

**CHALLENGE PARTNERSHIP AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
Lower Kaskaskia Stakeholders, Inc.  
AND  
Kaskaskia Mariners Association  
AND  
Delta Waterfowl  
AND  
Illinois Department of Natural Resources**

THIS AGREEMENT, entered into this 5<sup>th</sup> day of January, 2015, 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 Engineers, St. Louis District, and Lower Kaskaskia Stakeholders Inc, represented by the President; and Kaskaskia Mariners Association, represented by the Secretary; and Delta Waterfowl Kaskaskia River Chapter, represented by the Chapter Chairperson; and Illinois Department of Natural Resources, represented by the Kaskaskia River/Baldwin Lake Site Superintendent (hereafter referenced jointly as the "Partners").

WITNESSETH, THAT:

WHEREAS, the Government manages lands and waters at Kaskaskia River Project which includes recreational opportunities for the public, and

WHEREAS, the development, construction and maintenance of Architectural Barriers Act (ABA)/ Americans with Disabilities Act (ADA) facilities at Kaskaskia River Project will increase outdoor recreational opportunities for the public, and

WHEREAS it is mutually beneficial to the Government and the Partners to work cooperatively to make ABA/ADA facilities available to the public, and

WHEREAS, the Partners, in order to assist the Government in this project have voluntarily agreed to conduct plan development, facility design, maintenance, construction, and pay a portion of the costs associated with the ABA/ADA facilities at Kaskaskia River 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 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 ABA/ADA facility upgrades at the upstream boat ramp located at Kaskaskia River project including both an accessible boat launching ramp and fishing pier along with moist soil maintenance and habitat project in Heritage Marsh. See Appendix A, Challenge Partnership Agreement Financial Work Sheet, for a detailed project description.

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 labor, materials, and construction oversight as shown in Appendix A. Upon Project completion, the Government shall be responsible for all oversight of the Project.

c. The Partners shall provide funding, labor, materials, supplies, and equipment for the design and construction of the Project as shown in Appendix A.

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**

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 Partner's contribution required in accordance with Article II.d. of this Agreement. On the effective date of this Agreement, total project costs are projected to be \$31,550.00, and the Partner's contribution required under Article II.c. of this Agreement are projected to be \$9,300.00 . 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 services required under Article II c. of this Agreement based on funding availability.

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.

1. In the event the final accounting shows that the total contribution provided by any Partner 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 any Partner exceeds its required share of total project costs, the Government shall, subject to the availability of funds, refund the excess to the Partner 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 Partner, 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**

Each 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 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 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 Partners elect to terminate this Agreement.

c. In the event that any 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:

Lower Kaskaskia Stakeholders  
Carl Tebbe  
221 E. Pine St  
Red Bud, IL 62278

Kaskaskia Mariners Association  
Chelsea Luechtefeld  
3909 Route 4  
Marissa, IL 62257

Delta Waterfowl (Kaskaskia River Chapter)  
Whitney McBride  
10061 Sheridan Rd  
Baldwin, IL 62217

Illinois Department of Natural Resources  
Mic Middleton  
10981 Conservation Rd  
Baldwin, IL 62217

If to the Government: U.S. Army Corps of Engineers  
Carlyle Lake/Kaskaskia River Project  
Robert Wilkins  
801 Lake Rd  
Carlyle, IL 62231

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**

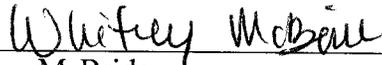
To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party. IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the Chief of Operations, Readiness and Regulatory Division, St. Louis District.

**The Department of the Army**

BY:   
Lou Dell'Orco  
Chief, Operations, Regulatory and  
Readiness Division

DATE: 1/5/2015

**Delta Waterfowl (Kaskaskia River Chapter)**

BY:   
Whitney McBride  
Chapter Chairperson

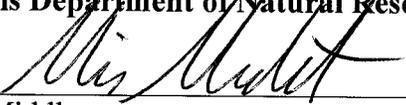
DATE: 3/3/15

**Lower Kaskaskia Stakeholders, Inc.**

BY:   
Carl Tebbe  
President

DATE: 2/4/15

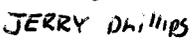
**Illinois Department of Natural Resources**

BY:   
Mic Middleton  
Site Superintendent

DATE: 2/11/15

**Kaskaskia Mariners Association**

BY:   
Chelsea Luechtefeld  
Secretary

  
JERRY PHILLIPS  
Vice Commodore

DATE: 2/3/2015

## APPENDIX A

### Challenge Partnership Financial Work Sheet

Corps Project Name: Kaskaskia River Project

Work Project Title: ADA Facility Upgrades at Kaskaskia River Project

POC Name: Travis Little

Address: 4800 Lock and Dam Rd                      City: Modoc                      State: IL    Zip Code: 62261

Telephone: 618-284-7160

Location of Project: Kaskaskia River

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Partner Organization 1: Lower Kaskaskia Stakeholders, Inc.

POC Name: Carl Tebbe

Address: 221 E. Pine St                      City: Red Bud                      State: IL    Zip Code: 62278

Telephone: 618-282-4000

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Partner Organization 2: Kaskaskia Mariners Association

POC Name: Chelsea Luechtefeld

Address: 3909 Route 4                      City: Marissa                      State: IL    Zip Code: 62257

Telephone: 618-410-8593

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Partner Organization 3: Delta Waterfowl (Kaskaskia River Chapter)

POC Name: Whitney McBride

Address: 10061 Sheridan Rd                      City: Baldwin                      State: IL    Zip Code: 62217

Telephone: 618-979-6310

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Partner Organization 4: Illinois Department of Natural Resources

POC Name: Mic Middleton

Address: 10981 Conservation Rd                      City: Baldwin                      State: IL    Zip Code: 62217

Telephone: 618-785-2555

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Proposed start date of work: July 2015

Simple description of work to be accomplished through the partnership: Converting existing boat access facilities at the upstream ramp to comply with ABA/ADA standards, construction of an ABA/ADA fishing pier, and habitat improvements at Heritage Marsh including: cleanup, pumping and planting of the moist soil unit, and adding wood duck nesting boxes to the site.

Explanations:

Partner 1: LKS, will provide volunteer labor and a dumpster rental to conduct an overall clean-up of the Heritage Marsh location

Partner 2: KMA, will provide ready mix concrete to upgrade the boat launch

Partner 3: Delta Waterfowl, will provide wood duck boxes and seed for the initial planting of Heritage Marsh

Partner 4: IDNR will provide labor and equipment for the Heritage Marsh and will supply the pump to drain the moist soil unit.

**Challenge Partnership Financial Work Sheet cont.**

	<b>Local Corps Office</b>	<b>Handshake Funds</b>	<b>Partner 1 LKS</b>	<b>Partner 2 KMA</b>	<b>Partner 3 Delta</b>	<b>Partner 4 IDNR</b>
Salaries	\$10,000	N/A	\$0	\$0	\$0	\$0
Travel	\$0	N/A	\$0	\$0	\$0	\$0
Materials and Supplies	\$0	\$6,125	\$400	\$1,500	\$400	\$0
Equipment Use	\$0	\$6,125	\$0	\$0	\$0	\$2,000
Funds Contributed	N/A	N/A	\$0	\$0	\$0	\$0
Personal Property	N/A	N/A	\$0	\$0	\$0	\$0
Volunteer	N/A	\$0	\$2,000	\$0	\$0	\$0
In-Kind Services	N/A	N/A	\$0	\$0	\$0	\$3,000
Other (explain below)	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$10,000</b>	<b>\$12,250</b>	<b>\$2,400</b>	<b>\$1,500</b>	<b>\$400</b>	<b>\$5,000</b>
<b>Share of Total Cost</b>	31.7%	38.8%	7.6%	4.8%	1.3%	15.8%

	<b>Partner 5</b>	<b>Partner 6</b>	<b>Partner 7</b>	<b>Partner 8</b>	<b>Partner 9</b>	<b>Partner 10</b>
Salaries	\$0	\$0	\$0	\$0	\$0	\$0
Travel	\$0	\$0	\$0	\$0	\$0	\$0
Materials and Supplies	\$0	\$0	\$0	\$0	\$0	\$0
Equipment Use	\$0	\$0	\$0	\$0	\$0	\$0
Funds Contributed	\$0	\$0	\$0	\$0	\$0	\$0
Personal Property	\$0	\$0	\$0	\$0	\$0	\$0
Volunteer	\$0	\$0	\$0	\$0	\$0	\$0
In-Kind Services	\$0	\$0	\$0	\$0	\$0	\$0
Other (explain below)	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Share of Total Cost</b>	0.0%	0.0%	0.0%	0.0%	0.0%	0

	<b>Partner 11</b>	<b>Partner 12</b>	<b>Partner 13</b>	<b>Partner 14</b>	<b>Partner 15</b>	<b>Total</b>
Salaries	\$0	\$0	\$0	\$0	\$0	\$10,000
Travel	\$0	\$0	\$0	\$0	\$0	\$0
Materials and Supplies	\$0	\$0	\$0	\$0	\$0	\$8,425
Equipment Use	\$0	\$0	\$0	\$0	\$0	\$8,125
Funds Contributed	\$0	\$0	\$0	\$0	\$0	\$0
Personal Property	\$0	\$0	\$0	\$0	\$0	\$0
Volunteer	\$0	\$0	\$0	\$0	\$0	\$2,000
In-Kind Services	\$0	\$0	\$0	\$0	\$0	\$3,000
Other (explain below)	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$31,550</b>
<b>Share of Total Cost</b>	0.0%	0.0%	0.0%	0.0%	0.0%	100%