

CHALLENGE PARTNERSHIP AGREEMENT

between
The Department of the Army
and
Red Rock Lake Association

THIS AGREEMENT, entered into this day of February 21, 2013 , by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander, U.S. Army Corps of Engineers – Rock Island District, the Red Rock Lake Association (RRLA) represented by the board President (hereinafter the "Partners").

WITNESSETH, THAT:

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

WHEREAS, the development of fish rearing ponds at Lake Red Rock will increase the recreational opportunities for the public, and

WHEREAS the Partners are interested in promoting and assisting the Government in developing the Wallashuck fish rearing pond, and

WHEREAS, it is mutually beneficial to the Government and the Partners to work cooperatively to develop the Wallashuck fish rearing pond, and

WHEREAS, the Partners, in order to assist the Government in this project has voluntarily agreed to pay a portion of the cost or provide volunteer services, 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 construction and operation (stocking, feeding, transporting) of a fish rearing pond at the current location of the abandoned Wallashuck lagoon. This project received a Handshake Program award on December 10, 2012.

b. The term "total project costs" shall mean all costs incurred by the Government and the Partners directly related to construction and operation 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 labor and equipment to convert the abandoned sewage lagoon into a fish rearing pond. Funds from the Handshake award will be used to purchase supplies including a pump, a kettle delivery system and other materials for the conversion. See appendix titled "Challenge Partnership Financial Work Sheet".

c. The Partners shall provide: See appendix titled "Challenge Partnership Financial Work Sheet".

- RRLA – work with the Iowa Department of Natural Resources (IDNR) to provide fish structure and installation, fish fry and rearing pond design assistance. The IDNR will also provide transportation of the fish fry to the rearing pond twice per year (assuming supply). The RRLA will engage area communities and other organization to provide 360 hours of volunteer labor for the development and operation of the Wallashuck fish rearing pond. The RRLA will also provide in kind services of promotions, best practice gathering and transportation of the fish to the lake. They will work with their members, other agencies and other organizations as they offer assistance.

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 Partner's total project costs under this Agreement.

ARTICLE III - METHOD OF PAYMENT

The Government shall maintain current records of contributions provided by the Partners and provide the Partners a report setting forth all contributions provided by the Partners upon completion of the project. Payment for the materials as detailed in the attached "Challenge Partnership Financial Work Sheet" shall be the responsibility of the respective party. A copy of all receipts showing payments associated with the project shall be provided to the Government to determine total project costs. Total costs are estimated to be \$141,230. Such amounts are estimates subject to adjustments and are not to be construed as the total financial responsibility of the Government or the Partners.

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 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 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 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 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.

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 Partners: Red Rock Lake Association
P.O. Box 292
Pella, IA 50219

If to the Government: U.S. Army Corps of Engineers

Lake Red Rock Project Office
1105 Highway T15 North
Knoxville, IA 50138

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 Rock Island District.

Red Rock Lake Association
Matt Kissinger
President

By: _____

Date: 2-20-2013

U.S. Army Corps of Engineers
Michael D. Cox
Chief of Operations Division
Rock Island District

By: _____

Date: 2/25/13

Challenge Partnership Financial Work Sheet

Corps Project Name: Lake Red Rock

Work Project Title: Red Rock Fisheries Development

POC Name: Perry Thostenson

Address: 1105 Highway T15 North City: Knoxville State: IA Zip Code: 50138

Telephone: 641 - 828 - 7522 x6413

Location on Project: North Shore - Wallashuck

Partner Organization 1: Red Rock Lake Association

POC Name: Matt Kissinger

Address: P.O. Box 282 City: Pella State: IA Zip Code: 50219

Telephone: 641 - 416 - 0247 x

Partner Organization 2:

POC Name:

Address: City: State: Zip Code:

Telephone: - - x

Partner Organization 3:

POC Name:

Address: City: State: Zip Code:

Telephone: - - x

Proposed start date of work: March 2013

Simple description of work to be accomplished through the partnership: Improvement of the Lake Red Rock fishery. To include fish structure (mostly complete as of 2012) and development of the first fish rearing pond at Lake Red Rock. The first pond will involve converting an abandoned lagoon into a ~1-acre fish rearing pond.

Double click on spreadsheet to access data entry fields:

	Local Corps Office	Handshake Funds	Partner 1	Partner 2	Partner 3	Total
Salaries	\$12,096	N/A	\$0	\$0	\$0	\$12,096
Travel	\$0	N/A	\$0	\$0	\$0	\$0
Materials and Supplies	\$12,000	\$35,000	\$33,000	\$0	\$0	\$80,000
Equipment Use	\$15,000	\$0	\$10,590	\$0	\$0	\$25,590
Funds Contributed	N/A	N/A	\$0	\$0	\$0	\$0
Personal Property	N/A	N/A	\$0	\$0	\$0	\$0
Volunteer	N/A	N/A	\$7,844	\$0	\$0	\$7,844
In-Kind Services	N/A	N/A	\$15,700	\$0	\$0	\$15,700
Other (explain below)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$39,096	\$35,000	\$67,134	\$0	\$0	\$141,230
Share of Total Cost	27.7%	24.8%	47.5%	0.0%	0.0%	100%

Explanations:

Local Corps: Shall provide labor, equipment and some materials to convert the abandoned sewage lagoon into a fish rearing pond. Handshake funds will be spent to purchase supplies including pump, a kettle delivery system and other materials for the conversion to a rearing pond.

RRLA: Work with other organization and their members to provide 360 hours of volunteer labor (\$7,844). Provide in-kind services including promotion for fishing and this initiative at the lake, best practice sharing from other fish rearing operations, provide assistance with a transportation system for the fish to the lake and work with IDNR to provide consulting and promotions (\$15,700). Also work with IDNR to document fish structure at Whitebreast and Marina coves, and to provide fish fry (as supply is available) to the Wallashuck pond (\$33,000). Finally work with IDNR for use of their fish fry transportation system including technology to improve the survival rates and gas to transport fry to the pond (\$10,590).