



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
SOUTH FLORIDA OPERATIONS OFFICE  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
525 RIDGELAWN ROAD  
CLEWISTON, FLORIDA 33440-5399  
October 28, 2009



CESAJ-OD-S (1130)

American Red Cross of Lee County  
Karen Prohaska  
6310 Techster Blvd., Suite 7  
Ft. Myers, FL 33966

Dear Ms. Prohaska,

Thank you for the opportunity to work with the American Red Cross of Lee County on this water safety project. Partnering with others provides a way to stretch the Corps of Engineers budget and expand projects to reach a larger number of the public.

Enclosed you will find an updated Challenge Cost-Sharing Agreement between the Corps of Engineers and the American Red Cross of Lee County. Please review and return the document to the South Florida Operations Office with the appropriate signature and date.

The Corps is especially committed to water safety and water safety awareness, and it is always encouraging when we are able to work with another agency that shares these same views on water safety. We look forward to working with the American Red Cross of Lee County on future endeavors. If you have any further questions, please contact Supervisory Park Ranger, Arthur Ruebenson at (863) 983-8101, extension 247.

Sincerely,

Steven R. Dunham  
Chief, South Florida  
Operations Office

Encl

**CHALLENGE COST-SHARING AGREEMENT BETWEEN  
THE DEPARTMENT OF THE ARMY AND THE  
AMERICAN RED CROSS, LEE COUNTY CHAPTER, FL**

THIS AGREEMENT, entered into on this 28 day of October, 2009, by and between the Department of the Army (hereinafter the "Government"), represented by the South Florida Operations Office, Operations Manager, U.S. Army Engineer District Jacksonville, and The American Red Cross, Lee County, FL (hereinafter referred to as "Partner"), represented by the Director of Health & Safety Services.

WITNESSETH, THAT:

WHEREAS, the Government manages lands and waters at Lake Okeechobee and the Okeechobee Waterway in the State of Florida which includes recreational opportunities for the public, and a public safety program to increase water safety awareness, and

WHEREAS, the promotion of water safety throughout the elementary schools will increase the recreational safety for children in grades kindergarten to 5<sup>th</sup> grade, and

WHEREAS, the Partner is interested in assisting the Government by providing water safety curriculum materials that will be utilized by volunteers in developing water safety programs, and

WHEREAS, it is mutually beneficial for the Government and the Partner to work cooperatively to make water safety educational programs available to elementary school students, and

WHEREAS, the Partner, in order to assist the Government in this project has voluntarily agreed to provide materials and services in connection with the Project, and

WHEREAS, Section 225 of the Water Resources Development Act of 1992, PL 102-580, (Oct. 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 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 the purpose of this Agreement:

a. The term "Project" shall mean promotion of water safety by providing water safety programs to elementary school students.

b. The term "total Project costs" shall mean all costs incurred by the Government and the Partner, directly related to the Project.

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 materials donated by the Partner under this Agreement shall become 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 the "Congress"), shall expeditiously complete 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 the Government personnel or volunteers) shall be exclusively within control of the Government.

b. The Government shall recruit, train, and house the volunteers who will provide water safety programs within elementary schools during 2009 through 2015. Volunteers will be compensated for mileage occurred traveling to and from the elementary schools at a rate of \$0.55 per mile.

c. The Partner shall provide the Government with Charts used at the schools to present the programs and update charts yearly or when needed, five (5) copies of the Whales Tales Curriculum and shall provide administrative services in reporting educational efforts under this Agreement to the American Red Cross. All figures pursuant to this Article are estimations only and in no way bind the Partner to expenditures quoted. The Partner's contribution is in the form of products and services listed in Section III. Course materials are to be provided by August 2009 and services are to be provided during the period 2009 through 2015.

d. The Government shall perform a final evaluation to determine the contributions provided by all parties to this Agreement and to determine whether each Party has met its obligations under paragraphs b and c of this Article.

e. The Partner's share of this total Project costs will be the responsibility of the Partner and will not be supplemented by the Government.

### ARTICLE III - METHOD OF PAYMENT

a. The Government shall maintain current records of contributions provided by the Partner and a current projection of total Project costs. Upon completion of the Project, the Government shall provide the Partner with a report detailing all contributions, of the components of total Project costs, and the final cost of the Partner's contribution required in accordance with Article II.b. of this Agreement. On the effective date of this Agreement, total Project costs are projected to be \$73,118.64 and the Partner's contribution under Article II.c. of this Agreement is projected to be \$22,465.20. Such amounts are estimates subject to adjustment and are not to be construed as total financial responsibilities of the Government and the Partner (See Appendices a thru C).

b. Upon completion of the Project and resolution of all relevant claims and appeals, the Government shall collaborate with the Partner to produce an evaluation report. The report shall include a general accounting report; establishing each party's contribution, and a general overview of the effectiveness of the program. The report shall be made available to the Partner upon completion.

### ARTICLE IV - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for a 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 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 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 Programs and Activities Assisted or Conducted by the Department of the Army.

### ARTICLE VI - RELATIONSHIPS OF PARTIES

a. In the exercise of their respective rights and obligations under this Agreement, the Government and its 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 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 any rights such as the 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 the delegate Congress, or resident commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise there from.

#### ARTICLE VIII – INDEMNIFICATION

The Partner shall hold and save the Government free from all damages arising from services it performs or products it provides for the implementation 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 obligation under this Agreement, the South Florida Operations Office, Operations Manager shall terminate 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 either party may elect without penalty to terminate this Agreement or to suspend future performance under this Agreement. In the event that either 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 either party elects to terminate this Agreement pursuant to this Article, both parties shall conclude their activities relating to the Project and proceed to a final evaluation 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 by telegram, or mailed either by first class, registered, or certified mail, as follows:

If to the Partner:

Karen Prohaska, Director of Health & Safety Services  
American Red Cross, Lee County, FL  
6310 Techster Blvd., Suite 7  
Ft. Myers, FL 33907

If to the Government:

Steven R. Dunham, Operations Manager  
U.S. Army Corps of Engineers  
South Florida Operations Office  
525 Ridgelawn Road  
Clewiston, FL 33440

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

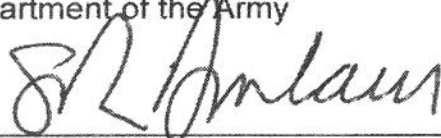
#### ARTICLE XI - CONFIDENTIALITY

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 South Florida Operations Office, Operations Manager, Jacksonville District.

The Department of the Army

BY:

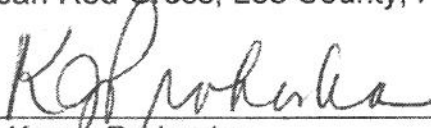
  
\_\_\_\_\_  
Steven R. Dunham  
Operations Manager

Date:

10/28/09

American Red Cross, Lee County, FL

BY:

  
\_\_\_\_\_  
Karen Prohaska  
Director of Health & Safety Services

Date:

11/2/09

APPENDIX A

COST-SHARING FINANCIAL WORKSHEET

**Project Name:** Okeechobee Waterway

**Contact Person:** Phillip L. Hart

**Address:** 1660 South Franklin Lock Road, FL 33920

**Phone:** (239) 694-2582

**Work Project Title:** Water Safety Coordinator

**Location:** Lake Okeechobee & the Okeechobee Waterway

**Proposed Date of Work:** October 2009 through October 2015

**Description of Work:** Provide water safety programs to elementary school students in grades kindergarten to 5<sup>th</sup> grade.

**Partner:** American Red Cross, Lee County, FL

**Contact Person:** Karen Prohaska

**Address:** 6310 Techster Blvd

Ft. Myers, FL 33966

**Phone:** (941) 278-3401

	<b>Corps</b>	<b>Partner</b>	<b>Total</b>
Salaries	\$ 5896.80	\$ 7550.00	\$ 17453.00
Mileage	\$ 4326.64	\$ 0.00	\$ 4326.00
Materials	\$ 23150.00	\$ 14915.20	\$ 32130.00
Campsites	\$ 17280.00	\$ 0.00	\$ 17280.00
<b>Total</b>	<b>\$ 50653.44</b>	<b>\$ 22,465.20</b>	<b>\$ 73,118.64</b>
Share of Total Cost Per year	<b>69.3%</b>	<b>30.7%</b>	<b>100%</b>



APPENDIX B

U.S. ARMY CORPS OF ENGINEERS  
ESTIMATED COSTS

**COE Cost:**

1. Salary of Corps employee  $\$24.57/\text{hr} \times 240 \text{ hours} =$  \$ 5896.80
2. Volunteer Campsite 180 days  $\times \$24.00/\text{day} =$  \$ 4320.00/volunteer  
\$17280.00 (4 volunteers)
3. Mileage \$ 4326.64  
(based on last year's mileage cost paid to volunteers)
4. Materials and Supplies \$ 23150.00  
(based on the cost of promotional items and uniforms)

---

**TOTAL:** \$ 50653.44

APPENDIX C

AMERICAN RED CROSS, LEE COUNTY, FL  
ESTIMATED COSTS

<u>Personnel</u>	<u>Rate/Hr</u>	<u># of Hrs</u>	<u>Total</u>
Director & Staff	\$15.10	500	\$ 7550.00
Educational Material printing outreach			\$12000.00
ARC/ACE Promo Whistles			\$ 2800.00
Longfellow's Whales Tales \$17.85		5 copy	\$ 89.25
ARC Water Safety Manual			\$ 25.95
<b>TOTAL:</b>			<b>\$ 22465.20</b>

APPENDIX D

COST SHARE AGREEMENT  
U.S. Army Corps of Engineers  
American Red Cross, Lee County, FL

**Water Safety Materials:**

The American Red Cross, Lee County, FL will provide five copies of the Whales Tales Curriculum and update charts to the Corps for volunteer use. Volunteers will use the curriculum in providing water safety programs within elementary schools during 2009-2014.