

CHALLENGE PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
QUAIL UNLIMITED

This agreement, entered into this 4th day of March, 2010, by and between the Department of the Army (hereinafter, the "Government"), represented by the Chief, Operations Division; U.S. Army Corps of Engineers; Savannah District; and Quail Unlimited (hereinafter, referred to as the "Partner"), represented by the Regional Director of Quail Unlimited or his designee.

WITNESSETH THAT:

WHEREAS, the Government manages lands and waters at J. Strom Thurmond, which includes wildlife recreational opportunities for the public; and

WHEREAS, the Partner shares interests associated with lands and the habitat of quail and other species and recognizes the value in protecting, conserving, enhancing and properly managing these lands and habitats; and

WHEREAS, the Partner agrees that longleaf pine reestablishment and bobwhite quail habitat are important for managing these lands; and

WHEREAS, the Partner, in order to assist the Government in this project has voluntarily agreed to a portion of the cost; and

WHEREAS, Section 225 of the *Water Resources Development Act* of 1992, Public Law 102-580 (October 31, 1992), authorizes 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 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 PROVISION

For purposes of this Agreement:

- a. The term "Project" shall mean the contracting of herbicide application, signage, permanent fire break clearing, and food plot planting on public lands at Thurmond Project.
- b. The term "total project costs" shall mean all costs incurred by the Government and the Partner directly related to construction of the project.
- c. This Agreement in no way restricts the Government from participating in 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.
- e. The Government agrees to accept from the partner the services valued at a total of \$13,500 dollars to assist in herbicide application, permanent firebreaks, and wildlife food plots on public lands on the Georgia side of the Thurmond Project. Project will be completed at Murry Creek, Below Dam Georgia, and/or Shriver Creek areas of Lake Thurmond.

ARTICLE II – OBLIGATIONS OF THE PARTIES

- a. The Government, subject to and using funds appropriated by the Congress of the United States (hereinafter the "Congress"), and using funds 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 or not the work is performed under contract or by Government personnel) shall be exclusively within the control of the Government.
- b. The Government shall provide, through contractors or in-house, all labor and equipment necessary for planting and burning habitat areas at Shriver Creek, Murry Creek, and the Below Dam Quail Habitat Demonstration Area.
- c. The Partner will provide services not to exceed the sum of \$13,500 to be used for the Project. The Government shall 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 the Article.
- d. No federal funds may be used to meet the Partner's share of total project costs under this agreement.

e. The Partner shall not use Government – supplied materials and equipment, or allow their use for other than authorized project purposes.

f. This agreement shall terminate on October 30, 2010. Either party to this agreement may terminate it prior to this date by providing thirty (30) days written notice to the other parties, should prior communication between the parties fail to result in agreement to avoid such termination.

ARTICLE III – METHOD OF PAYMENT

a. The Government shall maintain current records of contributions to the project. The Government will provide the partner with a report setting all contributions provided to date. On the effective date of this Agreement, total project costs are projected to be approximately \$58,500 during FY10-11, and partner's contributions required under Article II.c. of the Agreement will be \$13,500. Such amounts are estimates subject to adjustment responsibilities of the Government and the Partner.

b. The Partner shall provide the contribution required under Article II.c. of this Agreement through a combination of contributions as outlined in Appendix A to this Agreement.

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 result of the final accounting. The final accounting shall establish total project costs and each party's contribution provided thereto.

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, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified 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 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 the Title VI of the Civil Rights Acts of 1964, Public Law 88-352, and 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 Army."

ARTICLE VI – RELATIONSHIP OF PARTIES

- a. In the exercise of their respective 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 their respective rights and obligations under this Agreement, neither 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 party 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, including damages to Government – supplied materials and equipment made available for the Partner's use beyond normal wear and tear, arising from services the Partner 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 the Partner fails to fulfill its obligations under this Agreement, the District Engineer 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

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

c. Any notice, request, demand, or other communication 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, Operations Division, Savannah District.

The Department of the Army

Quail Unlimited
10364 S 950 E
Stendal, IN 47585

BY: Linda C. Morrison
Linda Morrison
Chief, Operations Division
USACE
Savannah District

David Howell
David Howell
Regional Director
Quail Unlimited

DATE: 4 March 2010

DATE: 25 Feb. 2010

Appendix A

CHALLENGE PARTNERSHIP FINANCIAL WORKSHEET

Project Name: J. Strom Thurmond Project

Contact Person: Allen Dean or Jeff Brooks

Address: 510 Clarks Hill Highway
Clarks Hill, SC 29821

Phone: 800-533-3478

Work Project Title: Quail Habitat Improvement

Location: Below Dam, Murry Creek and Shriver Creek, Georgia

Proposed Date of Work: 1 March 2010 to 30 October 2010

Partners: Quail Unlimited, Inc.

Contact Persons: Dave Howell Regional Director, Quail Unlimited

Address: 10364 S 950 E
Stendal, IN 47585

Phone: 812-536-2272

	Corps	Quail Unlimited	Total
Salaries	\$2,000	\$0	\$2,000
Contract Labor	\$34,000	\$13,500	\$47,500
Food Plot Planting and Maintenance; Fire Break Construction; Herbicide application; Prescribed Burning			
Volunteer Services	\$0	\$0	\$0
Materials and Supplies	\$0	\$0	\$0
Cash Donation	\$0	\$0	\$0
Equipment Costs	\$0	\$0	\$0
Prescribed Burning (In-house and/or Contract)	\$9,000	\$0	\$9,000
Total	\$45,000	\$13,500	\$58,500
Share of Total Costs	77%	23%	