

CHALLENGE PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
FRIENDS OF BEECH FORK LAKE

THIS AGREEMENT, entered into this day of March 22, 2016, by and between the Department of the Army (hereinafter the "Government"), represented by the Chief of Operations Division, U.S. Army Engineer, Huntington District, and the Friends of Beech Fork Lake, (hereinafter the "Partner"), represented by the President.

WITNESSETH, THAT:

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

WHEREAS, the design, fabrication, and installation of interpretive panels on the Rock Hollow Interpretive Trail will increase the recreational and educational opportunities for the public, and

WHEREAS the Partner is interested in promoting and assisting the Government in providing this improved interpretive trail, and

WHEREAS, it is mutually beneficial to the Government and the Partner to work cooperatively to make this improved interpretive trail available to the public, and

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 removing existing signage from the Rock Hollow Interpretive Trail, followed by the designing and installation of new interpretive signage. There will be 8 to 10 new interpretive panels designed and manufactured, approximately 24" x 36" in size and housed and supported by aluminum/metal post and frames. The interpretive panels will encompass a broad range of topics, including but not limited to biological resources, archeological resources, history, environmental awareness, plant and tree identification, etc., and will be suitable for users of all ages. At the trailhead there will be a larger overview sign approximately 48" x 48" that depicts the entire layout of the trail and highlights interpretive features. The project also entails rehabilitation of trail tread surfaces, including basic drainage and erosion control features, installation of a vandal resistant bench at the scenic overlook, installation of a trash container at the trailhead, and new directional signage throughout the trail as generally described in the Rock Hollow Interpretive Hiking Trail Rehabilitation Handshake Program Application, dated 28 September 2015 and approved by Edward E. Belk, Jr., P.E., Chief, Operations and Regulatory Division , Directorate of Civil Works on 15 November 2015.

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 labor, hand tools and machinery already in its possession, and construction oversight for the Project. The Government shall expend Handshake funding received to procure new interpretive signage panels and a trailhead sign, along with support posts and frames through a purchase contract with a professional interpretive sign manufacturer. Handshake funding shall also be used to purchase a waste container, vandal resistant bench, and directional signage. Upon Project completion, the government shall be responsible for all oversight of trail maintenance activities.

c. The Partner shall provide labor through volunteer services and funding. Funding contributed by the Partner shall be expended for a professional services contract between the Partner and Marshall University for the design, layout, and content of the new interpretive signage and overall trail layout.

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 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.c., of this Agreement. On the effective date of this Agreement, total project costs are projected to be \$30,807, and the Partner's contribution required under Article II.c., of this Agreement is projected to be \$9,807. 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.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 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 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

If to the Government: *U.S. Army Engineer District
Lake Manager, Beech Fork Lake
3784 Beech Fork Road
Lavalette, WV 25535*

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 Division, Huntington District.

The Department of the Army

Friends of Beech Fork Lake

BY:



NAME: Wayne E. Budrus

TITLE: Chief, Operations Division

DATE: 3-22-16

BY:



NAME: Park Ferguson

TITLE: President

DATE: 3-18-16

Challenge Partnership Financial Work Sheet

Corps Project Name: Beech Fork Lake

Work Project Title: Rock Hollow Interpretative Hiking Trail Improvement Project

POC Name: Charles E. Mathis (Park Manager)

Address: 3784 Beech Fork Road City: Lavalette State: WV Zip Code: 25535

Telephone: 304 - 525 - 4813 x4833

Location on Project: Near Visitor Center

Partner Organization 1: Friends of Beech Fork Lake

POC Name: Park Ferguson (President)

Address: 3784 Beech Fork Road City: Lavalette State: WV Zip Code: 25535

Telephone: 304 - 654 - 4245

Proposed start date of work: 01 June 2016

Simple description of work to be accomplished through the partnership: This partnership between the Government and Partner will accomplish extensive trail rehabilitation to the Rock Hollow Interpretative Hiking Trail at Beech Fork Lake. The Partner will provide funding for a professional service contract for the design of new interpretive signs and for design and layout of the rehabilitated trail. The Partner will also provide labor in the form of volunteer services for installation of the new interpretive signs and other trail features, and will also provide construction oversight throughout the Project. Handshake funding received will be used to purchase new interpretative signs from a professional interpretive sign manufacturer based on standards and designs provided by the Partner resulting from the design and layout contract. Funding will also be used for purchase of a trailhead sign, vandal resistant bench, trash container(s), and new directional signs for the trail.

Double click on spreadsheet to access data entry fields:

	Local Corps Office	Handshake Funds	Partner 1	Partner 2	Partner 3	Total
Salaries	\$4,000	N/A	\$0	\$0	\$0	\$4,000
Travel	\$0	N/A	\$0	\$0	\$0	\$0
Materials and Supplies	\$0	\$17,000	\$0	\$0	\$0	\$17,000
Equipment Use	\$0	\$0	\$0	\$0	\$0	\$0
Funds Contributed	N/A	N/A	\$7,500	\$0	\$0	\$7,500
Personal Property	N/A	N/A	\$0	\$0	\$0	\$0
Volunteer	N/A	N/A	\$2,307	\$0	\$0	\$2,307
In-Kind Services	N/A	N/A	\$0	\$0	\$0	\$0
Other (explain below)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$4,000	\$17,000	\$9,807	\$0	\$0	\$30,807
Share of Total Cost	13.0%	55.2%	31.8%	0.0%	0.0%	100%