

CHALLENGE PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
WHITETAILED UNLIMITED OF PORTAGE COUNTY
AND
SCOUTS OF AMERICA TROOP 150
AND
BACKCOUNTRY HUNTERS AND ANGLERS (OHIO)

THIS AGREEMENT, entered into this 22nd day of October, 2021, by and between the Department of the Army (hereinafter the "Government"), represented by the Colonel Adam J. Czekanski, PE. PMP, Commander, U.S. Army Corps of Engineers, Pittsburgh District and Whitetails Unlimited of Portage County, represented by Dwayne Moff, President, and Scouts of America Troop 150, represented by William Craig, Scout Master, and Backcountry Hunters and Anglers (Ohio), represented by Nathan Voris, Board of Directors, Board member (hereinafter the "Partners").

WITNESSETH, THAT:

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

WHEREAS, the installation of a multi-use platform at Tailwater Access Area at Berlin Lake will increase the recreational opportunities for the public, and

WHEREAS, the Partners are interested in promoting and assisting the Government in providing this multi-use platform, and

WHEREAS, it is mutually beneficial to the Government and the Partners to work cooperatively to make this accessible multi-use platform available to the public, and.

WHEREAS, the Partners, in order to assist the Government in this project have voluntarily agreed to pay a portion of the cost and provide voluntary labor for the completion of the project.

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 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 10'X 30' multi-use platform composed of slip resistant steel with aluminum railing that is connected to a pre-existing stairway from the parking lot to the multi-use platform in the Outflow Recreation Area on Berlin Lake, as generally described in the Handshake Application, dated, October 2020 and approved by Christopher Schuster on October 29, 2020.

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 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 Handshake Funds for \$20,000 the purchase of raw materials, specialized heavy equipment rental, and contracted services such as concrete, electrical and welding work for the completion of the project. The local Berlin Lake office will provide \$3,505 of project labor and salaries for equipment operation and general coordination for oversight of the project and its Partners. This includes sight preparation and safety coordination. An additional \$5,000 in supplies and materials (metal and hardware) will be provided by the project. Finally, the local project will provide the equivalent of \$6,435 worth of heavy equipment use.

c. Partner 1 (Whitetails Unlimited of Portage County) shall provide \$12,000 worth of contracting services for the fabrication and construction of the multi-use platform. In addition, Partner 1 will provide \$2,800 in construction labor, \$1,000 use of heavy equipment, along with \$11,000 worth of in-kind services in the form of equipment (provided by Whitetails Unlimited of Portage County), operation and skilled trade services such as welding and fabrication.

d. Partner 2 (Scouts of America Troop 150) will provide \$3,600 worth of skilled and unskilled labor in the form of carrying materials, sight preparation, and tool operation. (Scouts and Scout Leaders).

e. Partner 3 (Backcountry Hunters and Anglers (Ohio)) will provide \$1,750 worth of labor in the form of carrying materials, site preparation and basic tool operation.

f. 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.

g. No Federal funds may be used to meet the Partners' 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 Partners' 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 \$67,090, and the Partners' contribution required under Article II.b. of this Agreement is projected to be \$32,150. Such amounts are estimates subject to adjustment and are not to be construed as the total financial responsibilities of the Government and the Partners.

b. The Partners shall provide the contribution required under Article II.c. of this Agreement based on funding availability.

c. 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.

1. In the event the final accounting shows that the total contribution provided by the Partners is less than its required share of total project costs, the Partners 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 Partners exceeds its required share of total project costs, the Government shall, subject to the availability of funds, refund the excess to the Partners 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 Partners, the Government shall seek such appropriations as are necessary to make the refund.

ARTICLE III - 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, no 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 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 Partners fail 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 all parties may elect, without penalty to terminate this Agreement or to suspend future performance under this Agreement. In the event that all parties elect 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 elect 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 Partner: Whitetails Unlimited of Portage
County
8177 Meadow Run
Garrettsville, OH 44231

Scouts of America Troop 150
9248 Arrow Road
Minerva, Ohio 44657

Backcountry Hunters and Anglers (Ohio)
637 Timber Creek Drive
Akron, OH 44333

If to the Government: Jason C. Quinn, Resource Manager
U.S. Army Corps of Engineers Berlin Lake
2030 Bonner Road
Deerfield, Ohio 44411

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 District Commander, U.S. Army Corps of Engineers, Pittsburgh District.

The Department of the Army

BY: 
COLONEL ADAM J. CZEKANSKI, PE, PMP
Commander, Pittsburgh District
U.S. Army Corps of Engineers

DATE: 10/22/21

Whitetails Unlimited of Portage County

BY: 
DWAYNE MOFF
President

DATE: 9/20/21

Scouts of America
Troop 150

BY: 
WILLIAM CRAIG
Scoutmaster

DATE: 9/20/21

Backcountry Hunters and Anglers (Ohio)

BY: 
NATHAN VORIS
Board of Directors, Board Member

DATE: 9/21/21

Challenge Partnership Financial Work Sheet

Corps Project Name: Berlin Lake

Work Project Title: Berlin Lake Multi-Use Platform

POC Name: Jason Quinn

Address: 2030 Bonner Road

City: Deerfield

State: OH Zip Code: 44411

Telephone: 330 - 654 - 0865

Location on Project: Outflow from Dam

Partner Organization 1: Whitetails Unlimited of Portage County

POC Name: Dwayne Moff

Address: 8177 Meadow Run

City: Garrettsville

State: OH Zip Code: 44231

Telephone: 330 - 208 - 3422

Partner Organization 2: Scouts of America Troop 150

POC Name: William (Bill) Craig

Address: 9248 Arrow Road

City: Minerva

State: OH Zip Code: 44657

Telephone: 330 - 429 - 9653

Partner Organization 3: Backcountry Hunters and Anglers (Ohio)

POC Name: Nathan Voris

Address: 637 Timber Creek Drive

City: Akron

State: OH Zip Code 44333

Telephone: 740-258-0347

Proposed start date of work: April 2022

Simple description of work to be accomplished through the partnership: Construction of a 30'X 10' (Steel) Multi-use platform

	Local Corps Office	Handshake Funds	Whitetails Unlimited of Portage County	Scouts of America Troop 150	Backcountry Hunters and Anglers (Ohio)	Total
Salaries	\$3,505	N/A	\$0	\$0	\$0	\$3,505
Travel	\$0	N/A	\$0	\$0	\$0	\$0
Materials and Supplies	\$5,000	\$10,000	\$0	\$0	\$0	\$15,000
Equipment Use	\$6,435	\$0	\$1,000	\$0	\$0	\$7,435
Funds Contributed	N/A	N/A	\$12,000	\$0	\$0	\$12,000
Personal Property	N/A	N/A	\$0	\$0	\$0	\$0
Volunteer	N/A	N/A	\$2,800	\$3,600	\$1,750	\$8,150
In-Kind Services	N/A	N/A	\$11,000	\$0	\$0	\$11,000
Other (explain below)	\$0	\$10,000	\$0	\$0	\$0	\$10,000
Total	\$14,940	\$20,000	\$26,800	\$3,600	\$1,750	\$67,090
Share of Total Cost	22.3%	29.8%	39.9%	5.4%	2.6%	100.0%
	52.1%					

Explanations: * "Other" The \$10,000 of Handshake Funds will be used for the rental of heavy equipment such as skid steers, backhoes and excavators (\$7500) and the purchase of specialized contracted services such as electrical, welding, or other trade services (\$2500).