

CHALLENGE PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
BERKS AREA MOUNTAIN BIKING ASSOCIATION

THIS AGREEMENT, entered into this 06 day of August, 2020 by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander, U.S. Army Corps of Engineers, Philadelphia District, and Berks Area Mountain Biking Association, represented by Fred Moreadith (hereinafter "BAMBA").

WITNESSETH, THAT:

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

WHEREAS, the facilitation of the Blue Marsh Lake Trail Restoration Project – Phase 1 (hereinafter the “BMLTRP”) on Blue Marsh Lake will increase the recreational opportunities for the public, and

WHEREAS, BAMBA is interested in promoting and assisting the Government in facilitating the design and construction of this BMLTRP, and

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

WHEREAS, BAMBA, 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 BAMBA and apply those contributions to the Project, and

WHEREAS, the Government and BAMBA 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 BAMBA agree as follows:

ARTICLE I - DEFINITIONS AND GENERAL PROVISIONS

For purposes of this agreement:

a. The term "Project" shall mean the construction of an alternative route for a 1 mile section of the existing trail to improve connectivity between other trail systems to the Dry

Brooks Day Use Area as well as the construction of a Mountain Bike Skills Area and all associated signage.

b. The term "total project costs" shall mean all costs incurred by the Government and BAMBA directly related to facilitation 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 BAMBA, 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:

1. Land designated for the construction of the Project
2. Oversight of all planning and construction activities
3. Equipment and labor as needed for completion of the Project
4. Purchase of materials and services as needed for the completion of the Project
 - a. Phase 1A (COMPLETED)
 - i. Materials - \$1,908.52
 - ii. USACE Staff Labor - \$9,948.32
 - b. Phase 1B, MTB Skills Area
 - i. USACE Staff Labor - \$6,051.68
 - ii. Materials/Construction Labor
 1. Construction Flagging - \$500.00
 2. Trail and Dirt Feature Construction - \$8000.00
 3. Construction & Installment of Wooden Features - \$4321.00
 4. Overhead/Labor - \$3909.00
5. Rental and/or Operation of specialized equipment as needed for the completion of the Project
 - a. Mini-Excavator Operation - \$500.00/week
 - b. Track Skidsteer Operation - \$1200.00/week
 - c. UTV Operation - \$300.00/week
 - d. Plate Compactor Operation - \$300/week
6. Submission and procurement of any required permits

- c. The BAMBA shall provide:
1. Outreach, promotion, and fundraising of the Project
 2. Volunteer labor necessary for the construction and perpetual maintenance of the Project
 - a. Volunteer services include but are not limited to:
 - i. Project planning services
 - ii. Fundraising services
 - iii. Brush clearing and removal
 - iv. Trail repairs or construction
 - v. Trail maintenance services
 3. Payment for the evaluation and plan recommendations of the Blue Marsh Lake Trail System through Trail Solutions for use during the BMLTRP - \$16,000.00
 4. Review, selection, and payment for trail construction services
 - a. Phase 1A (COMPLETED)
 - i. Schuylkill Highlands Trust Mini Grant - \$25,000.00
 - ii. Trail Builder Operations - \$17,000.00
 - iii. Volunteer Services - \$2,943.52
 - iv. Professional Fundraising Services - \$2,500.00
 - b. Phase 1B, MTB Skills Area
 - i. Volunteer Services - \$1656.48

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 BAMBA's total project costs under this Agreement.

ARTICLE III - METHOD OF PAYMENT

a. The Government shall maintain current records of contributions provided by BAMBA and a current projection of total project costs. At least quarterly, the Government shall provide BAMBA 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 BAMBA'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 \$128,808.52, and the BAMBA's contribution required under Article II.b. of this Agreement is projected to be \$65,100.00.

Such amounts are estimates subject to adjustment and are not to be construed as the total financial responsibilities of the Government and BAMBA.

b. BAMBA shall provide the contribution required under Article II.b. of this Agreement in accordance with the following provisions: Not less than 30 calendar days prior to issuance of the solicitation for the first construction contract, the Government shall notify BAMBA of the funds required from the BAMBA to meet its projected contribution, including its

proportionate share of the Government's financial obligations incurred prior to the commencement of the period of construction. Prior to the Project construction, BAMBA shall provide the Government with letters of intent detailing services and materials to be provided to the Blue Marsh Lake Natural Resource Program Manager. In the event the Government determines that BAMBA must provide additional materials or services to meet its obligation, the Government shall notify BAMBA of the additional funds required. Within 90 calendar days thereafter, BAMBA shall provide the Government with resources necessary to fulfill 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 BAMBA 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 BAMBA 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 BAMBA 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 BAMBA 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 BAMBA 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 BAMBA, 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 BAMBA 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 BAMBA: Berks Area Mountain Biking Association
P.O. Box 6122
Wyomissing, PA 19610

If to the Government: USACE Blue Marsh Lake
ATTN: Natural Resource Manager
1268 Palisades Drive
Leesport, PA 19533

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 Blue Marsh Lake Natural Resource Program Manager.

The Department of the Army

WILLIAMS.DAVID.B. Digitally signed by
WILLIAMS.DAVID.B.1229162418
BY: D.B.1229162418 Date: 2020.08.03 09:34:04 -04'00'
DATE: 03-Aug-2020

David B. Williams
Facilities Manager
Northern Area Office

SUNDERLAND.SCOTT.D. Digitally signed by
SUNDERLAND.SCOTT.D.1229078239
BY: OTT.D.1229078239 Date: 2020.08.06 15:48:46 -04'00'
DATE: 06-Aug-2020

Scott D. Sunderland
Natural Resource Program Manager
Philadelphia District, Blue Marsh Lake

Berks Area Mountain Biking Association

Fred Moreadith Digitally signed by Fred
Moreadith
BY: Fred Moreadith Date: 2020.07.31 14:56:59
-04'00'
DATE: 31-Jul-2020

Fred Moreadith
Board Member, Public Relations

Challenge Partnership Financial Work Sheet

Corps Project Name: Blue Marsh Lake

Work Project Title: Blue Marsh Lake Trail Restoration Project – Phase 1

POC Name: Brianna Treichler

Address: 1268 Palisades Drive

City: Leesport

State: PA Zip Code: 19533

Telephone: 610 - 376 - 6337 x6551

Location on Project: Stilling Basin Access Area & Dry Brooks Day Use Area

BAMBA Organization 1: Berks Area Mountain Biking Association

POC Name: Fred Moreadith

Address: P.O. Box 6122

City: Wyomissing

State: PA Zip Code: 19533

Telephone: 610 - 781 - 6164

Proposed start date of work: August 1, 2020

Simple description of work to be accomplished through the Partnership:

The Blue Marsh Lake Trail Restoration Project (BMLTRP), Phase 1, consists of rerouting a 1.5 mile section of the existing trail to improve connectivity between other trail systems to the Dry Brooks Day Use Area, Phase 1A & Phase 1C, as well as an addition of a Mountain Bike (MTB) Skills Area, Phase 1B, to encourage outdoor recreation and skills development for beginner and intermediate cyclists.

	Local Corps Office	Handshake Funds	Partne r 1 BAMBA	Partne r 2 Be rks Nature	Partne r 3 PA Ame rican a - Visitor's Bure au	Partne r 4 Be rks County	Partne r 5 Gre ater Reading Chambe r of Comme rc e	Partne r 6 Mt Pe nn Planning Commissi on	Partne r 7 Be rks County Communi ty Foundatio n	Partne r 8 Reading Recreati on Commissi on	TOTAL
Salaries	\$16,000.00	N/A	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$16,000.00
Travel	\$0.00	N/A	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Materials and Supplies	\$1,908.52	\$5,970.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$7,878.52
Equipment Use	\$14,300.00	\$19,030.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$33,330.00
Funds Contributed	N/A	N/A	\$33,000.00	\$500.00	\$1,000.00	\$1,000.00	\$1,500.00	\$1,000.00	\$1,000.00	\$500.00	\$39,500.00
Personal Property	N/A	N/A	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Volunteer	N/A	N/A	\$4,600.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4,600.00
In-Kind Services	N/A	N/A	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other (explain below)	\$0.00		\$27,500.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$27,500.00
Total	\$32,208.52	\$25,000.00	\$65,100.00	\$500.00	\$1,000.00	\$1,000.00	\$1,500.00	\$1,000.00	\$1,000.00	\$500.00	\$128,808.52
Share of Total Cost	25.00%	19.41%	50.54%	0.39%	0.78%	0.78%	1.16%	0.78%	0.78%	0.39%	100.00%
	44.41%										

Explanations:

BAMBA Other Contributions – Professional Fundraiser \$2500.00

Schuylkill Highland Trust Mini Grant Award \$25,000.00

Partners 2-8 Funds – These funds were given to BAMBA as part of the payment for the trail evaluation conducted by Trail Solutions \$6,500.00