

CHALLENGE PARTNERSHIP AGREEMENT  
BETWEEN  
THE US ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT  
AND  
CASS COUNTY SOIL AND WATER CONSERVATION DISTRICT (SWCD)  
AND  
GULL CHAIN OF LAKES ASSOCIATION

This Partnership Agreement is for the mutual benefit of all parties and is between the United States Army Corps of Engineers, St. Paul District (hereinafter the "Government"), and those entities identified above (hereinafter the "Partners").

WITNESSETH, THAT:

WHEREAS, the Government manages lands and waters at the Gull Lake Recreation Area Project which includes recreational opportunities to the public and protection of natural resources, and

WHEREAS, the operation of a power wash station and educational efforts would help protect the Gull Lake Chain of Lakes and other area lakes from the spread of aquatic invasive species and assist in the protection of natural resources, and

WHEREAS the Partners are interested in assisting the Government in combining resources, education, experience, and funds to protect and manage for long-term public access and use of the water resource, and

WHEREAS, it is mutually beneficial to the Government and the Partners to work cooperatively to protect natural resources and enable the power wash station to be put into operation during the boating season (May-September), and

WHEREAS, the Partners, in order to assist the Government in this project have voluntarily agreed to provide training on invasive species identification, provide personnel to operate the wash station, assist with the operation and maintenance of the power wash station and disseminate educational information related to the protection of natural resources, 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 Partners 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 partnership 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 power wash station equipment, training of operators, and operation of the power wash station at Gull Lake Recreation Area.
- b. The term "Total Project Costs" shall mean all labor, material, goods, and services incurred by the Government and the Partners directly related to implementation of the Project.
- c. This Agreement will become effective upon the date it is signed by the St. Paul District Commander, will be for a period of two (2) boating seasons (generally May-September of each year), and will terminate at the close of the final boating season.
- d. 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.
- e. 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 for exclusive use at the Gull Lake Recreation Area.

## 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:
  - The power wash station
  - Storage and assist in purchase of fuel for operation
  - Routine and periodic maintenance of power wash station including weekly cleaning and filling the power wash station
  - Coordination for storage, location, and operation of the wash station
  - Power wash station manuals
  - Volunteer forms
  - Speed bumps to slow down traffic
  - Brochures on the identification of invasive species and water safety to disseminate to the public

c. The Partners shall provide:

The Cass Soil and Water Conservation District

- Training for all operators of the power wash station prior to operation. Training will include invasive species identification and proper use of the wash station.
- Schedule and provide trained operators with a target goal of 40 hours per week for 16 weeks per boating season
- Vest or uniforms to adequately identify trained operators
- Signage to inform and direct the public to the wash station
- Ensure all operators have signed USACE volunteer forms before work is initiated
- Assist with operation and maintenance of the power wash station on as needed basis and subject to Cass Soil and Water Conservation District Board approval. However, the Cass Soil and Water Conservation District is not required to provide any financial contributions under this agreement.

The Gull Chain of Lakes Association

- Assist with the cost of operation and maintenance of power wash station to include start up and shutdown maintenance costs (not to exceed \$1,000.00 annually)
- Any additional contributions towards the operation and maintenance of the power wash station will be on an as needed basis and subject to GCOLA board approval.

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. Nothing herein precludes the Government or Partner from exceeding its minimum obligations under this Article.

e. No Federal funds may be used to meet the Partners' Total Project Costs under this Agreement.

f. The Partners shall not use Government-supplied materials and equipment, if any, or allow the use, for other than authorized Project purposes.

### 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. At least quarterly, the Government shall provide the Partners with a report setting forth all contributions provided to date and the current projection of Total Project Costs, of the components of Total Project Costs, of each party's share of Total Project Costs, and of the Partners' contribution required in accordance with Article II.c of this Agreement. In the event that the Government or the Partners are not meeting their minimum contributions under Article II of this agreement, the parties to this agreement will discuss the matter and agree upon a method of bringing the contributions into balance or, if agreement cannot be reached, proceed to the suspension and termination provisions of this Agreement.

Nothing in this paragraph excuses the Partners from its responsibility to provide the minimum contribution identified in this Article or to pay the Government damages in the event that it fails to provide its minimum contribution.

b. 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.

#### 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 none of the parties are to be considered the officer, agent, or employee of any other party to this Agreement.

b. In the exercise of its rights and obligations under this Agreement, no party shall provide, without the consent of the other parties, 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 there from.

#### ARTICLE VIII - INDEMNIFICATION

The Partners shall hold and save the Government free from all damages arising from services they perform or provide 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 one or both of 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 Partners, and 60 calendar days thereafter any party may elect without penalty to terminate this Agreement or to suspend future performance under this Agreement. In the event that any 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 one or both of the Partners elects to terminate this Agreement.

c. In the event that any party elects to terminate this Agreement pursuant to this Article, all 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 Partners:

Cass County Soil and Water Conservation District  
Steve Henry  
PO Box 3000/303 Minnesota Ave W.  
Walker, MN 56484

Gull Chain of Lakes Association  
Secretary/Treasurer  
PO Box 102  
Nisswa, MN 56468

If to the Government:

US Army Corps of Engineers  
Gull Lake Recreation Area  
10867 East Gull Lake Drive  
Brainerd, MN 56401

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 Cass County Soil and Water Conservation District has caused this Agreement to be executed this ~~8-9-23~~ day of August, 2023.

By David L. Peterson  
Steve Henry David L. Peterson

~~AIS Lake Technician~~, Cass County Soil and Water Conservation District  
Chairman

**IN WITNESS WHEREOF**, the Gull Chain of Lakes Association has caused this Agreement to be executed this 1 day of August, 2023.

By Steve Frawley  
Steve Frawley

Chair, Gull Chain of Lakes Association

**IN WITNESS WHEREOF**, the Corps has caused this Agreement to be ratified this 30th day of August, 2023.

By \_\_\_\_\_  
Tamara Cameron  
Chief of Operations Division, Corps of Engineers  
St. Paul District