

CHALLENGE PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
LAKE OUACHITA CITIZEN FOCUS COMMITTEE
AND
MOUNTAIN PINE EAST PROGRAM

THIS AGREEMENT, entered into this day of January 14, 2013, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander, U.S. Army Corps of Engineers, Vicksburg District, and Lake Ouachita Citizen Focus Committee, represented by Arnold Habig, President, and the Mountain Pine School EAST program, represented by Malea Ellison, Facilitator (hereinafter the "Partners"),

WITNESSETH, THAT:

WHEREAS, the Government manages lands and waters at Beautiful Lake Ouachita which includes recreational opportunities for the public, and

WHEREAS, the installation of an ADA accessible fishing pond and pier on Beautiful Lake Ouachita will increase the recreational opportunities for the public, and

WHEREAS the Partners are interested in promoting and assisting the Government in providing this ADA accessible fishing pond and pier, and

WHEREAS, it is mutually beneficial to the Government and the Partners to work cooperatively to make this accessible fishing pond and pier available to the public, and

WHEREAS, the Partners, in order to assist the Government in this project has voluntarily agreed to pay a portion of the cost, 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 Partners and apply those contributions to the Project, and

WHEREAS, the Government and the Partners 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 Partners agree as follows:

ARTICLE I - DEFINITIONS AND GENERAL PROVISIONS

For purposes of this agreement:

- a. The term "Project" shall mean an acre ADA accessible embankment fishing pond with 10X40 ADA fishing pier platform constructed on Corps of Engineers property near Blakely Mountain Dam.
- b. The term "total project costs" shall mean all costs incurred by the Government and the Partners directly related to construction of 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 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 the "Congress"), and using funds provided by the Partners, 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 the Government personnel) shall be exclusively within the control of the Government.

- b. The Government shall provide
 - Use of excavator and heavy equipment operator
 - Use of backhoe/dozer
 - Labor of heavy equipment operator, biologists, and natural resource specialists for planning and construction
- c. The Partners shall provide:
 - Planning and GIS of ADA pond/pier location
 - Pier Construction and Maintenance
 - Labor, equipment use (safety gear, small hand tools, axes, chain saws, etc...)
 - Assistance in cultivating aquatic ecosystem

d. 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 this Article.

e. No Federal funds may be used to meet the Partners' total project costs under this Agreement.

ARTICLE III - METHOD OF PAYMENT

a. The Government shall maintain current records of contributions provided by the Partners and a current projection of total project costs. At least quarterly, the Government shall provide the Partners with a report setting forth all contributions provided to date and the current projection of total project costs, of the components of total project costs, of each party's share of total project costs, and of the Partners' 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 \$90,600, and the Partner's contribution required under Article II.b. of this Agreement is projected to be \$45,000 . *[NOTE: PROJECTIONS SHOULD BE ADJUSTED AS APPROPRIATE FOR INFLATION THROUGH THE PERIOD OF CONSTRUCTION.]* Such amounts are estimates subject to adjustment and are not to be construed as the total financial responsibilities of the Government and the Partners.

b. The Partners shall provide the contribution required under Article II.b. of this Agreement in accordance with the following provisions: Not less than 30 calendar days prior to issuance of the solicitation for the first construction contract, the Government shall notify the Partners of the funds required from the Partners to meet its projected contribution, including its proportionate share of the Government's financial obligations incurred prior to the commencement of the period of construction. Prior to the issuance of the solicitation, the Partners shall provide the Government with the full amount of the required funds by delivering a check payable to "FAO, USAED, VICKSBURG DISTRICT, to the Government's Stacy Sigman, Lake Ouachita Resource Manager. The Government shall draw from the funds provided by the Partners such sums as the Government deems necessary to cover: (a) the Partners' proportionate share of the Government's financial obligations incurred prior to the commencement of the period of construction; and (b) the Partners' proportionate share of the Government's contractual and in-house financial obligations as they are incurred during the period of construction. In the event the Government determines that the Partners must provide additional funds to meet its obligation, the Government shall notify the Partners of the additional funds required. Within 60 calendar days thereafter, the Partners shall provide the Government with a check for the full amount of the additional required funds.

c. Upon completion of the Project and resolution of all relevant claims and appeals, the Government shall conduct a final accounting and furnish the Partners 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.

1. In the event the final accounting shows that the total contribution provided by the Partners is less than its required share of total project costs, the Partners shall, no later than 90 calendar days after receipt of written notice, make a payment to the Government of whatever sum is required to meet the Partner's required share of total project costs.

2. In the event the final accounting shows that the total contribution provided by the

Partners exceeds its required share of total project costs, the Government shall, subject to the availability of funds, refund the excess to the Partners no later than 90 calendar days after the final accounting is complete. In the event existing funds are not available to refund the excess to the Partners, the Government shall seek such appropriations as are necessary to make the refund.

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 exercise of their respective rights and obligations under this Agreement, the Government and the Partners 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 their respective rights and obligations under this Agreement, the Government and the Partners 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 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 Partners 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 the Partners fail to fulfill its obligations under this Agreement, the District Commander 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 Partners, 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 Partners elect 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 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. Any delinquent payment shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13-week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3-month period if the period of delinquency exceeds 3 months.

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: *Lake Ouachita Citizen Focus Committee*
Arnold Habig, President
7309 Geronimo Circle
North Little Rock, AR 72116

And: *Mountain Pine EAST program*
Malea Ellison, Facilitator
734 Blakely dam Road, P.O. Box 1
Mountain Pine, AR 71956

If to the Government: *U.S. Army Corps of Engineers, Vicksburg District*
Lake Ouachita Field Office
Stacy Sigman, Resource Manager
1201 Blakely Dam Road
Royal, AR 71968

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 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 Lake Ouachita Chief of Operations, _____, Vicksburg District.

The Department of the Army

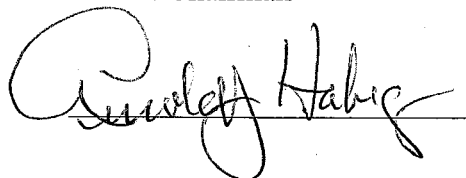
BY: James Ross

TITLE: Chief of Operations, Vicksburg District

DATE: _____

BY: Lake Ouachita Citizen Focus Committee, Arnold Habig

TITLE: Chairman

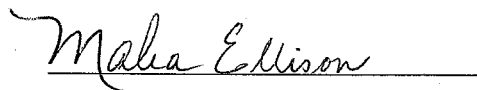


DATE: 4-1-2013

PARTNER:

BY: Mountain Pine EAST program,
Malea Ellison

TITLE: Facilitator



DATE: 5-6-13

Challenge Partnership Financial Work Sheet

Corps Project Name: Blakely Mountain Dam/Lake Ouachita

Work Project Title: Lake Ouachita ADA fishing pond and pier

POC Name: Stacy Sigman

Address: 1424 Blakely Dam Road

City: Royal

State: AR Zip Code: 71968

Telephone: 501-767-2108

Location on Project: Avery recreation area near Blakely Mountain Dam

Partner Organization 1: Lake Ouachita Citizen Focus Committee

POC Name: Arnold Habig

Address: 7309 Geronimo Circle

City: North Little Rock

State: AR Zip Code: 72116

Telephone: 501-834-4660

Partner Organization 2: Mountain Pine EAST Program

POC Name: Malea Ellison

Address: 734 Blakely Dam Rd. P.O. Box 1

City: Mountain Pine

State: AR Zip Code: 71956

Telephone: 501-767-6917

Proposed start date of work: March 1, 2013

Simple description of work to be accomplished through the partnership: Construction of an embankment pond and ADA fishing pier near Blakely Mountain Dam.

	Local Corps	Handshake Funds	Partner 1	Partner 2	Partner 3	Total
In-Kind Services	\$10,000	N/A	\$0	\$0	\$0	\$10,000
Travel	\$0	N/A	\$0	\$0	\$0	\$0
Materials and Supplies	\$0	\$16,200	\$5,000	\$5,000	\$0	\$26,200
Equipment Use	\$5,600	\$12,300	\$0	\$0	\$0	\$17,900
Funds Contributed	N/A	N/A	\$0	\$0	\$0	\$0
Personal Property	N/A	N/A	\$0	\$0	\$0	\$0
Volunteer Hrs - Value	N/A	N/A	\$25,000	\$10,000	\$0	\$35,000
Other (explain in text)	\$0	\$1,500		\$0	\$0	\$1,500
Total	\$15,600	\$30,000	\$30,000	\$15,000	\$0	\$90,600
Share of Total Cost	17.2%	33.1%	33.1%	16.6%	0.0%	100%