

CHALLENGE PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE AUDUBON CENTER AT RIVERLANDS
AND
WILD ONES ST. LOUIS CHAPTER

THIS AGREEMENT, entered into this day of _____, 20___, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander, U.S. Army Engineer St. Louis District Colonel Kevin Golinghorst, the Audubon Center at Riverlands, and Wild Ones St. Louis Chapter hereinafter the "Partners"), represented by Ken Buchholz, and Marsha Gebhardt.

WITNESSETH, THAT:

WHEREAS, the Government manages lands and waters at the Riverlands Migratory Bird Sanctuary which includes recreational opportunities for the public, and

WHEREAS, the installation of an outdoor classroom and amphitheater will increase the recreational opportunities for the public, and

WHEREAS the Partners are interested in promoting and assisting the Government in providing this outdoor classroom and amphitheater, and

WHEREAS, it is mutually beneficial to the Government and the Partners to work cooperatively to make this outdoor classroom and amphitheater available to the public, and

WHEREAS, the Partners, 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 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 an outdoor classroom and amphitheater consisting of crushed limestone walkways and boulders for seating at Riverlands Migratory Bird Sanctuary, as generally described in the Handshake Partnership Program Application for Fiscal Year 2020, dated September 20, 2020 and awarded on January 1, 2020 (see Financial Worksheet).

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 paid labor hours to implement and oversee the instillation of the outdoor classroom and amphitheater. Additionally, \$1,000 worth of native plants will be purchased by the Rivers Project to landscape the project.

c. The Partner, the Audubon Center at Riverlands shall provide paid labor hours to help provide supplementary planning of design features and to coordinate boulder delivery and placement. Additionally, the Partners will purchase the boulders and any incurred delivery fees. The Wild Ones St. Louis Chapter will provide volunteers for consultation and installation of native plantings in and around the outdoor classroom and amphitheater.

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 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. On the effective date of this Agreement, total project costs are projected to be \$59,520. The Audubon Center at Riverlands', contribution required under Article II.b. of this Agreement is projected to be \$6,877. Wild Ones St. Louis Chapter's, contribution required under Article II.b. of this Agreement is projected to be \$1,221. 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 all services required under Article II.b. 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 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 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 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 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 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 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

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 Partners, 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. 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 Partners: The Audubon Center of Riverlands
Michelle Wiegand
301 Riverlands Way
West Alton, MO 63386

Wild Ones St. Louis Chapter
Marsha Gebhardt
2833 Manderly Drive
Brentwood, MO 63144

If to the Government: Rivers Project Office, St. Louis District
Katelynn Dearth
301 Riverlands Way
West Alton, MO 63386

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 Colonel Golinghorst, St. Louis District.

The Department of the Army
U.S. Army Corps of Engineers,
St. Louis District

Kevin R. Golinghorst

Kevin Golinghorst
Colonel, U.S. Army
St. Louis District Commander

DATE: 08 Sep 2020

National Audubon Society, Inc./
The Audubon Center at Riverlands

SM

Stephen Meyer
COO

DATE: 09/02/2020

Wild Ones St. Louis Chapter

Marsha Gebhardt

Marsha Gebhardt
Chapter President

DATE: 7-30-2020

Challenge Partnership Financial Work Sheet

Corps Project Name: Rivers Project

Work Project Title: Outdoor Classroom and Amphitheater

POC Name: Katelynn Dearth

Address: 301 Riverlands Way

City: West Aton

State: MO Zip Code: 63386

Telephone: 314 - 332 - 8658

Location on Project: Rivers Project Office

Partner Organization 1: The Audubon Center at Riverlands

POC Name: Michelle Wiegand

Address: 301 Riverlands Way

City: West Alton

State: MO Zip Code: 63386

Telephone: 636 - 899 - 0090

Partner Organization 3: Wild Ones St. Louis Chapter

POC Name: Marsha Gebhardt

Address: 2833 Manderly Drive

City: Brentwood

State: MO Zip Code: 63144

Telephone: 314 - 303 - 8309

Proposed start date of work: September 1, 2020

Simple description of work to be accomplished through the partnership: Through this partnership, an amphitheater will be constructed.

- Planning and design on amphitheater
- Clearing of vegetation
- Site preparation and grading
- Setting of boulders for seating
- Placement of walkways
- Planting of landscaping

	Local Corps Office	Handshake Funds	Audubon Center at Riverlands	Wild Ones St. Louis Chapter	Total
Salaries	\$9,646	N/A	\$2,977	\$0	\$12,623
Travel	\$0	N/A	\$0	\$0	\$0
Materials and Supplies	\$1,000	\$22,776	\$2,000	\$0	\$43,776
Equipment Use	\$0	\$0	\$0	\$0	\$0
Funds Contributed	N/A	N/A	\$0	\$0	\$0
Personal Property	N/A	N/A	\$0	\$0	\$0
Volunteer	N/A	N/A	\$1,900	\$1,221	\$3,121
In-Kind Services	N/A	N/A	\$0	\$0	\$0
Other (explain below)	\$0	\$0	\$0	\$0	\$0
Total	\$10,646	\$22,776	\$6,877	\$1,221	\$41,520
Share of Total Cost	25.6%	54.9%	16.6%	2.9%	100.0%

Explanations: The Rivers Project Office has provided and will continue to provide paid staff to plan and implement this project. Native cottonwood and sycamore trees will be purchased by the Rivers Project, totaling \$1,000, to surround the amphitheater and provide shade, protection, and seclusion during programs. Total initial contributions account for 25.6% of the total project cost. The project office will maintain the amphitheater through vegetation maintenance contracts, and improvements, like the proposed canopy that could be added over time. Audubon Center at Riverlands will purchase 40 cut boulders for seating. Paid staff and volunteers will help with native plantings and maintenance of the landscaping after installation. This will account for 16.6% of the total cost. The St. Louis chapter of Wild Ones will be offering volunteers hours to provide consultation and instillation of the rain garden and native plantings. This will account for 2.9% of the overall project cost.