

CHALLENGE PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE JAMAICA AREA MOUNTAIN BIKE ALLIANCE

THIS AGREEMENT, entered into this 6th of June 2022, by and between the Department of the Army (hereinafter the “Government”), represented by Eric Pederson, Chief of Operations, United States Army Corps of Engineers (USACE), New England District, and the Jamaica Area Mountain Bike Alliance, (hereinafter the “Partner”), represented by Heidi Pancake, Chairperson of Jamaica Area Mountain Bike Alliance (JAMBA).

WITNESSETH, THAT:

WHEREAS, the Government manages lands and waters at Ball Mountain Lake, which includes recreational trail use opportunities for the public, and

WHEREAS, constructing biking trails and trail maintenance services within the Ball Mountain Lake property will safely increase the recreational opportunities for the public, and

WHEREAS the Partner is interested in promoting and assisting the Government in constructing these trails, and

WHEREAS, it is mutually beneficial to the Government and the Partner to work cooperatively to make these trails available to the public as well as preserve and protect the Government’s natural resources in and around the Ball Mountain Lake property, and

WHEREAS, the Partner, in order to assist the Government in this Project, has voluntarily agreed to pay a portion of the cost to construct, maintain, and improve upon these trails, and

WHEREAS, Section 225 of the Water Resources Development Act of 1992, Public Law (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

a. The term "Project" shall refer to the creation of two new mountain biking trails. The designated trails, approximately one mile in length, to be maintained and improved upon are located at Ball Mountain Lake between the Ball Mountain Access Road and the Canoe/Kayak Launch Parking Lot (See Exhibit A).

b. The term "total project costs" shall mean all costs incurred by the Government and the Partner directly related to construction and maintenance 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.

e. Ball Mountain Lake is a public facility, and the Project, property, facilities, or improvements placed within Ball Mountain Lake cannot be closed to public use except under the provisions of the special events permit program.

f. Ball Mountain Lake Dam is a flood control structure of national importance, the operation of which is directed by USACE. There will be no claim for damages by the Partner or its members should operation of the dam cause the loss of the Project or a portion thereof.

g. This Agreement shall become effective on the date it is signed by the Government and will extend for a three (3) year period from the signed date. After the three (3) year period, this Agreement may be extended in 3-year increments by mutual consent of the Parties.

ARTICLE II. OBLIGATIONS OF THE PARTIES

The Partner shall 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 shall be exclusively within the control of the Government.

a. The Partner shall:

1. Provide all labor, equipment, and materials to construct the Project.
2. Participate in planning and coordination meetings with Government personnel within 60 days of signing of this Agreement.
3. Provide an Operations and Maintenance Plan for new proposed trails within 60 days of signing this Agreement.
4. Design, fabricate, and install all trailhead signs and trailhead markings, subject to Government approval.

5. Develop and produce trail maps for each Kiosk.
6. Hike the trails annually, as early in the spring as trail conditions will allow, to conduct trail maintenance. Spring maintenance will include clearing obstructions such as downed trees and branches and improving trail tread to ensure a consistently rideable trail.
7. Conduct routine maintenance, including the removal of brush and encroaching vegetation, repair of trail surface, removal of obstacles, repairing and replacing signs as needed.
8. Design, propose, and if approved by Government, construct additional mountain bike trails (approval of any proposed new trails shall be at the sole discretion of the Government).
9. Report on activities at the Project in the planning and coordination meetings twice a year, in the spring and fall, or as requested by Government.

b. The Government shall:

1. Participate in spring and fall planning and coordination meetings with the Partner.
2. Install and repair existing Government trailhead markings and signage as needed.
3. Maintain the appearance of the trailheads.
4. Consider and respond to proposals from the Partner for the construction of new mountain bike trails. Approval of any proposed new trails is at the sole discretion of Government and will be considered in accordance with applicable Engineering Regulations.
5. Actively work with the Partner to identify and close unauthorized trails or activity.

c. No federal funds may be used to meet the Partner's total project costs under this Agreement.

d. In the event of a natural disaster or flood event, the Government and the Partner will meet to mutually decide which damaged or destroyed features will be repaired and/or replaced.

e. To keep the lines of communication operating, the Government and the Partner meet at least once a year to discuss the status of the trails, maintenance that is needed, new/enhanced trails, etc.

f. The Partner will notify the Government at least (2) weeks in advance of scheduled trail maintenance days. Regular maintenance includes, but is not limited to, the removal of brush or encroaching vegetation, repair of trail surface, including washouts or erosion, the removal of obstacles, and the repair or replacement of signs. Government approval will be needed for any trail improvements including, but not limited to, the installation of water bars, new crossings, or bridges. The Government will coordinate this communication with Ball Mountain Lake personnel, the Partner will coordinate with the Chairperson of their chapter. All Partner employees and volunteers will be required to complete and submit a "Volunteer Service

Agreement” before they perform any work or maintenance at the Project.

g. The Partner will obtain the express written authorization of the Government before using any chainsaws, tractors, or similar power equipment. Hand tools, leaf blowers, trimmers, and lawn mowers do not require prior authorization.

h. The Government shall perform a final accounting to determine the contributions provided by the Parties and to determine whether each has met its obligations under paragraphs a and b this Article.

ARTICLE III. METHOD OF PAYMENT

The Partner shall maintain current records of contributions of work-in-kind labor hours and materials provided by the Partner and a current projection of total Project costs. At least quarterly, the Partner shall provide the Government with a report setting forth all contributions. On the effective date of this Agreement, total Project cost is projected to be \$36,220.28 and the Partner's contribution required under Article IIa. of this Agreement is projected to be \$36,220.28 of work-in-kind and materials (See financial worksheet below for break downs). Such amounts are estimates subject to adjustment and are not to be construed as the total financial responsibilities of the Government and the Partner.

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.

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. 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, as well as Army

Regulation 600-7, "Unlawful Discrimination on the Basis of Disability in Programs and Activities Receiving Federal Financial Assistance From or Conducted by the Department of the Army."

ARTICLE VI. RELATIONSHIP OF PARTIES

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.

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 that 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

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 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.

If the Government fails to receive annual appropriations in the 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.

If 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.

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.

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 if in writing and delivered personally or mailed either by first-class, registered, or certified mail, as follows:

If to the Partner: Jamaica Area Mountain Bike Alliance Chairperson
Heidi Pancake
P.O. Box 67
Jamaica, VT 05343
(802) 451-9791
heidi.pancake@gmail.com

Or

Jamaica Area Mountain Bike Alliance Secretary
David Marx
P.O. Box 63
Jamaica, VT 05343
(802) 380-7145
scirockets@gmail.com

If to the Government: Natural Resources Specialist
Valerie Franklin
88 Ball Mountain Lane
Jamaica, VT 05343
(978)318-8462
Valerie.L.Leclerc@usace.army.mil

Or

Project Manager
Alex Cote
88 Ball Mountain lane

Jamaica, VT 05343
(978) 318-8453
Alex.J.Cote@usace.army.mil

A party may change the address or the point of contact to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

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 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, USACE, New England District.

The Department of the Army

Jamaica Area Mountain Bike Alliance

BY: 

Eric Pederson
Chief of Operations
New England District

BY: 

Heidi Pancake
Chairperson
Jamaica Area Mountain Bike Alliance

DATE: 6/6/2022

DATE: 

Challenge Partnership Financial Work Sheet

Project Name: Ball Mountain Bike Trails

Contact person: Valerie Franklin

Address: 88 Ball Mountain Lane Phone: 978-318-8462

Work Project Title: Having a Ball and Hard Corps Trail Construction

Location: Ball Mountain Lake

Description of work: The Partner shall layout, create, and maintain the new trails at Ball Mountain Lake. The proposed new designated trails are located within the Ball Mountain Property, the trails will be approximately 1 mile in length and located between Ball Mountain Lane and the Canoe/Kayak Launch Parking. Trail maintenance and improvement activities shall take place on new trails as well as the existing designated trail system currently in place within the Ball Mountain Property. See Exhibit A for more details.

Partner: Jamaica Area Mountain Bike Alliance

Contact person: Heidi Pancake

Address: P.O. Box 67 Jamaica, VT 05343 Phone: (802) 451-9791

	Government	Partner	Total
Salaries/Volunteer Hours	\$1,024.96	\$31,687.10	\$32,712.06
Travel	\$ _____	\$ _____	\$ _____
Materials and Supplies	\$ _____	\$5,000.00	\$5,000.00
Equipment Use	\$ _____	\$ _____	\$ _____
Cash/Funds	\$ _____	\$ _____	\$ _____
Personal Property	\$ _____	\$ _____	\$ _____
Other Contingencies	\$ _____	\$ _____	\$ _____
Total	\$1,024.96	\$36,687.10	\$37,712.06
 Share of total cost	 <u> 3 </u> %	 <u> 97 </u> %	

Salaries Government: 16 hours x \$64.06 = 1,024.96

Volunteer hours JAMBA: 1058 Volunteer Hours x \$29.95 = \$31,687.10

EXHIBIT A

The following is a list of the two (2) proposed single-track mountain bike trails in the Project as of the date of this Challenge Partnership:

1. Having a Ball, Upper section from Ball Mountain Lane to West River Trail.
2. Hard Corps, Lower Section from West River Trail to the Canoe Kayak Launch Parking Lot

JAMBA Proposed Trails

