

CHALLENGE PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
NORTH COUNTRY TRAIL ASSOCIATION, INCORPORATED

THIS AGREEMENT, entered into this 20th day of May, 2024, by and between the Department of the Army (hereinafter the "Government"), represented by COL Nicholas Melin, District Commander, U.S. Army Corps of Engineers, Pittsburgh District and the North Country Trail Association, Incorporated (hereinafter "Partner") represented by Andrea Ketchmark,

WITNESSETH, THAT:

WHEREAS, the Government manages lands and waters at Tionesta Lake which includes recreational opportunities for the public, and

WHEREAS, the development and installation of a trail to increase the safety of, and recreational opportunities for, the public, and

WHEREAS the Partner is interested in promoting and assisting the Government in providing this trail, and

WHEREAS, it is mutually beneficial to the Government and the Partner to work cooperatively to make this trail available to the public, and

WHEREAS, the Partner, in order to assist the Government in this project has voluntarily agreed to provide volunteer labor, materials, and services, for the design, construction, and maintenance of a 0.7-mile-long trail section of the NCT including two (2) wooden trail boardwalks, 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 a challenge partnership 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. "Project" shall mean the design, construction, installation, and maintenance of a 0.7-mile-long trail on Government property, including the design, construction, and maintenance of two (2) wooden trail boardwalks (See Appendix A).

b. 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.

c. 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.

d. No use of the Government's land under this agreement shall be taken as creating or vesting in the Partner any ownership in the said Government's land.

ARTICLE II - OBLIGATIONS OF THE PARTIES

- a. The Partner shall expeditiously design and construct the 0.7-mile-long trail to include two (2) trail boardwalks, not to exceed fourteen (14) feet in length or five (5) feet in height, applying those procedures generally applied to Federal projects, pursuant to Federal laws, regulations, and policies. The final location, design and performance of all work on the Project shall be subject to the review, approval, and supervision of the Government.
- b. The Government shall provide the Partner with access to that land necessary for the design, construction, and maintenance of the Project.
- c. The Government shall provide the Government personnel labor necessary to coordinate the project's planning and execution.
- d. The Partner shall provide the necessary tools, materials, and labor for the Project.
- e. The Partner agrees to perform maintenance and/or repairs to the Project as requested by the Government. The Partner agrees to perform said maintenance and/or repairs within ten (10) days of receiving notice from the Government. The Partner may request from the Government additional time to complete said maintenance and/or repairs.
- f. The Government, in its sole discretion, may, at any time, close, prohibit or otherwise restrict access to the Project and area around the Project.

- g. 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.
- h. 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 Partner and of the Partner's contributions required in accordance with Article II of this Agreement. On the effective date of this Agreement, initial construction costs are projected to be \$20,000. This amount is an estimate subject to adjustment and is not to be construed as the total financial responsibility of the Partner. The Government and the Partner acknowledge that the Partner will incur additional annual maintenance costs of an unknown amount (Estimated to be \$5000.00 for the first year) for the inspection and maintenance of the Project.

b. The Partner shall provide all contributions necessary for all construction activities required under Article II d. of this Agreement no less than 60 calendar days after the proposed start date of work and shall provide all contributions necessary for Project maintenance, under Article II e. of this Agreement, on an as needed basis.

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.

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. 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 Title VI of the Civil Rights Act of 1964, and 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 Regulation 600-7, *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 Partner agrees to assume all risks of loss or damage to property and injury or death to persons by reason of, incident to, or incident attributable to the condition of or state of repair of the Project, or to the Partner's construction, installation and/or maintenance of the Project. The Partner expressly waives all claims against the Government for any such loss, damage, personal injury, or death caused by or occurring as a consequence of such construction, installation and/or maintenance of the Project by the Partner, or the conduct of activities or the performance of responsibilities under this Agreement by the Partner. The Partner further agrees to indemnify and hold harmless the Government, its officers, agents, and employees from and against all suits, claims, demands or actions, liabilities, judgments, costs, and attorneys' fees arising out of, or in any manner predicated upon, personal injury, death, or property damage resulting from, related to, caused by, or arising out of the construction, installation and/or maintenance of the Project by the Partner. The Partner's obligations under this paragraph shall apply to all risks of loss or damage to property and injury or death to persons by reason of, or incident to 1) use or visitation of the Project by the public, and/or 2) the construction, installation and/or maintenance of the Project by the Partner, the Partner's officers, agents, servants, employees, or others (excluding those employees or agents of the Government who are on the Premises for the purpose of performing official duties) who may be at the Project at their invitation or the invitation of any one of them (the "Partner Parties"), or the activities conducted by or on behalf of the Partner Parties under this Agreement.

ARTICLE IX - TERMINATION OR SUSPENSION

a. If at any time a 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 Government or is necessary to satisfy agreements with any other non-Federal interests in connection with the Project.

b. In the event that either party elects to terminate this Agreement pursuant to this Article, the Partner shall remove all trail boardwalk materials and return the property to substantially the same condition it was in prior to entering in this Agreement and the parties shall conclude their activities relating to the Project and proceed to a final accounting in accordance with Article II of this Agreement.

c. 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

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 NCTA: North Country Trail Association, Incorporated
c/o Andrea Ketchmark
North Country National Scenic Trail
229 East Main Street
Lowell, MI 49331

If to the Government: U.S. Army Corps of Engineers, Tionesta Lake
c/o Jason Bowers
(Or Current Supervisory Natural Resources
Specialist)
477 Spillway Road
Tionesta, PA 16353

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 Field OPM, Tionesta Lake.

The Department of the Army

BY: _____
Evan Skornick

TITLE: Supervisory Operations Project Manager, Northern Area Operations
US Army Corps of Engineers, Pittsburgh District

DATE: 20May2024

North Country Trail Association, Incorporated

BY: 

Andrea Ketchmark

TITLE: Executive Director

DATE: 05/13/2024

Challenge Partnership Financial Work Sheet

Corps Project Name: Tionesta Lake

Work Project Title: North Country Scenic Trail - Reroute

POC Name: Jason Bowers, Supervisory Natural Resource Specialist

Address: 477 Spillway Road City: Tionesta State: PA Zip Code: 16353

Telephone: 814-755-3512

Location on Project: In proximity to Kellettsville Campground

Partner Organization 1: North Country Trail Association

POC Name: Andrea Ketchmark, Executive Director

Address: 229 E. Main Street City: Lowell State: MI Zip Code: 49331

Telephone: 616-897-5987

Proposed start date of work: November 2023

Simple description of work to be accomplished through the partnership: Design, construction, and maintenance of a 0.7-mile-long section of trail on Government property to include the construction and maintenance of two wooden boardwalks.

	Construction			Yearly Maintenance		
	Local Corps Office	Partner 1	Total	Local Corps Office	Partner 1	Total
Salaries	\$930	N/A		\$1,838	N/A	
Travel	\$0	N/A		\$0	N/A	
Materials and Supplies	\$0	\$6,000	\$6,000	\$0		\$0
Equipment Use	N/A	N/A		N/A	N/A	
Funds Contributed	N/A	N/A		N/A	N/A	
Personal Property	N/A	N/A		N/A	N/A	
Volunteer	\$0	\$14,000	\$14,000	\$0	\$5,000	\$5,000
In-Kind Services	N/A	N/A		N/A	N/A	
Other (explain below)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$930	\$20,000	\$20,930	\$1,838	\$5,000	\$6,838
Share of Total Cost	4.4%	95.6%	100%	26.9%	73.1%	100%

Explanations:

Partner 1: North Country Trail Association has agreed to donate all labor and materials for the design, construction, and maintenance of a 0.7-mile-long trail on Government property to include the design, construction, and maintenance of two (2) wooden boardwalks.

USACE: Local Corps costs are limited to labor costs from existing salaries for administration and condition assessments by Tionesta Lake staff.