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CHALLENGE COST-SHARING AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS
AND
POLK CITY CHAMBER OF COMMERCE

THIS AGREEMENT, entered into this 4th day of February, 1997, by and between the U.S. Army Corps of Engineers (hereinafter the "Corps"), represented by the District Engineer, U.S. Army Engineer Rock Island District, and Polk City Chamber of Commerce, (hereinafter the "Chamber"), represented by the Chamber President.

WITNESSETH, THAT:

WHEREAS, the Corps manages lands and waters at Saylorville Lake which includes recreational opportunities for the public, and

WHEREAS, the creation of a informational publication will increase the awareness of recreational opportunities at Saylorville Lake; provide visitors with pertinent information to appropriately and safely utilize the recreation areas; make visitor aware of nearby supplies and services to assist with the participation in such recreation, and

WHEREAS, the Corps will benefit by being able to eliminate the cost of two currently used publications by replacing them with this one publication, and

WHEREAS, the Chamber is interested in promoting and assisting the Corps in providing this publication, and

WHEREAS, it is mutually beneficial to the Corps and the Chamber to work cooperatively to make this publication available to the public, and

WHEREAS, the Chamber, in order to assist the Corps 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, Public Law 102-580, (Oct 31, 1992), authorizes the Secretary of the Army to accept contributions from the Chamber and apply those contributions to the Project, and

WHEREAS, the Corps and the Chamber 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 Corps and the Chamber agree as follows:

ARTICLE I - DEFINITIONS AND GENERAL PROVISIONS

For purposes of this agreement:

a. The term "Project" shall mean a 8.5"x 11" booklet which includes maps of the Saylorville Lake campground and picnic areas, recreational guidelines for use of campgrounds and picnic area, other general recreation season information and a cooperative listing of local supplies and services offered by nearby business that are recommended by the Chamber of Commerce's in the vicinity of Saylorville Lake.

b. The term "total project costs" shall mean all cost incurred by the Corps and the Chamber directly related to the project.

c. This Agreement in no way restricts the Corps from participating in similar activities or arrangements with, or accepting contributions from, other public and private agencies, organizations, and individuals.

ARTICLE II - OBLIGATIONS OF THE PARTIES

a. The Corps, subject to and using funds appropriated by the Congress of the United States (hereinafter the "Congress"), and using funds provided by the Chamber, shall expeditiously construct the Project, applying those procedures usually applies 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 Corps personnel) shall be exclusively within the control of the Corps.

b. The Corps shall provide funds in the amount of \$6,000 or 50% of the total project cost. The Corps of Engineers will provide a representative to assist with the supervision of the publication to ensure a quality that corresponds with the quality of current publications produced by the Corps.

c. The Chamber shall provide 25,000 copies of the publication as described above in Article I, paragraph a. The Chamber shall also provide the remaining \$6,000 or 50% of the total project cost. This will be accomplished by coordinating with and recruiting funds from other local Chamber of Commerce's in the Saylorville Lake vicinity, including but not limited to Johnston, Ankeny and Grimes Chamber of Commerce.

d. The Corps shall perform a final accounting to determine the contributions provided by all parties to the 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 Chamber's share of total project costs under this Agreement.

f. The Chamber shall not use Corps -supplied materials and equipment, or allow their use, for other than authorized project purposes.

ARTICLE III -- METHOD OF PAYMENT

a. On the effective date of the Agreement, total project costs are projected to be \$12,000, and the Corps' contribution required under Article II.b. of this Agreement is projected to be \$6,000. Such amounts are estimates subject to adjustment and are not to be construed as the total financial responsibilities of the Corps and the Chamber.

b. The Corps 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 publication contract, the Chamber shall notify the Corps of the funds required from the Corps to meet its projected contribution, including its share of the Chamber's financial obligations incurred prior to the commencement of the period of production. Prior to the issuance of the solicitation, the Corps shall provide the Chamber with the full amount of the required funds by delivering a check payable to "Polk City Chamber of Commerce" to the Chamber's Treasurer by mailing it to Polk City Chamber of Commerce, P.O. Box 236, Polk City, Iowa 50226. The Chamber shall draw from the funds provided by the Corps such sums as the Chamber deems necessary to cover: (a) the Corps's share of Chamber's financial obligations incurred prior to the commencement of the period of production; and (b) the Corps's share of the Chamber's contractual and in-house financial obligations as they are incurred during the period of production. In the event the Chamber determines that the Corps must provide additional funds to meet its obligation, the Chamber shall notify the Corps of the additional funds required. Within 60 calendar days thereafter, the Corps shall provide the Chamber 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 Chamber shall conduct a final accounting and furnish the Corps 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 Corps is less than its required share of total project costs, the Chamber shall, no later than 90 calendar days after receipt of written notice, make a payment to the Corps of whatever sum is required to meet the Chamber's required share of total project costs.

2. In the event the final accounting shows that the total contribution provided by the Corps exceeds its required share of total project costs, the Chamber shall, subject to the availability of funds, refund the excess to the Corps 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 Corps, the Chamber 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 Corps and the Chamber 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 300 of Title 32, Code of Federal Regulations as well as Army Regulations 600.7, entitled "Non-discrimination of 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 Corps and the Chamber 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 Chamber shall hold and save the Corps free from all damages, including damages to Corps-supplied materials and equipment made available for the Chamber's

use beyond normal wear and tear, arising from services the Chamber performs for provides for the construction, operation, maintenance, repair, replacement, and rehabilitation of the Project, except for damages due to the fault or negligence of the Corps or its contractors.

ARTICLE IX - TERMINATION OR SUSPENSION

a. If at any time the Chamber fails to fulfill its obligations under this Agreement, the District Engineer 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 Corps fails to receive the service sufficient to meet Project expenditures for the then-current or upcoming fiscal year, the Corps shall so notify the Chamber, 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 Corps receives sufficient appropriations or until either the Corps or the Chamber elects to terminate this Agreement.

c. In the event that either party elects to terminate this Agreement pursuant to this Article, or Article II.b. of this Agreement, both parties shall conclude their activities relating to the Project and proceed to a final accounting in accordance with Article II.d. 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 Chamber:

Tim Rhoads
Polk City Chamber of Commerce

P.O. Box 236
Polk City, Iowa 50226

If to the Corps:

Jerry DeMarce
Saylorville Project Manager
U. S. Army Corps of Engineers
5600 NW 78th Ave
Johnston, Iowa 50131

b. A party may change the address to which such communication 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 at 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 Commander, Rock Island District.

The U.S. Army Corps of Engineers

The Polk City Chamber of Commerce

By: _____
Charles M. Cox
Colonel, Corps of Engineers
District Engineer

BY: _____
Tim Rhoads
President
Polk City Chamber of Commerce

DATE: _____

DATE: _____