

CHALLENGE PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE NORTH CAROLINA WILDLIFE RESOURCES COMMISSION
AND
THE VERMONT YOUTH CONSERVATION CORPS
AND
THE UPPER NEUSE RIVERKEEPER FOUNDATION

THIS AGREEMENT, entered into this day 27th of March 2014 by and between the Department of the Army (the "Government"), represented by the District Commander, U.S. Army Corps of Engineers Wilmington District, and the North Carolina Wildlife Resources Commission (the "NCWRC"), the Vermont Youth Conservation Corps (the "VYCC"), and the Upper Neuse RiverKeeper Foundation (the "NRF")

WITNESSETH, THAT:

WHEREAS, the Government owns and manages lands and waters at Falls Lake for congressionally authorized purposes including fish and wildlife conservation and public recreation, and

WHEREAS, it is desirable for the NCWRC, VYCC, and NRF (hereinafter know as the "Partners") to improve public fishing access on property owned and controlled by Government at Falls Dam, and

WHEREAS, it is desirable for the Government to increase recreational opportunities for visitors by cooperating with the Partners to improve angler access, and

WHEREAS, the Partners in order to assist the Government in this project have voluntarily agreed to provide services, materials, and supplies to accomplish this project, and

WHEREAS, Section 225 of the Water Resources Development Act of 1992, PL 102-580, (Oct 31, 1992) (33 USC 2328), authorizes the Secretary of the Army to accept contributions from a partner and apply those contributions to the Project, and

WHEREAS, 16 USC Section 460d authorizes the Chief of Engineers to permit the construction of facilities at water resource development projects, 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 cost-sharing in accordance with the terms of this agreement;

NOW THEREFORE, the Government and Partners agree as follows:

ARTICLE I - DEFINITIONS AND GENERAL PROVISIONS

For purposes of this agreement:

a. The term Project shall mean a universally accessible fishing pier, concrete approach path/ramp, parking areas, information kiosk, landscaping, and fishing line recycling containers

b. The term "total project costs" shall mean all costs incurred by the Government and Partners 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 shall be responsible for the following aspects of the project:

- 1) Provide a tractor with various attachments and hand tools necessary for landscape plantings, for use by Corps employees and staff
- 2) Provide staff to assist partners in the planning and construction stages of the project
- 3) Provide supplies and materials for landscaping work (plants, mulch, etc.)
- 4) Provide two (2) new interpretive wayside-type signs for the pier and access area
- 5) Procure contract labor, supplies and materials for construction of parking areas, access road improvements, and a universally accessible path from an existing parking lot to the new fishing pier

b. The Partners shall be responsible for the following aspects of the project, the value of which shall be in accordance with the financial worksheet attached hereto, incorporated by reference and identified as Exhibit A:

NCWRC:

- 1) Provide survey work, engineering and design plans for the fishing pier, access path, parking areas and road improvements
- 2) Provide labor, materials and supplies for construction of pier and kiosk

VYCC:

- 1) Provide labor for landscaping (planting, mulching, weeding, etc.)

NRF:

- 1) Provide volunteer hours for constructing, installing, and maintaining fishing line recycling containers
- 2) Provide supplies and materials for fishing line recycling containers

c. 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.

d. No Federal funds may be used to meet the Partner's total project costs under this Agreement; with the exception of the Sport Fish Restoration Grant funds provided to the NCWRC by the US Fish and Wildlife Service and approved for this purpose

ARTICLE III - METHOD OF PAYMENT

a. The Government shall maintain current records of contributions provided by the Commission and a current projection of total project costs. On the effective date of this Agreement, total project costs are projected to be \$98,050, and Partners' total estimated contribution required under Article II. b. of this Agreement is projected to be \$78,500 (reference individual contributions in Financial Worksheet). Such amounts are estimates subject to adjustment and are not to be construed as the total financial responsibilities of the Government and Commission.

b. The Commission will provide contributions as described in Articles II (b), above, using their own funds, labor, and contracts. It is not anticipated that the Commission will provide funds to the Government for any of the facilities or services described in Article II. If the Partners elects to provide funds to the Government to accomplish any of the items in Articles II, this Agreement will be amended to reflect the payment and accounting associated with those funds.

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 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 there from.

ARTICLE VIII - INDEMNIFICATION

The Partners 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 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 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 The Project expenditures for the then-current or upcoming fiscal year, the Government shall so notify the Partners, 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 Partners 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 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 NCWRC:

North Carolina Wildlife Resource Commission
Division of Inland Fisheries
Robert Curry, Division Chief
1721 Mail Service Center
Raleigh, North Carolina 27699-1721

If to the NRF:

Nesue RiverKeeper Foundation
Mathew Starr
612 W. Lane St
Raleigh, North Carolina 27603

If to the VYCC in North Carolina:

North Carolina Youth Conservation Corps
Jan Pender
1020 Washington Street
Raleigh, North Carolina 27605

If to the Government:

U.S. Army Corps of Engineers
Operations Project Manager
Falls Dam and Lake
11405 Falls of the Neuse Road
Wake Forest, North Carolina 27587

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.

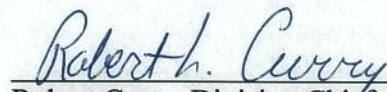
IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the Partners and the Government.

**The Department of the Army
Corps of Engineers,
Wilmington District**

**North Carolina Wildlife Resource
Commission, Division of Inland Fisheries**



COL STEVEN A. BAKER
Commander, Wilmington District
US Army Corps of Engineers



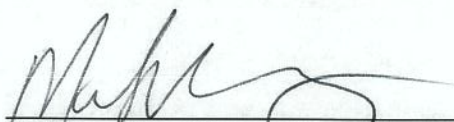
Robert Curry, Division Chief

Date 27 March 2014

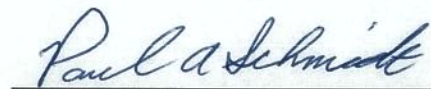
Date 31 January 2014

Neuse RiverKeeper Foundation

Vermont Youth Conservation Corps



Mathew Starr, Upper Neuse RiverKeeper



Paul Schmidt, Vice President of Operations

Date 27 Feb 14

Date 3-4-14

Exhibit A: Challenge Partnership Financial Worksheet

Proposed start date of work: March 2014

Simple description of work to be accomplished through the partnership: Accessible public fishing pier

	Local Corps Office	Handshake Funds	Partner 1 NCWRC	Partner 2 VYCC	Partner 3 NRF	Total
Salaries	\$7,000	N/A	\$8,400	\$2,200	\$500	\$18,100
Travel	\$0	N/A	\$500	\$0	\$0	\$500
Materials and Supplies	\$5,000	\$24,000	\$35,000	\$0	\$500	\$64,500
Equipment Use	\$1,000	\$0	\$0	\$0	\$0	\$1,000
Funds Contributed	N/A	N/A	\$0	\$0	\$0	\$0
Personal Property	N/A	N/A	\$0	\$0	\$0	\$0
Volunteer	N/A	N/A	\$0	\$0	\$1,400	\$1,400
In-Kind Services	N/A	N/A	\$0	\$0	\$0	\$0
Other	\$6,550	\$6,000	\$0	\$0	\$0	\$12,550
Total	\$19,550	\$30,000	\$43,900	\$2,200	\$2,400	\$98,050
Share of Total Cost	19.9%	30.6%	44.8%	2.2%	2.4%	100%

Explanations:

*Local Corps Office: "Other"- the cost of the task order under Cooperative Agreement (W912EP-13-2-0003) between Wilmington District and the VYCC.

*Handshake Funds: Handshake Partnership Program funds will be used to procure contract labor and supplies and materials for construction of a universally accessible path from parking lot to the new fishing pier.

*VYCC – Salaries are VYCC's cost share contribution to task order under Cooperative Agreement (W912EP-13-2-0003) between Wilmington District and the VYCC