all parties shall conclude their activities relating to the Project and proceed to a final accounting in accordance with Article II of this Agreement.
- d. Any termination of this Agreement or suspension of future performance under this Agreement in accordance with this Article shall not relieve the parties of liability for any obligation previously incurred.

#### ARTICLE X - NOTICES

- a. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally, or mailed either by first-class, registered, or certified mail, as follows:

If to the Partner:                    Mr. Roger Wilson  
    MTL FOREST Council  
    30022 Monroe Road 410  
    Paris, Missouri 65275

If to the Government:            Sandra J. Spence  
    Operations Manager  
    Mark Twain Lake Project Office  
    20642 Highway J  
    Monroe City, Missouri 63456

- b. A party may change the address to which such communications are to be directed by giving written notice to the other parties in the manner provided in the Article.

- c. Any notice, request, demand, or other communications made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed.

#### ARTICLE XI - CONFIDENTIALITY

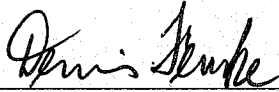
To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the Chief of Operations, St. Louis District.

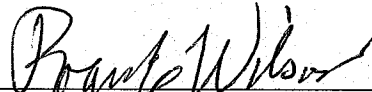
Signed and sealed this 19<sup>th</sup> day in December, 2013.

The Department of the Army

FOREST Council

BY: 

DENNIS FENSKE  
Chief, Operations, Readiness  
and Regulatory Division

BY: 

ROGER WILSON

## Appendix A-1

### GOVERNMENT FURNISHED LABOR, MATERIALS AND EQUIPMENT

1. The Government will provide technical oversight and coordination of the Frank Russell Pond Barrier Free Access and Fishing Facility development, accounting for 11% of the total project costs.
2. The Government will coordinate acquisition of construction services and materials funded by the Corps of Engineers Handshake Partnership Program funding, comprising 56% of the total project cost.

## Appendix A-2

### PARTNER CONTRIBUTION

1. Mark Twain Lake Friends of Recreation and Environmental Stewardship (FOREST) Council shall provide in-kind construction services and materials, representing 33% of the total cost associated with the development of Frank Russell Pond Barrier Free Access and Fishing Facility. Labor and, equipment shall represent the in-kind service provided under this agreement.



Appendix B

**CHALLENGE COST-SHARING FINANCIAL WORK SHEET**

**Project Name:** Mark Twain Lake

**Contact Person:** Allen Mehrer

**Address:** U.S. Army Corps of Engineers  
Mark Twain Lake Project Office  
20642 Highway J  
Monroe City, MO 63456

**Phone:** (573) 735-4097

**Work Project Title:** Frank Russell Pond Barrier Free Access and Fishing Facility

**Location:** Mark Twain Lake, Frank Russell Recreation Area

**Proposed Date of Work:** May 2014

**Description of Work:** The Frank Russell Pond Barrier Free Access and Fishing Facility project will develop 325' of ADA-compliant concrete sidewalk, two 8' x 10' concrete paved fishing pads, and landscaped aquatic feature. Furthermore, the project will address the remediation of approximately 500' of perimeter shoreline that is impacted by the effects of wind and hydraulic forces.

Project Objectives:

1. Provide barrier-free access to a valued recreational asset.
2. Promote an environment to educate and introduce a component of the community not actively engaged with outdoor opportunities due to perceived constraints.
3. Support the mission of NEMOESDA, and youth oriented special events.

**Partners**

**Partner:** Mark Twain Lake Friends of Recreation and Environmental Stewardship (FOREST) Council

**Contact Person:** Roger Wilson

**Address:** 30022 Monroe Road 410  
Paris, Missouri 65275

	<b>Government</b>	<b>Handshake Agreement</b>	<b>Partner</b>	<b>Total</b>
Salaries	\$5,000.00			\$5,000.00
Material/Supply/Contract		\$25,000.00	\$1,500.00	\$26,500.00
In-kind Service			\$13,500.00	\$13,500.00
<b>Total</b>	<b>\$5,000.00</b>	<b>\$25,000.00</b>	<b>\$15,000.00</b>	<b>\$45,000.00</b>
Share of Cost	11%	56%	33%	100%