

CHALLENGE PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
BENT COUNTY 4-H
AND
ROCKY MOUNTAIN FIELD INSTITUTE
AND
VOLUNTEERS FOR OUTDOOR COLORADO

THIS AGREEMENT, entered into this ___ day of ____, 2022, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander, U.S. Army Engineer District Albuquerque; Bent County 4-H, (hereinafter "4-H"), represented by _____; Rocky Mountain Field Institute, (hereinafter "RMFI"), represented by _____; and Volunteers for Outdoor Colorado (hereinafter "VOC"), represented by _____.

WITNESSETH, THAT:

WHEREAS, the Government manages lands and waters at John Martin Reservoir, which includes recreational opportunities for the public; and

WHEREAS, the removal of invasive tamarisk from the Black Bridge Area at John Martin Reservoir will restore the ecosystem and increase recreational opportunities for the public; and

WHEREAS 4-H, RMFI, and VOC (hereinafter referred to collectively as the "Partners") are interested in promoting and assisting the Government in restoring the ecosystem and increasing recreational opportunities; and

WHEREAS, it is mutually beneficial to the Government and the Partners to work cooperatively to restore the ecosystem and increase recreational opportunities for the public; and

WHEREAS, the Partners, in order to assist the Government in this project, have volunteered to provide labor to help remove tamarisk; 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 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 removal of tamarisk from the Black Bridge Area at John Martin Reservoir, which is located less than two miles from the town of Las Animas and is generally described in the Handshake Program Application, dated 29 September 2021, and approved on 09 December 2021.
- b. The term "total project costs" shall mean all costs incurred by the Government and the Partners that are directly related to 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"), shall expeditiously construct the Government's portion of the Project (as defined in Article II.b), 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. Approximately 246 acres of land managed by the U.S. Army Corps of Engineers (hereinafter the "Corps") at the Black Bridge Area;
 2. Hand tools, chainsaws, fuel, oil, chainsaw maintenance supplies, woodchipper, herbicide, and personal protective equipment (PPE) for tamarisk removal;
 3. Concrete, concrete mixer, picnic tables, and other materials for creation of recreation shelters;
 4. Public outreach efforts (including communication campaigns, interpretative events, and youth education programs), informational signage, plaques, and kiosk for visitors to learn more about invasive species, habitat restoration, and outdoor recreational opportunities; and
 5. Security for the recreation site through Park Ranger patrols before, during, and after completion of the Project.

- c. 4-H shall provide:
 - 1. Manual labor assisting in the removal of tamarisk from the Black Bridge Area; and
 - 2. 4-H volunteers' travel arrangements to and from the work site.
- d. RMFI shall provide:
 - 1. Manual labor assisting in the removal of tamarisk from the Black Bridge Area; and
 - 2. RMFI volunteers' travel arrangements to and from the work site, and necessary equipment.
- e. VOC shall provide:
 - 1. Manual labor assisting in the removal of tamarisk from Black Bridge; and
 - 2. VOC volunteers' travel arrangements to and from the work site, and necessary equipment.
- f. Volunteers under the age of 18 will not work in areas directly adjacent to where chainsaws, the woodchipper, or other power tools are used, nor work in areas for at least one (1) week after herbicide is applied. Volunteers under the age of 18 may use hand tools to cut some vegetation and may remove cut tamarisk limbs and conduct other similar manual labor. Chaperones will accompany volunteers under the age of 18 and supervise them to ensure they remain safe.
- g. 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, c, d, and e of this Article
- h. No Federal funds may be used to meet the Partners' total project costs under this Agreement.

ARTICLE III - METHOD OF PAYMENT

- a. It is understood by all parties that 4-H, RMFI, and VOC shall each pay the costs associated with their work under Article II.c, d, and e, and the Government shall pay the costs of its work under Article II.b. No party shall be required to pay for any portion of any other party's work contemplated by the Agreement.
- b. At least quarterly, each Partner shall provide the Government with a report setting forth all costs incurred to date and a current projection of total costs to be expended by the Partner.
- 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, including non-monetary contributions, 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, the aggrieved party must first notify all other concerned parties 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 all parties. The parties shall each pay their proportionate share of costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse any of 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 Regulation 600-7, entitled "Unlawful Discrimination on the Basis of Disability in Programs and Activities Receiving Federal Financial Assistance From 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 none is to be considered the officer, agent, or employee of any other.
- b. In the exercise of its rights and obligations under this Agreement, no party shall provide, without the consent of the Government, any contractor with a release that waives or purports to waive any rights any other party may have to seek relief or redress against such contractor either pursuant to any cause of action that any 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 4-H, RMFI, or VOC 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 any party may elect without penalty to terminate this Agreement or to suspend future performance under this Agreement. In the event that any 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 any of the Partners elect to terminate their rights and obligations under this Agreement.
- c. In the event that any of the Partners elects to terminate this Agreement pursuant to this Article, all other parties shall continue their activities relating to the Project. The Government shall proceed to a final accounting in accordance with Article II of this Agreement with respect only to the terminating Partner. In the event that the Government 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.
- e. This Agreement shall be terminated at the conclusion of the Project or at the end of FY 24, whichever occurs first.

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 4-H: *Bent County 4-H*
 Contact name
 1499 Ambassador Thompson Boulevard
 Las Animas, CO 81054

If to RMFI: *Rocky Mountain Field Institute*
 Contact name
 815 South 25th Street, Suite 101
 Colorado Springs, CO 80904

If to VOC: *Volunteers for Outdoor Colorado*
 Contact name
 PO Box 100577
 Denver, CO 80250

If to the Government: *U.S. Army Corps of Engineers*
 Albuquerque District
 John Martin Reservoir
 29955 County Road 25.75
 Hasty, CO 81044

- b. A party may change the address to which such communications are to be directed by giving written notice to the other parties 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, Albuquerque District.

The Department of the Army

BY:

TITLE:

DATE:

Bent County 4-H

BY:

TITLE:

DATE:

Rocky Mountain Field Institute

BY:

TITLE:

DATE:

Volunteers for Outdoor Colorado

BY:

TITLE:

DATE:

Challenge Partnership Financial Work Sheet

Corps Project Name: John Martin Reservoir

Work Project Title: Tamarisk Removal & Native Habitat Restoration

POC Name: Lily Sweikert, Lead Natural Resources Specialist

Address: 29955 CR 25.75

City: Hasty

State: CO Zip Code: 81044

Telephone: 719 - 336 - 3476

Location on Project: Lands managed by USACE (Black Bridge Area)

Bent County 4-H

POC Name:

Address: 1499 Ambassador Thompson Boulevard City: Las Animas

State: CO Zip Code: 81054

Telephone: 719 - 456 - 0765

Rocky Mountain Field Institute

POC Name:

Address: 815 South 25th Street, Suite 101

City: Colorado Springs

State: CO Zip Code: 80904

Telephone: 719 - 471 - 7736

Volunteers for Outdoor Colorado

POC Name:

Address: PO Box 100577

City: Denver

State: CO Zip Code: 80250

Telephone: 303 - 715 - 1010

Proposed start date of work: 01 May 2022

Simple description of work to be accomplished through the partnership: The Government, 4-H, RMFI, and VOC will work at the Black Bridge area to remove invasive tamarisk and install a recreation area, which will include interpretive signs and a kiosk, recreation shelters, and picnic tables.