

CHALLENGE PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
Mississippi Headwaters Board

THIS AGREEMENT, entered into this day of April 14th, 2021, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander, U.S. Army Engineer St. Paul District and the Mississippi Headwaters Board, (hereinafter the "Partner").

WITNESSETH, THAT:

WHEREAS, the Government manages lands and waters within the Mississippi Headwaters Project (consisting of Leech Lake, Winnibigoshish, Pokegama, Sandy Lake, Cross Lake and Gull Lake project sites) which includes recreational opportunities, environmental stewardship, and water safety information for the public, and

WHEREAS, the installation of interpretive signage at Mississippi Headwaters project site boat launches and/or water access points will increase knowledge and safety for visitors wishing to engage in paddling (canoe, kayak, etc.) opportunities from Corps of Engineers facilities and provide educational stewardship of the Mississippi River and associated waterways, and

WHEREAS the Partner is interested in promoting and assisting the Government in providing interpretive signage at Government owned and operated boat landings and water access areas to inform users of the Mississippi River, and associated tributaries, of waterway paddling information to include safety, maps, and local area history as it relates to the paddle routes.

WHEREAS, it is mutually beneficial to the Government and the Partner to work cooperatively to make Mississippi River paddling (canoe, kayak, etc.) interpretive signage 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 kiosk or sign post(s) displaying three 24" x 36", ¼" solid acrylic aluminum laminate interpretive signs discussing the waterway paddling route and water safety considerations from the Government boat landing to the next designated water access point. It shall be the responsibility of the Mississippi Headwaters Board to develop partnerships with the landowner or manager of the next designated water access point. At U.S. Army Corps of Engineers Headwaters sites the kiosk will be installed near the appropriate boat landing or area agreed upon between the respective site's lead staff and the Headwaters Board.
- 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 materials and labor to create a kiosk and install the interpretive signage. The Government agrees to maintain the installed interpretive signage for a period of 5 years.
- c. The Partner shall provide research, content, graphic design, and fabrication of signage for the project. Content and design of the signage must be approved by the Government prior to fabrication.
- 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 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.

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, certified mail, or certified/digitally signed email as follows:

If to the Partner: Mississippi Headwaters Board
 Tim Terrill
 322 Laurel St
 Brainerd, MN
 timt@mississippiheadwaters.org

If to the Government: U.S. Army Corps of Engineers
 Mississippi Headwaters Project Office
 PO Box 652
 Grand Rapids, MN 55744
 tamryn.frauenshuh@usace.army.mil

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 U.S. Army Corps of Engineers St. Paul District.

The Department of the Army

BY: URICH.RANDALL.RAY.1231351651 Digitally signed by URICH.RANDALL.RAY.1231351651
Date: 2021.04.14 08:54:01 -0500

Randall R. Urich

Operations Project Manager

Recreation and Natural Resources Branch

St. Paul District - US Army Corps of Engineers

DATE: April 14, 2021

Mississippi Headwaters Board

BY: Tim Terrill

Tim Terrill

Executive Director

DATE: 3/26/2021