

Challenge Partnership Agreement
Between
The Department of the Army
and
Ukiah Rod and Gun Club
and
Judy Geer

THIS AGREEMENT, entered into this March 26, 2009 and between the Department of the Army (hereinafter the "Government"), represented by the Chief of Operations/Readiness, U.S. Army Engineer District, San Francisco and the Ukiah Rod and Gun Club, and artist, Judy Geer (hereinafter the "Partners").

WITNESSETH, THAT:

WHEREAS, the Government manages the Coyote Valley Dam / Lake Mendocino and surrounding property which includes recreational activities such as camping, boating, hiking, and picnicking opportunities, and

WHEREAS, the Ukiah Rod and Gun Club operates the Bill Townsend Fish Hatchery at the Coyote Dam Egg Collection Facility, and with the help of the US Army Corps of Engineers and local artist, Judy Geer, had an environmental education mural painted on the southern wall of the hatchery building, depicting the endangered Steelhead Trout in their spawning grounds, and

WHEREAS, the Partners promote and assist the Government by providing a complete interpretive story – additional environmental education murals depicting the Steelhead's migration, life cycle, and the natural and human environments that impact their survival – on the remaining walls of the Hatchery.

WHEREAS, Coyote Valley Dam / Lake Mendocino is located in Mendocino County, CA-3 miles east of Ukiah, CA, with approximately 30,000 people in and around the city and hosted 3, 733,015 visitor hours in FY07. Recreational facilities were constructed by the US Army Corps of Engineers with assistance from Mendocino County and the State of California. Facilities include 4 public campgrounds, 1 of which is a boat-in campground, 7 day use areas, and 2 boat launching facilities. In all, over 300 campsites are available, 16 of which are primitive. All 4 campgrounds include restrooms, 1 of the 4 include group sites and 2 of the 4 include amphitheaters. The day use areas have lawns with several shelters, restrooms, and swim beaches. 15 miles of hiking and mountain biking trails are available. The Pomo Visitor Center is located adjacent the day use areas.

WHEREAS, the Partners, in order to assist the Government, have voluntarily agreed to assist in the preparation of the Townsend Fish Hatchery and Coyote Dam Egg Collection Facility Crowding Channel wall surfaces, and design and painting of additional interpretive murals on the same Fish Hatchery and Crowding Channel walls.

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 Fish Hatchery and Crowding Channel Wall Mural 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

- a. The term "Project" shall mean the Steelhead Trout Interpretive Mural Project.
- b. The term "total project costs" shall mean all costs incurred by the Government and the Partners directly related to the execution of the Steelhead Trout Interpretive Mural Project.
- c. This agreement in no way restricts the Government or the Partners from participating in similar activities or arrangements with, or accepting contributions from, other public and private agencies, organizations and individuals. This agreement in no way restricts the Partners from accepting contributions from individuals and groups, including governmental entities.
- 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. The Partners shall assist in the preparation and painting of the Hatchery and Crowding Channel wall surfaces.
- b. The Government shall manage and take the lead in coordinating and purchasing supplies.
- c. The Ukiah Rod and Gun Club shall provide and purchase, use, and operate supplies and equipment for the purpose of preparing the wall surfaces for painting.
- d. Judy Geer shall provide labor associated with painting the interpretive murals on the wall surfaces.
- e. 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 a & b of this Article.
- f. 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 projects costs, of each party's share of the total project costs. On the effective date of this Agreement, total project costs are projected to be \$ 52,000 and the Partners' contribution

required under Article II.b. of this Agreement is projected to be \$ 28,000. 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 Partner of the funds required from the Partner 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 Partner shall provide the Government with the full amount of the required funds by delivering a check payable to "FAO, USAED,

The Government shall draw from the funds provided by the Partner such sums as the Government deems necessary to cover: (a) the Partner's proportionate share of the Government's financial obligations incurred prior to the commencement of the period of construction; and (b) the Partner's 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 their obligations, 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 their 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 Partners' 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 from 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. These will include, but are 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 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 their 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 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 these 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

Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given in writing and delivered personally or by telegram, or mailed either by first class, registered, or certified mail, as follows:

If to the Partners: Ukiah Rod and Gun Club
1160 P.O. Box 1309
Ukiah, CA 95482

Judy Geer
1981 Mountain View Lane
Redwood Valley, CA 95470

If to the Government: Michael Dillabough, Chief of Operations/Readiness Division
U.S. Army Corps of Engineers, San Francisco District
1455 Market St
San Francisco, CA 94015

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, San Francisco District.

The Department of the Army

By: Mike Dillabough
Michael Dillabough
Chief of Operation/Readiness

Date: 3/26/09

Ukiah Rod and Gun Club

By: Ben Kohler

Date: March 24 - 2009

Ben Kohler, President

Artist

By: Judy Geer
Judy Geer

Date: 3/24/09

CHALLENGE PARTNERSHIP FINANCIAL WORK SHEET

Project Name Coyote Dam/Lake Mendocino Contact: Merle Griffin

Address: 1160 Lake Mendocino Drive, Ukiah, CA 95482

Phone 707-431-4222

Work Project Title: Steelhead Education Murals

Location: Lake Mendocino

Description of work:

This Partnership project will complete the interpretive story of the Steelhead's life cycle on the remaining three walls of the Fish Hatchery. These will be large murals measuring as follows: front entrance wall - 12 feet high by 62 feet wide, each end wall - 12 feet high by 17 feet long. In addition, the story continues on the long crowding channel wall at the adjacent Coyote Dam Egg Collection Facility. Measuring 3 feet high by 92 feet long, this mural will interpret the migration of the spawning Steelhead from the ocean to the Egg Collection Facility at Lake Mendocino. This terrestrial story will illustrate the predators, animals, and plants that rely on the Steelhead to maintain a healthy environment and food supply. The entire 92 foot mural begins at the top of the fish ladder depicting a view of the ocean, estuary, and travels up the Russian River through oak woodland, grasslands, and other habitats. Finally, it shows the stages of the steelhead life cycle including the human-assisted spawning stage. This is considered a two-year project, but this proposal reflects work to be accomplished in FY09.

Partner 1: Ukiah Rod and Gun Club Contact person: Ben Kohler

Address: P.O. Box 1309 Ukiah, CA 95482

Phone: (707) 463-0730

Partner 2: Artist Contact Person: Judy Geer

Address: 1981 Mountain View Lane Redwood Valley, CA 95470

Phone: (707) 485-1577

| | Corps | Handshake Funds | Partner 1 | Partner 2 | Partner 3 | Total |
|---|-----------------|--------------------|----------------|-----------------|------------|-----------------|
| Salaries | \$12,000 | N/A | \$0 | \$20,000 | \$0 | \$32,000 |
| Travel | \$1,000 | N/A | \$1,000 | \$1,000 | \$0 | \$3,000 |
| Materials and Supplies | \$1,000 | \$0 | \$1,000 | \$0 | \$0 | \$2,000 |
| Equipment Use | \$0 | \$0 | \$1,000 | \$0 | \$0 | \$1,000 |
| Funds Contributed | N/A | N/A | \$0 | \$0 | \$0 | \$0 |
| Personal Property | N/A | N/A | \$0 | \$0 | \$0 | \$0 |
| Volunteer Services | N/A | N/A | \$2,000 | \$0 | \$0 | \$2,000 |
| Other (explain on next line)In-Kind Services | \$0 | \$10,000 | \$2,000 | \$0 | \$0 | \$12,000 |
| Total | \$14,000 | \$10,000 | \$7,000 | \$21,000 | \$0 | \$52,000 |