

CHALLENGE PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND

THIS AGREEMENT, entered into this 6 day of July, 2018, by and between the Department of the Army (hereinafter the "Government"), represented by the Chief of Operations, U.S. Army Corps of Engineers Omaha District, and Oahe Wheelmen Bike Club, represented by Uriah Steber, and SD Missouri River Tourism represented by Karen Kern (Collectively referred to as 'Partners' hereafter).

WITNESSETH, THAT:

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

WHEREAS, the installation of a single track mountain biking trail near West Shore on Lake Oahe will increase the recreational opportunities for the public, and

WHEREAS the Partners are interested in promoting and assisting the Government in providing this mountain biking trail, and

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

WHEREAS, the Partners, 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 Club 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 cost-sharing 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 a single track mountain bike trail approximately five miles in length and all associated technical obstacles, signage, and parking areas in the West Shore area.

b. The term "total project costs" shall mean all costs incurred by the Government and the 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 Partners shall construct and maintain the project, subject to and using funds appropriated by the Congress of the United States (hereinafter the "Congress"), 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:

1. Topographic, Archeological, and Environmental Surveys
2. Engineering review of trail positioning and construction
3. Purchase of materials and services not to exceed \$10,000
4. Oversight of construction activities

c. The Partners shall provide:

1. All labor and equipment necessary for construction and perpetual maintenance of the Project
2. Outreach and promotion of the Project
3. Partners will acquire any additional materials or services which may be necessary for completion of the Project

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 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 Partner's contribution required in accordance with Article II.b. of this Agreement. On the effective date of this Agreement, total project costs are projected to be \$33,000 and the Partner's contribution required under Article II.b. of this Agreement is projected to be \$15,000. 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. The Partner shall provide the contribution required under Article II.b. of this Agreement in accordance with the following provisions: Not less than 45 calendar days prior to Project construction, the Government shall notify the Partners of the contributions required from the Partners to meet its projected obligation, including its proportionate share of the Government's financial obligations incurred prior to the commencement of the period of construction. Prior to Project construction, the Partners shall provide the Government with letters of intent detailing services and materials to be provided to the Oahe Natural Resource Program Manager. In the event the Government determines that the Partner must provide additional materials or services to meet its obligation, the Government shall notify the Partners of the additional funds required. Within 60 calendar days thereafter, the Partners shall provide the Government with resources necessary to fulfil their obligation.

c. 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.

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 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.

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: Uriah Steber
 109 S Willow AVE
 Pierre SD 57501

If to the Government: Natural Resource Manager
 28563 Powerhouse RD
 Pierre SD 57501

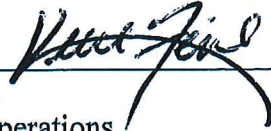
b. A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

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 *Chief of Operations*, Omaha District.

The Department of the Army

BY: 
Keith Fink
Chief of Operations
U.S. Army Corps of Engineers, Omaha
District

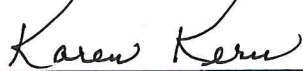
DATE: 29 JUN 18

The Oahe Wheelmen

BY: 
Uriah Steber
Oahe Wheelmen Mountain Bike Coordinator

DATE: 7-5-18

Missouri Riever Tourism

BY: 
Karen Kern
Director SD Missouri River Tourism

DATE: 7/6/18

Challenge Partnership Financial Work Sheet

Corps Project Name: Oahe Project

Work Project Title: Oahe Single Track Mountain Bike Trail

POC Name: Phillip Sheffield

Address: 28563 Powerhouse Rd

City: Pierre

State: SD Zip Code: 57501

Telephone: 605 - 945 - 3420

Location on Project: West Shore

Partner Organization 1: Oahe Wheelmen

POC Name: Uriah Steber

Address: 109 S Willow AVE

City: Pierre

State: SD Zip Code: 57501

Telephone: 605 - 222 - 3260 x

Partner Organization 2: SD Missouri River Tourism

POC Name: Karen Kern

Address: 20207 SD HWY 1804

City: Pierre

State: SD Zip Code: 57501

Telephone: 605 - 224 - 4617 x

Proposed start date of work: 05/01/2018

Simple description of work to be accomplished through the partnership: Construct single Track mountain bike trail

Double click on spreadsheet to access data entry fields:

	Local Corps Office	Handshake Funds	Partner 1	Partner 2	Total
Salaries	\$8,000	N/A	\$0	\$0	\$8,000
Travel	\$0	N/A	\$0	\$0	\$0
Materials and Supplies	\$0	\$10,000	\$0	\$0	\$10,000
Equipment Use	\$0	\$0	\$0	\$0	\$0
Funds Contributed	N/A	N/A	\$0	\$0	\$0
Personal Property	N/A	N/A	\$0	\$0	\$0
Volunteer	N/A	N/A	\$11,000	\$0	\$11,000
In-Kind Services	N/A	N/A	\$0	\$0	\$0
Other (explain below)	\$0	\$0	\$0	\$4,000	\$4,000
Total	\$8,000	\$10,000	\$11,000	\$4,000	\$33,000
Share of Total Cost	24.2%	30.3%	33.3%	12.1%	100%

Explanations: SD Missouri River Tourism will place advertisements / articles within their Tourism Guide and other venues promoting the new mountain biking trail network.