

CHALLENGE PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
BAYER U.S. CROP SCIENCE
AND
CARLYLE LAKE 50TH ANNIVERSARY COMMITTEE
AND
BROMLEY EXCAVATING
AND
SCHAEFER CONTRACTING
AND
CARLYLE LAKE DUCKS UNLIMITED CHAPTER
AND
CITY OF CARLYLE
AND
BOY SCOUTS
AND
CARLYLE LAKE ASSOCIATION

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, Bayer U.S., Carlyle Lake 50th Anniversary Committee, Bromley Excavating, Schaefer Contracting, Carlyle Lake Ducks Unlimited Chapter, City of Carlyle, Boy Scouts of America, and Carlyle Lake Association, represented by Zachary Solarte, Brenda Johnson, Kenny Bromley, Charlie Schaefer, Joe Wilkerson, Mayor Judy Smith, Alan Fischer, and Ted Beier (hereinafter the "Partners").

WITNESSETH, THAT:

WHEREAS, the Government manages lands and waters at Carlyle Lake which includes an environmental stewardship and recreational mission, and

WHEREAS, the installation of an accessible outdoor classroom at the Carlyle Lake Visitor Center will provide visitors with a unique interpretive experience, increasing awareness of Corps missions, and

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

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

WHEREAS, the Partners, in order to assist the Government in this project have voluntarily agreed to pay a portion of the cost and provide labor, 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 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 all efforts resulting in the planning and construction of a Carlyle Lake Visitor Center Accessible Outdoor Classroom consisting of a concrete pad, with a 30' X 20' shelter, benches, interpretive panels and signs, and pollinator plant species with a concrete accessible walkway connected to an existing walkway leading from the parking lot in the Carlyle Lake Dam West Recreation Area.

b. The term "total project costs" shall mean all costs incurred by the Government and the Partners directly related to implementation and installation of the project, estimated in the "Challenge Partnership Financial Worksheet," identified in Appendix "A".

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 paid labor to implement and oversee the design and installation of the project at an estimate of \$8,000. In addition, \$17,000 of concrete shall be purchased to complete the installation of an accessible pad and pathways. Further, the Government shall provide \$25,000 in Handshake Funds, which will provide for a 20' x 30' shelter and four interpretive panels and frames.

c. The Partners, Bayer U.S. will provide 24 benches made from recycled materials, pollinator seeds and volunteer hours to help install benches and plant pollinator seeds. The Carlyle Lake 50th Anniversary Committee will provide materials for the shelter and concrete pad. Bromley Excavating will provide the use of heavy equipment machinery. Schaefer Contracting will provide materials for the concrete pathway and pad. Ducks Unlimited will provide volunteer hours to help with the design of interpretive panels and planting pollinator species in the area. Boy Scouts will provide volunteer hours to remove build habitat boxes, install feeders, insect houses and planting pollinator species in the area. Carlyle Lake Association (CLA) will provide pollinator seed and plants native to the area. The City of Carlyle will provide in kind services in the form of labor and equipment.

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. On the effective date of this agreement, total project cost are projected to be \$77,100 and the Partners' contribution required in accordance with Article II. c. of this agreement is projected to be \$27,100.00+. 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 the contribution required under Article II. c. of this Agreement.

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 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: Bayer U.S – Crop Science
 Zachary Solarte
 3421 US Hwy 51 South
 Centralia, IL 62801

 Carlyle Lake 50th Anniversary Committee
 Brenda Johnson
 830 7th Street
 Carlyle, IL 62231

Bromley Excavating
Kenny Bromley
481 Railroad Street
Beckemeyer, IL 62219

Schaefer Contracting
Charlie Schaefer
19370 Sand Ridge Road
Carlyle, IL 62231

Carlyle Lake Ducks Unlimited Chapter
Joe Wilkerson
17918 Red Clover Lane
Carlyle, IL 62231

City of Carlyle
Mayor Judy Smith
850 Franklin Street
Carlyle, IL 62231

Boy Scouts Troop 281
Alan Fischer
1051 Bond Street
Carlyle, IL 62231

Carlyle Lake Association
Ted Beier
5614 Rosa Avenue
St. Louis, MO 63109

If to the Government: Carlyle Lake Project Office
Robert S. Wilkins
801 Lake Road
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 Colonel Golinghorst, St. Louis District.

The Department of the Army

Kevin R. Golinghorst
Kevin Golinghorst
Colonel, U.S. Army
St. Louis District Commander
DATE: 7/31/2020

Schaefer Contracting

Charlie Schaefer
Charlie Schaefer
Managing Member
DATE: 7/21/20

Bayer U.S. Crop Science

Zachary Solarte
Zachary Solarte
Product Manager
DATE: 7/29/2020

Carlyle Lake Ducks Unlimited

Joe Wilkerson
Joe Wilkerson
Chairman
DATE: 7/21/20

**Carlyle Lake 50th
Anniversary Committee**

Brenda Johnson
Brenda Johnson
Committee Representative
DATE: 7/21/2020

City of Carlyle

Judy Smith
Judy Smith
Mayor
DATE: 7/21/2020

Boy Scouts of America

Allen Fischer
Allen Fischer
Scout Leader
DATE: July 22, 2020

Carlyle Lake Association

Ted Beier
Ted Beier
President
DATE: 29 July 2020

Bromley Excavating

Kenny Bromley
Kenny Bromley
Managing Member
DATE: 7-30-2020

Challenge Partnership Financial Work Sheet

Corps Project Name: Carlyle Lake Project

Work Project Title: Carlyle Lake Visitor Center Accessible Outdoor Classroom

POC Name: Robert Wilkins

Address: 801 Lake Road City: Carlyle State: IL Zip Code: 62231

Telephone: 618 - 594 - 2484 x 6102

Location on Project: Carlyle Lake Visitor Center

Partner Organization 1: Bayer U.S. Crop Science

POC Name: Zachary Solarte

Address: 3421 US Hwy 51 South City: Centralia State: IL Zip Code: 62801

Telephone: 618 - 249 - 8921

Partner Organization 2: Carlyle Lake 50th Anniversary Committee

POC Name: Brenda Johnson

Address: 830 7th Street City: Carlyle State: IL Zip Code: 62231

Telephone: 618 - 210 - 5413

Partner Organization 3: Bromley Excavating

POC Name: Kenny Bromley

Address: 481 Railroad Street City: Beckemeyer State: IL Zip Code: 62219

Telephone: 618 - 227 - 8713

Partner Organization 4: Schaefer Contracting

POC Name: Charlie Schaefer

Address: 19370 Sand Ridge Road City: Carlyle State: IL Zip Code: 62231

Telephone: 618 - 594 - 4882

Partner Organization 5: Carlyle Lake Ducks Unlimited Chapter

POC Name: Joe Wilkerson

Address: 17918 Red Clover Lane City: Carlyle State: IL Zip Code: 62231

Telephone: 618 - 806 - 3371

Partner Organization 6: City of Carlyle

POC Name: Judy Smith

Address: 850 Franklin Street City: Carlyle State: IL Zip Code: 62231

Telephone: 618 - 594 - 2468

Partner Organization 7: Boy Scouts of America Troop 281

POC Name: Alan Fischer

Address: 1051 Bond Street

City: Carlyle

State: IL Zip Code: 62231

Telephone: 618 - 978 - 0764

Partner Organization 8: Carlyle Lake Association

POC Name: Ted Beier

Address: 5614 Rosa Avenue

City: St. Louis

State: MO Zip Code: 63109

Telephone: 618 - 353 - 3168

Proposed start date of work: 1 September 2020

Simple description of work to be accomplished through the partnership:

Through this partnership an accessible outdoor classroom will be constructed and includes the following:

- Planning, design, and installation of amphitheater
- Clearing of vegetation
- Site preparation and grading
- Concrete walkways and classroom pad
- Planting of pollinator species
- Installation of interpretive signs and panels

	Local Corps Office	Handshake Funds	Bayer U.S.	Carlyle Lake 50th	Bromley	Schaefer Contracting
Salaries	\$8,000	N/A	\$0	\$0	\$0	\$0
Travel	\$0	N/A	\$0	\$0	\$0	\$0
Materials and Supplies	\$17,000	\$25,000	\$8,000	\$2,100	\$0	\$2,500
Equipment Use	\$0	\$0	\$0	\$0	\$2,500	
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	\$2,000	\$2,000		\$0
In-Kind Services	N/A	N/A	\$0	\$0	\$0	\$0
Other (explain below)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$25,000	\$25,000	\$10,000	\$4,100	\$2,500	\$2,500
Share of Total Cost	32.4%	32.4%	13.0%	5.3%	3.2%	3.2%

	Ducks Unlimited	City of Carlyle	Boy Scouts	CLA		Total
Salaries	\$0	\$0	\$0	\$0		\$8,000
Travel	\$0	\$0	\$0	\$0	\$0	\$0
Materials and Supplies		\$0	\$0	\$1,500		\$56,100
Equipment Use	\$0	\$1,500		\$0	\$0	\$4,000
Funds Contributed	\$0	\$0	\$0	\$0	\$0	\$0
Personal Property	\$0	\$0	\$0	\$0	\$0	\$0
Volunteer	\$2,500		\$1,500		\$0	\$8,000
In-Kind Services	\$0	\$1,000		\$0	\$0	\$1,000
Other (explain below)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$2,500	\$2,500	\$1,500	\$1,500	\$0	\$77,100
Share of Total Cost	3.2%	3.2%	1.9%	1.9%	0.0%	

Explanations:

The Carlyle Lake Project Office will provide paid staff to plan and implement this project. This includes the planning and design of the amphitheater and \$17,000 worth of concrete for the accessible pad and pathways. Total initial contributions account for 32.4% of the total project cost. The project office will maintain the amphitheater through vegetation maintenance contracts, and improvements.

Handshake Funds will provide a 20' x 30' shelter and four interpretive panels and frames.

Partner 1, Bayer U.S. will provide 24 benches made from recycled material materials, pollinator seeds, plants and volunteer hours to help install benches and plant pollinator seed.

Partner 2, Carlyle Lake 50th Anniversary Committee will provide materials for the shelter and concrete pad.

Partner 3, Bromley will provide 16 hours of equipment hours and time with operator to prepare the area for construction and finishing work.

Partner 4, Schaefer Contracting will provide 60 tons of CA-6 stone to be used to prepare the area before the concrete is poured for the sidewalk and amphitheater

Partner 5, Ducks Unlimited will provide volunteer hours to install interpretive panels and planting pollinator species in the area.

Partner 6, City of Carlyle will provide in kind services in the form of labor and equipment.

Partner 7, Boy Scouts will provide volunteer hours to remove build habitat boxes, install feeders, insect houses and planting pollinator species in the area.

Partner 8, Carlyle Lake Association (CLA) will provide pollinator seed and plants native to the area.