

CHALLENGE COST-SHARING AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
CLARK COUNTY STRATEGIC PLANNING, SCHLUMBGER, UNIVERSITY OF OKLAHOMA

THIS AGREEMENT, entered into this day of 31 August, 2011, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander, U.S. Army Engineer Vicksburg District and Clark County Strategic Planning, (hereinafter the "Partner"), represented by Wesley Kluck, Rick Kear, & Roger Slaff

WITNESSETH, THAT:

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

WHEREAS, the installation of an accessible Interpretive Geo-Trek & Mountain Bike/Hiking Trail System Iron Mountain Recreation Area on DeGray Lake will increase the recreational opportunities for the public, and

WHEREAS the Partner is interested in promoting and assisting the Government in providing this accessible interpretive trail system, and

WHEREAS, it is mutually beneficial to the Government and the Partner to work cooperatively to make this accessible interpretive trail system available to the public, and

WHEREAS, the Partner, 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 Partner and apply those contributions to the Project, and

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

ARTICLE I - DEFINITIONS AND GENERAL PROVISIONS

For purposes of this agreement:

a. The term "Project" shall mean a barrier-free Geo-Trek Interpretive trail system; a 1-mi 10ft wide loop in DeGray Lake's "emergency" spillway. This 1 mile route focuses on geologic examples and processes exposed when the spillway outlet was excavated in 1972 and would provide an all-weather, accessible path with interpretive exhibits, providing a truly world-class facility. Additionally this request to be used to add 8.5mi, 4ft wide natural surface trail, connecting the spillway area with

10.6 mi of natural surface trail presently under construction funded through a 2008 RTP grant award. This project application will also aid in constructing an area trail head on the north end of the trail system located within DeGray Lake's project area; as generally described in the DeGray Lake Interpretive Geo-Trek & Mountain Bike/Hiking Trail System – Challenge Partnership Handshake Program-Fiscal Year 2011, dated 5 January 2011 and approved by Michael G. Ensich, Chief, Operations Directorate of Civil Works on January 5 2011.

b. The term "total project costs" shall mean all costs incurred by the Government and the Partner 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 Partner, 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: Challenge Partnership Handshake funding (\$25,000), manpower, equipment, subject matter expertise and logistical support to accomplish the Interpretive Geo-Trek & Mountain Bike Trail System partnering project. Specifically, the Corps will remove the woody vegetation that is essentially blocking the view of the rock outcrops, mow grasses, and control drainage problems by installing culverts and fill materials. Additionally, the Corps will build and maintain the Geo-Trek trail route. The DeGray Lake interpretive staff will provide guided talks and tours highlighting geological processes, mission essential tasks, safety, environmental stewardship, forestry, fish and wildlife, and tell the Corps story.

c. The Partner shall provide: matching funds, provide professional geological expertise with respect to trail stop topics, kiosks and assist with trail brochure subject matter and illustrations. Funding will also be utilized to award a contract for trail and parking lot paving. The Geo-Trek Volunteers will: Charles Stone, retired geologist, will continue to serve as volunteer Geo-Trek consultant. Additional volunteers will assist with signage maintenance, painting, parking lot striping, cleanup and potentially interpretive programming assistance. The Mountain Bike/Hiking Volunteers will: assist in clearing the corridor and tread, then final grooming after tread construction and future maintenance along the trail system.

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 Partner and a current projection of total project costs. At least quarterly, the Government shall provide the Partner 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.b of this Agreement. On the effective date of this Agreement, total project costs are projected to be \$183,570 and the Partner's contribution required under Article II.b of this Agreement is projected to be \$115,720.00. *[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 Partner.

b. The Partner 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, VICKSBURG DISTRICT". 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 Partner must provide additional funds to meet its obligation, the Government shall notify the Partner of the additional funds required. Within 60 calendar days thereafter, the Partner 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 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 the Partner is less than its required share of total project costs, the 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 the 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 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 Partner 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 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 the 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 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 Partner elects 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: *Clark County Strategic Planning*
605 main St, Suite 203
Arkadelphia, AR 71923

Schlumberger
1515 Poydras
New Orleans, LA 70112

University of Oklahoma
100 E. Boyd, Rm 810
Norman, OK 73019

If to the Government: *DeGray Lake Field Office*
U.S. Army Engineer District
729 Channel Rd
Arkadelphia, AR 71923

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 Jeffrey R. Eckstein, Colonel, Corps of Engineers, Vicksburg District.

The Department of the Army

BY: Jeffrey R. Eckstein

Signature [Signature]

TITLE: Commander

DATE: 31 AUG 2011

Clark County Strategic Planning

BY: Wesley Kluck

Signature [Signature]

TITLE: COSP Co-Op Volunteer

DATE: 8/17/11

Schlumberger

BY: Rick Kear or Schlumberger Representative

Signature [Signature]

TITLE: NO Biology Account

DATE: 8/26/11

University of Oklahoma

BY: Roger Slat or OU Representative

Signature [Signature]

TITLE: Director, Institute Research
Administration

DATE: 8/29/2011
Univ. Okla.

Challenge Partnership Financial Work Sheet

Corps Project Name: DeGray Lake Field Office

Work Project Title: DeGray Lake Interpretive Geo-Trek & Mountain Bike/Hiking Trail System

POC Name: Renea Guin

Address: 729 Channel Rd City: Arkadelphia State: AR Zip Code: 71923

Telephone: 870-246-5501 ext. 4010

Location on Project: DeGray Lake Field Office

Partner Organization 1: Clark County Strategic Planning

POC Name: Shelley Lowe

Address: 605 Main St, Suite 203 City: Arkadelphia State: AR Zip Code: 71923

Telephone: 870-246-1065

Partner Organization 2: Schlumberger

POC Name: Rick Kear

Address: 1515 Poydras St. City: New Orleans State: LA Zip Code: 70112

Telephone: 501-858-2444

Partner Organization 3: University of Oklahoma

POC Name: Roger Slatt

Address: 100 E. Boyd, Rm 810 City: Norman State: OK Zip Code: 73019

Telephone: 405-325-3253

Proposed start date of work:

Simple description of work to be accomplished through the partnership: Construct and promote a 1mile geological and 8.5 mile Mountain Bike/Hiking interpretive trail system with guide books and kiosks highlighting geological features and trail routes.

	Local Corps Office	Handshake Funds	Partner 1	Partner 2	Partner 3	Total
Salaries	\$25,000	N/A	\$0	\$0	\$0	\$25,000
Travel	\$0	N/A	\$0	\$0	\$0	\$0
Materials and Supplies	\$10,000	\$25,000	\$0	\$0	\$0	\$35,000
Equipment Use	\$5,000	\$0	\$0	\$0	\$0	\$5,000
Funds Contributed	N/A	N/A	\$109,720	\$5,000	\$1,000	\$115,720
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	\$0	\$0	\$2,850	\$2850
Other (explain below)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$40000	\$25,000	\$109,720	\$5,000	\$3,850	\$183,570
Share of Total Cost	21.8%	13.6%	59.8%	2.7%	2.1%	100%

Explanations:

Two maps below illustrate the location of both trail systems.

Materials and supplies from the Corps and Handshake will go toward purchasing of surface material for the 1.0, 10 foot wide Geo-Trek portion of the trail system, parkinglots, interpretive stops and kiosks.

A portion of the \$109,720.00 from partner 1 is dependant upon funding from a grant for Clark County Strategic Planning.