

RESOLUTION
OF THE CLAY COUNTY COMMISSION
CLAY COUNTY, MISSOURI

ATTEST A TRUE COPY
MEGAN THOMPSON, CLERK
CLAY COUNTY COMMISSION
Megan Thompson
DEPUTY CLERK

2015-62

**APPROVE CHALLENGE PARTNERSHIP AGREEMENT WITH THE
US ARMY CORPS OF ENGINEERS
PARK DEPARTMENT**

BE IT HEREBY RESOLVED BY THE COUNTY COMMISSION OF CLAY COUNTY, MISSOURI THAT, this Commission hereby approves the attached Challenge Partnership Agreement between the US Army Corps of Engineers and Clay County for aquatic habitat and shoreline protection on COE property at Smithville Lake. See attached Request for Commission Action for detail information. The Presiding Commissioner is authorized to sign the attached contract (if applicable) and all documents to facilitate this order.

ADOPTED BY THE COUNTY COMMISSION OF CLAY COUNTY, MISSOURI, THIS 9th DAY OF March, 2015.

APPROVED AS TO FORM AND LEGALITY:

[Signature]
COUNTY COUNSELOR

ATTEST
Megan Thompson
COUNTY CLERK

[Signature]
PRESIDING COMMISSIONER

[Signature]
WESTERN COMMISSIONER

[Signature]
EASTERN COMMISSIONER



**CHALLENGE PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY,
MISSOURI DEPARTMENT OF CONSERVATION,
CLAY COUNTY DEPARTMENT OF PARKS, RECREATION, AND HISTORIC SITES,
BOY SCOUT TROOP 1412,
AND
WILLIAM JEWELL COLLEGE**

THIS AGREEMENT, is entered into this 9th day of March 2015 by and between the Department of the Army (hereinafter the "Government"), represented by the Chief, Operations Division, Kansas City District; Missouri Department of Conservation (hereinafter the "MDC") represented by the Fisheries Regional Supervisor; Clay County Department of Parks, Recreation, and Historic Sites (hereinafter the "CCP") represented by the Presiding Commissioner; Boy Scout Troop 1412 (hereinafter the "BST") represented by the Assistant Scoutmaster, and William Jewell College (hereinafter the "WJC") represented by the Assistant Professor of Biology.

WITNESSETH, THAT:

WHEREAS, the Government manages lands and waters at Smithville Lake, which includes water quality, water control, and fish, wildlife, and soil conservation; and

WHEREAS, the repair of two ponds, two wetlands, along with the planting of 50 acres of native warm season grasses, and the armoring of 2,200 feet of significantly eroded shoreline at Smithville Lake will improve water quality and fish, wildlife, and soil conservation for the public; and

WHEREAS, MDC, CCP, BST and WJC are interested in promoting and assisting the Government in providing the soil erosion prevention project; and

WHEREAS, it is mutually beneficial to the Government and all partners to work cooperatively to make the soil erosion prevention projects available to the public; and

WHEREAS, all Partners, in order to assist the Government in this Project, has voluntarily agreed to make contributions toward the development, construction, and scientific studies of the erosion prevention projects; 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 Partners and apply those contributions to the Project; and

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

ARTICLE I – DEFINITIONS AND GENERAL PROVISIONS

For the purpose of this Agreement:

a. The term “Project” shall mean the Smithville Lake Erosion Reduction and Sedimentation Prevention Program that involves the revitalization, construction, and potential scientific studies of 2 dilapidated ponds and 2 nonfunctioning wetlands, the planting of 50 acres of warm season native grass, and the armoring of 2,200 feet of eroded shoreline with rip rap as described in Appendix A, “Challenge Partnership Agreement Financial Work Sheet.” *See also* Appendix B, Project Map, for a depiction of locations.

b. The term “total project costs” shall mean all costs incurred by the Government and all Partners directly related to the development, construction, and scientific study 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, and using contributions provided by the Partner, shall expeditiously construct the Project, applying those procedures usually applied to Federal projects, pursuant to Federal laws, regulations, and policies. Performance of all work on the Project, whether the work is performed under contract or by Government personnel, shall be exclusively within the control of the Government.

b. The Government shall provide materials and services to assist in the design and construction of the Project as shown in Appendix A of this Agreement.

c. All Partners shall provide materials, labor, and equipment to assist in the construction of the Project as shown in Appendix A of this Agreement.

d. The Government shall perform a final accounting to determine the contributions provided by the 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 any of the Partners share of the total project costs under this Agreement.

ARTICLE III – METHOD OF PAYMENT AND FINAL ACCOUNTING

- a. The Government shall maintain current records of contributions provided by all Partners and a current projection of total project costs. Each party's contribution towards this Project, as outlined in Article II and Appendix A, 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. On the effective date of this Agreement, total project costs are projected to be \$168,000; MDC's contribution required under Article II.c. is projected to be \$5,000; CCP's contribution required under Article II.c. is projected to be \$26,000; BST's contribution required under Article II.c. is projected to be \$10,000; and WJC's contribution required under Article II.c. is projected to be \$3,500 as set out in Appendix A. Such amounts are estimates subject to adjustment and are not to be construed as the total financial responsibilities of the Government and all Partners.
- b. Work on the Project is expected to begin immediately upon execution of this Agreement. Materials and supplies being provided shall be provided prior to the commencement of construction. Construction and final clean up of the project will be completed no later than April 1, 2016.
- 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 any Partner is less than its required share of total project costs, that Partner 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 that 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 all 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, Public Law 88-352, and the Department of Defense Directive 5500.11 issued pursuant thereto and published in Part 195 of Title 32, Code of Federal Regulations, as well as Army Regulation 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 THE PARTIES

a. In the exercise of their respective rights and obligations under this Agreement, the Government and all Partners each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.

b. In exercise of its rights and obligations under this Agreement, no party shall provide, without the consent of the other parties, any contractor or third party with a release that waives or purports to waive any rights such other party may have to seek relief or redress against such contractor or third party 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

All Partners shall hold and save the Government free from all damages arising from services performed or provided 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. The Government agrees that the Project shall be properly maintained and shall be held open for free public recreational use. Since the project should therefore be protected under the Missouri Recreational Use statute, the Government does not anticipate that any claims will be filed related to the operation, maintenance, repair, replacement, and rehabilitation of the Project. The Government shall, however, vigorously defend any such claim against the Government and shall endeavor to do so without involving, joining, or impleading the Partners. The Government further agrees that it shall not agree to any settlement of any such tort claim or lawsuit without prior consultation with the Partners.

ARTICLE IX – TERMINATION OR SUSPENSION

a. If at any time any Partner fails to fulfill its obligations under this Agreement, the Government shall terminate this Agreement or suspend future performance under this Agreement unless it 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 all 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 any of the parties 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 a party elects to terminate this Agreement pursuant to this Article, all parties shall conclude their activities relating to the Project and proceed to a final accounting in accordance with Article III 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 mailed either first class, registered, or certified mail as follows:

If to the Partner 1: Missouri Department of Conservation
701 James McCarthy Drive
St. Joseph, MO 64507-2194
ATTN: Scott Ryan

If to the Partner 2: Clay County Department of Parks, Recreation & Historic Sites
17201 Paradesian St
Smithville, MO 64089
ATTN: Karl Walters

If to the Partner 3: Boy Scout Troop 1412
201 N Bridge Street
Smithville, MO 64089
ATTN: David Manka

If to the Partner 4: William Jewell College
500 College Hill
Liberty, MO 64068
ATTN: Jennifer Schafer

If to the Government: U.S. Army Corps of Engineers
P.O. Box 428
Smithville, MO 64089
ATTN: Derek Dorsey

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

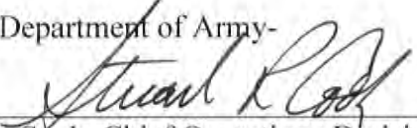
c. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed.

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, Kansas City District.

The Department of Army-

BY: 
Stuart Cook, Chief Operations Division
Kansas City District Corps of Engineers

DATE: 3/23/15

Missouri Department of Conservation-

BY: 
Scott Ryan, Fisheries Regional Supervisor

DATE: 2-19-2015

Clay County Department of Parks, Recreation & Historic Sites-

BY: ~~_____~~
Jerry Nolte, Presiding Commissioner

DATE: 3/12/15

BY: [Signature]
Legal Counsel
Approved as to form

DATE: 3-30-15

BY: [Signature]
Megan Thompson, County Clerk

DATE: 3-30-15



Boy Scout Troop 1412-

BY: [Signature]
David Manka, Assistant Scoutmaster

DATE: 21 Feb 2015

William Jewel College-

BY: [Signature]
Jennifer Schafer, Assistant Professor of Biology

DATE: 2/23/15

APPENDIX A
CHALLENGE COST-SHARING FINANCIAL WORK SHEET

Project Name: Smithville Lake

Contact person: Derek Dorsey
Address: U.S. Army Corps of Engineers
P.O. Box 428
Smithville, MO. 64089

Phone: 816-389-3947

Work Project Title: Smithville Erosion Reduction & Sediment Prevention Project

Location: Smithville Lake is located in Clay and Clinton County, Missouri (39.395678, -94.555635). Smithville Lake is a 7,190-acre USACE owned reservoir located just north of Kansas City, Missouri. The lake was completed in 1982 and currently attracts 1.3 million visitors annually. The lake's primary purpose is for flood control and as a result, often experiences large water level fluctuations and inflows containing high sediment loads. Like many reservoirs across the country, erosion within the drainage area and sediment loads in the lake have significantly degraded the storage capacity, eroded cultural resources and infrastructure such as water and power lines. The four proposed projects would provide the lake with additional recreational opportunities along with preventing erosion and reducing the high sediment loads entering the lake in areas around the proposed projects.

Proposed Dates of work: Jan 2015-Apr 2016

Description of Work: The purpose of this project is to reduce the amount of erosion taking place on USACE property and reduce the sedimentation that is entering Smithville Lake. Byproducts of this project includes improving the water quality, increased recreational opportunities and providing additional suitable habitat for amphibians, reptiles, fish, waterfowl, upland birds and a variety of other wildlife. The project proposal includes removing 50-acres of crop lease from the agricultural lease program. The crop fields contain highly erodible ground with pour soils for growing crops. The crop fields will be planted with warm season grasses that will stabilize the soils and provide beneficial habitat for a variety of wildlife. The project also includes repairing two dilapidated man made 5-acre wetlands. Two new water level control structures will be installed in order to properly manage the water levels. The wetland dikes will also be graveled for ease of access and nearby horse/hiking trails will be incorporated to cross over the wetland dikes. The graveled dike tops will provide soil stability for Corps staff to access the water level control structures along with providing additional access for the public to utilize the wetlands. Both wetlands will also have additional dirt and rock mounds installed along with large logs to provide additional habitat. The project also includes the rehabilitation of two ponds (3 and 4 acres) located in Honker Cove Waterfowl Refuge. Both ponds need new emergency overflow structures installed along with the dams repaired from tree growth and muskrat dens. The pond floors will be restructured to provide shallow and deep water habitat. The pond dams will be armored with rip-rap to prevent muskrat damage. The pond dams will be graveled to connect each other along with a gravel trail will be constructed to the nearest public parking area. The Missouri Department of Conservation plans to stock the ponds with fish. Brush piles, rock piles,

goose tubs, wood duck boxes, bird houses and benches will be installed at the two wetland locations and both pond locations by Boy Scout Troop 1412. The project also includes armoring 2,200 feet of shoreline with 4,000 tons of rip-rap on some the lakes most highly eroded points. The stabilization of the shoreline will increase water quality as well as provide the lake with additional shallow water habitat.

MDC will provide in-kind labor, equipment, and fuel necessary to properly stock an appropriate ratio of fish in the two ponds. Fish species shall include largemouth bass, bluegill and one species of catfish.

CCP will provide \$20,000 in rip rap for the shoreline stabilization part of the project at Sailboat Cove. CCP will also supply in-kind labor, equipment and fuel to properly install their portion of rip rap along the shoreline.

BST will provide 2 eagle scout projects and the in-kind labor to build and install goose tubs, wood duck boxes, bird houses, benches, brush piles and any other amenity approved by the Government to enhance the Project.

WJC will provide 2 scientific studies related to the project. Possible studies include: erosion rates in crop fields or the lake shoreline, benefits of wetlands, ponds, and warm season grass plantings, or any other studies approved by the Government to enhance the Project.

The Government shall provide materials and services for the design and construction of the Project. Services shall include the design of the ponds, wetlands, and shoreline stabilization. The Government would provide \$65,000 in materials and supplies to include \$40,000 in rip rap at the Visitor Center, \$10,000 in warm season grass seed, and \$15,000 in gravel; \$15,000 in labor; \$3,500 equipment usage to plant the warm season grass and install the rip rap; and \$10,000 in contractor hired labor to install the water control structures in the 2 wetlands along with repairing the 2 pond dams. The Government shall retain final approval authority over all design and construction activities.

Partners:

Missouri Department of Conservation

Contact Person: Scott Ryan

Address: Missouri Department of Conservation

701 James McCarthy Drive

St. Joseph, MO 64507-2194

Phone: 816-271-3100

Clay County Department of Parks, Recreation, and Historic Sites

Contact Person: Karl Walters

Address: Clay County Parks

17201 Paradesian St

Smithville, MO 64089

Phone: 816-407-3302

Boy Scout Troop 1412
Contact Person: David Manka
Address: Boy Scout Troop 1412
201 N Bridge Street
Smithville, MO 64089
Phone: 816-810-0242

William Jewell College
Contact Person: Jennifer Schafer
Address: William Jewell College
500 College Hill
Liberty, MO 64068
Phone: 816-415-7616

U.S. Army Corps of Engineers
Contact Person: Derek Dorsey
Address: U.S. Army Corps of Engineers
P.O. Box 428
Smithville, MO 64089
Phone 816-389-3947 or 816-830-1909

	Local Corps Office	Handshake Funds	MDC	Clay County Parks	Boy Scout Troop 1412	William Jewell College
Salaries	\$15,000	N/A	\$1,000	\$3,500	\$0	\$0
Travel	\$0	N/A	\$0	\$0	\$0	\$500
Materials and Supplies	\$65,000	\$25,000	\$0	\$20,000	\$0	\$0
Equipment Use	\$3,500	\$5,000	\$0	\$2,500	\$0	\$0
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	\$0	\$0	\$0	\$0
In-Kind Services	N/A	N/A	\$4,000	\$0	\$10,000	\$3,000
Other (explain below)	\$10,000	\$0	\$0	\$0	\$0	\$0
Total	\$93,500	\$30,000	\$5,000	\$26,000	\$10,000	\$3,500
Share of Total Cost	55.7%	17.9%	3.0%	15.5%	6.0%	2.1%

	Partner 5	Partner 6	Partner 7	Partner 8	Partner 9	Partner 10
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
Total	\$0	\$0	\$0	\$0	\$0	\$0
Share of Total Cost	0.0%	0.0%	0.0%	0.0%	0.0%	0

	Partner 11	Partner 12	Partner 13	Partner 14	Partner 15	Total
Salaries	\$0	\$0	\$0	\$0	\$0	\$19,500
Travel	\$0	\$0	\$0	\$0	\$0	\$500
Materials and Supplies	\$0	\$0	\$0	\$0	\$0	\$110,000
Equipment Use	\$0	\$0	\$0	\$0	\$0	\$11,000
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	\$17,000
Other (explain below)	\$0	\$0	\$0	\$0	\$0	\$10,000
Total	\$0	\$0	\$0	\$0	\$0	\$168,000
Share of Total Cost	0.0%	0.0%	0.0%	0.0%	0.0%	100%

APPENDIX B

