

CHALLENGE PARTNERSHIP AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
THE FRIENDS OF CEASAR CREEK  
AND  
OHIO NATURAL AREAS AND PRESERVES ASSOCIATION  
AND  
MIDWEST NATIVE PLANT SOCIETY  
AND  
GIRL SCOUTS OF THE USA

THIS AGREEMENT, entered into this day of SEP 18, by and between the Department of the Army (hereinafter the "Government"), represented by the District commander, U.S. Army Engineer Louisville District and the Friends of Caesar Creek (hereinafter the "partner") and the Ohio department of Natural Resources Division of Wildlife (hereinafter the "partner") and the Ohio Natural Areas and Preserves Association (hereinafter the "partner") and the Cincinnati Chapter of the Native Plant Society (hereinafter the "partner") and the Boys Scouts of America (hereinafter the "partner").

WITNESSETH, THAT:

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

WHEREAS, the enhancement, renovation and removal of invasives in existing prairies will provide a natural and native habitat for local wildlife and pollinators.

WHEREAS, the Partner is interested in improving native grasslands and wildflower prairies for native pollinators and to support native grasses, forbs and legumes.

WHEREAS, it is mutually beneficial to the Government and the Partner to work cooperatively to provide herbicide, seed, and planting techniques to increase native wildflowers and grasses.

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 the enhancement, renovation and removal of invasives in existing prairies for pollinators and wildlife habitat on non-leased project lands.

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 \$20,000 for materials and supplies and \$2,500 for salaries.

c. The Partners shall provide:

- \$4,000 for equipment
- \$12,500 in funds

- \$5,000 in volunteer services
- \$3,000 in in-kind services

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 III-METHOD OF PAYMENT

a. The Government shall maintain current records of contributions provided by the Partner and a current projection of total project costs. At least quarterly, the Government shall provide the Partner with a report setting forth all contributions provided to date and the current projections of total project costs, and of the Partner's contribution required in accordance with Article II.b. of this Agreement. On this agreement, total project costs are projected to be \$47,000, and the Partner's contribution required under Article II.b. of this Agreement is projected to be \$24,500. Such amounts are estimates subject to adjustment and are not to be construed as the total financial responsibilities of the Government and the Partner.

b. 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.

1. In the event the final accounting shows that the total contribution provided by the partner is less than its required share of total project costs, the Partner shall, no later than 90 calendar days after receipt of written notice, make a payment to the Government of whatever sum is required to meet the Partner's required share of total project costs.

2. In the event the final accounting shows that the total contribution provided by the Partner exceeds its required share of total project costs, the Government shall, subject to the availability of funds, refund the excess to the Partner no later than 90 calendar days after the final accounting is complete. In the event existing funds are not available to refund the excess to the Partner, the Government shall seek such appropriations as are necessary to make the refund.

#### 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 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 the 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 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 Partner: Friends of Caesar Creek  
4020 N. Clarksville Rd  
Waynesville, OH 45068

If to the Government: Area Park Manager  
Miami River Area  
Caesar Creek Lake  
U.S. Army Corps of Engineers  
4020 N. Clarksville Rd.  
Waynesville, OH 45068

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

Department of the Army

BY: \_\_\_\_\_

Timothy Fudge  
Chief of Operations  
Louisville District  
US Army Corps of Engineers

DATE: 22 OCT 18

BY: \_\_\_\_\_

Frank Skalski  
President  
Friends of Caesar Creek

DATE: 4-15-2018

BY: \_\_\_\_\_

Guy Denny  
President  
Ohio Natural Areas and Preserves Association

DATE: August 24, 2018

BY: \_\_\_\_\_

Debbie Wolterman  
Board Member  
Midwest Native Plant Society

DATE: 8-27-18

BY: \_\_\_\_\_

Jill Tidwell  
Troop Leader  
~~Troop 8~~ Girl Scouts of the USA  
Troop 35239

DATE: 10 April 2018

## Challenge Partnership Financial Work Sheet

Corps Project Name: Caesar Creek Lake

Work Project Title: Enhancement, Renovation and Removal of Invasives in Existing Prairies for Pollinators and Wildlife Habitat

POC Name: Russell Curtis

Address: 4020 N. Clarksville Rd                      City: Waynesville                      State: OH                      Zip Code: 45068

Telephone: 513-897-1050

Location on Project: Caesar Creek Lake

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Partner Organization 2: Ohio Friends of Caesar Creek

POC: Frank Skalski

Address: 4020 N. Clarksville Rd.                      City: Waynesville                      State: OH                      Zip Code: 43229

Telephone: 513-897-1050

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Partner Organization 3: Ohio Natural Areas and Preserves Association

POC: Guy Denny

Address: PO Box 415                      City: Johnstown                      State: OH                      Zip Code: 43031

Telephone: NA

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Partner Organization 4: Midwest Native Plant Society

POC: Debi Wolterman

Address: 2781 Golden Fox Trail                      City: Lebanon                      State: OH                      Zip Code: 45036

Telephone: 937-205-6798

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Partner Organization 5: Girl Scouts of the USA

POC: Jill Tidwell

Address: 7475 Ross Rd.                      City: Oregonia                      State: OH                      Zip Code: 45054

Telephone: 513-897-0937



