

Agreement Number \_\_\_\_\_

**PARTNER DESIGN & CONSTRUCTION AGREEMENT**

**BETWEEN THE**

**UNITED STATES DEPARTMENT OF THE INTERIOR  
NATIONAL PARK SERVICE**

**AND THE**

**COUNTY OF SUMMIT, OHIO  
OFFICE OF SUMMITTY COUNTY ENGINEER**

**TO**

**DESIGN AND CONSTRUCT CUYAHOGA RIVER PEDESTRIAN BRIDGE AT  
BOSTON MILL VISITOR CENTER**

This Partner Design & Construction Agreement (Agreement) is hereby entered into and between the National Park Service (NPS), an agency of the United States Department of the Interior, and County of Summit, Ohio, acting through the Office of Summit County Engineer (Partner). The purpose of this Agreement is to set out the terms and conditions under which the Partner will design, construct, and donate to the United States, for the NPS's use, Pedestrian Bridge over the Cuyahoga River in Boston Township (Project). Throughout this Agreement, the NPS and the Partner may be referred to jointly as "the parties."

In consideration of, and reliance on, the Partner's offer to complete and donate the Project to the United States, the NPS will not seek Federal appropriations for the Project but will use existing appropriated funds to work with the Partner to implement the Project. It is the intent of both parties to be legally bound by this Agreement.

**ARTICLE I. BACKGROUND**

**WHEREAS**, the Act of December 27, 1974, 16 USC 460 ff et. seq., established Cuyahoga Valley National Recreation Area (now Cuyahoga Valley National Park (CVNP), Public Law 106-291 §149) to preserve the scenic, natural, and historic setting of the Cuyahoga Valley while providing for the recreational and educational needs of the visiting public; and

**WHEREAS**, the Partner, a county governmental organization in the State of Ohio, has been in existence since 1840, and is located at 175 South Main Street, Akron, OH 44308; and

**WHEREAS**, in October 2019, the NPS will open the new Boston Mill Visitor Center in CVNP, which is located at the intersection of Boston Mills Road and Riverview Road – two roads owned and maintained by the Partner; and

**WHEREAS**, the Partner is responsible for maintaining nearly 200 miles of county roads and over 300 bridges throughout Summit County; and

**WHEREAS**, another responsibility of the Partner is the coordination of local efforts to procure state and federal funding for infrastructure improvements; and

**WHEREAS**, the Partner and the NPS have determined that an infrastructure improvement needed to accompany the new Visitor Center is a pedestrian bridge over the Cuyahoga River, in lieu of using the narrow sidewalk on the vehicular bridge on Boston Mills Road; and

**WHEREAS**, the Partner sponsored an application for Transportation Alternative Set Aside (TASA) funding to the local transportation funding organization, Akron Metropolitan Area Transportation Study (AMATS). The source of TASA funds is the Department of Transportation – Federal Highway Administration (FHWA); and

**WHEREAS**, the Partner was successful in receiving TASA funding in the amount of \$700,000 and will act as administrator on behalf of the NPS and Cuyahoga Valley National Park for the design and construction of the pedestrian bridge; and

**WHEREAS**, the Partner's funding (\$700,000) will be devoted to the construction costs of the Project. The remainder of the Project funding will be provided by the Midwest Regional Office (MWRO) of the NPS through Federal Lands Transportation Program (FLTP) funding via FHWA transfer to Ohio Department of Transportation. The Partner is an authorized Local Public Agency of ODOT's Local Let Process and is therefore able to enter into this project agreement. The total cost of the project is estimated at \$1,145,000 (see Attachment B).

**NOW THEREFORE**, the NPS and Partner enter into this Agreement for the design and construction of the pedestrian bridge over the Cuyahoga River. This Agreement establishes the parties' understandings and obligations regarding the Partner's design, construction, and donation of the Project, such that the Partner may accomplish the Project within parameters acceptable to the NPS and in compliance with applicable laws, regulations, government policies, and NPS management plans.

A detailed description of the Project is contained in Attachment A to this Agreement.

## ARTICLE II. AUTHORITY

The NPS enters into this Agreement pursuant to 54 U.S.C. § 101101, which authorizes the NPS to accept donations for purposes of the National Park System; 54 U.S.C §101701, which authorizes the Secretary to enter into agreements with individuals and entities to share costs and services in support of NPS projects; and 54 U.S.C. §§ 100101 *et seq.* (the NPS Organic Act), which authorizes the NPS to take actions in furtherance of the NPS's mission.

## ARTICLE III. DEFINITIONS

As used in this Agreement, the following terms have the following meanings, and are applicable to both the singular and plural forms of the term:

**“Contractor”** means any entity (including without limitation, general contractors and subcontractors, vendors, suppliers, architectural and engineering firms, landscape architecture firms, design firms, exhibit fabricators, or other professional service firms) retained by the Partner to provide any design, construction, fabrication, utility, architectural, engineering, project management, construction management, regulatory compliance, labor, materials, products, or services.

**“Construction”** means any fabrication, installation, improvements to, or modifications of NPS real property or personal property, including any ground or site disturbance.

**“Construction documents”** means the drawings and specifications that fully describe the construction work to be completed under this Agreement.

**“Cost estimate”** means a cost estimate appropriate for the level and complexity of design and construction of a project, as determined by the NPS, including NPS designated Class C estimates for Conceptual Design; Class B estimates for Design Development; and Class A estimates for Construction Documents.

**“Design”** defines the construction requirement (including the functional relationships and technical systems to be used, such as architectural, landscape architectural, environmental, structural, electrical, mechanical, and fire protection) producing the technical specifications and drawings, and preparing the construction cost estimate. Design includes the development of a range of conceptual alternatives through a variety of means including design, design build or design competition; at the sole discretion of the NPS, the development of regulatory compliance documentation for NPS review and approval, including National Environmental Policy Act and National Historic Preservation Act documentation; value analysis and alternative refinement during schematic design and design development; required NPS design-related reviews and approvals; and the preparation of construction documents.

**“Fiscal Year (FY)”** refers to the NPS fiscal year, which is Oct. 1 – Sept. 30.

“**Project Development Plan**” describes (1) project-specific design elements and NPS construction standards that must be addressed in Project designs, (2) the NPS’s Development Advisory Board reviews, and (3) Project deliverables and delivery dates.

“**Third-Party Contract**” means any contract between the Partner and any contractor furnishing design, construction, labor, supplies or services.

#### ARTICLE IV. RESPONSIBILITIES OF THE PARTIES

A. The NPS agrees to:

1. In its sole discretion, either timely review and provide written comments on any Third-Party Contract that the Partner proposes to enter into, or timely notify the Partner that it has no comments on the contract, or is declining to review the contract.
2. In a timely manner, review, provide written comments on, and approve or disapprove all design plans, construction drawings, engineering documents, environmental compliance documents, change orders, and cost estimates generated by the Partner or the Partner’s contractors. In its sole discretion, the NPS may identify in writing categories of *de minimis* activities, such as minor change orders, that do not require NPS approval.
3. In a timely manner, review and approve (with or without conditions) or disapprove applications for special use permits for access to the Park to accomplish the Project.
4. Monitor the general implementation of the Project, including periodic inspection and tests for compliance with the requirements of this Agreement, the Project Development Plan, project implementation plan or applicable special use permit, and relevant laws, regulations, and policies.
5. Inspect the Project and, if the NPS determines that it meets NPS standards and requirements and is complete, provide a written acceptance to the Partner. If the NPS cannot accept the Project as complete, then the NPS will identify in writing what additional work the Partner must accomplish in order to allow the NPS to accept the project as complete.
6. Notify the Partner of any change in federal law or NPS policy that may affect implementation of this Agreement.

- B. The Partner agrees to:
1. Ensure that the Project meets NPS standards and requirements and donate the completed Project to the NPS. This donation is made by the Partner of its own volition and without compensation.
  2. Contact the NPS in a timely manner with special use requests for access to the Park to accomplish the Project and ensure that its contractors and subcontractors do the same.
  3. Before entering into any contract or agreement with any third party related to the Project, provide to the NPS:
    - a. A copy of the proposed Third-Party Contract;
    - b. Written confirmation that the third party:
      - i. Has all required licenses to do the work contemplated by the Third-Party Contract in the state, territory, or district in which the work will be performed;
      - ii. Is not suspended or debarred from federal contracting; and
      - iii. Demonstrates relevant experience and competence to perform the work contemplated in the Third-Party Contract.
    - c. Written confirmation that the Partner:
      - i. Used competition in selecting the third-party to perform the work;
      - ii. Has taken measures to avoid or mitigate conflicts of interest;
      - iii. Has incorporated provisions reflecting best practices in contract management and project administration into the Third-Party Contract; and
      - iv. Has made the NPS a third-party beneficiary of all Third-Party Contracts.
    - d. The signed Contractor Certification Form, included as Attachment E to this Agreement.
  4. Timely provide the NPS with a final, signed copy of any Third-Party Contract upon execution.
  5. Ensure that Third-Party Contracts do not contain a binding arbitration clause or other clause that may affect the NPS's ability to seek judicial review in its capacity as a third-party beneficiary to the Third-Party Contract.

6. Execute any Third-Party Contract only after receiving (a) the NPS's written comments on the proposed contract, (b) written notification from the NPS that it has no comments on the proposed contract, or (c) written notification from the NPS that it is declining to review the proposed contract.
7. Submit all plans, designs, and specifications for NPS review and approval or disapproval at key stages of the Project.
8. Ensure that the Project design complies with all applicable laws, regulations, legal requirements, building codes, design requirements, and NPS management requirements.
9. Undertake construction only when all necessary written NPS approvals have been obtained.
10. Establish and maintain, or ensure that its contractor(s) establish and maintain, throughout the course of the Project: (i) security in favor of the United States in the form of a performance bond of the Partner's obligations under this Agreement, or where a contractor obtains the performance bond, the contractor's performance of its contract with the Partner; and (ii) a payment bond assuring payment of all persons supplying labor and material in the execution of the work undertaken for the Project, with the following conditions:
  - a. All bonds must be in an amount equal to at least 100 percent of the total project cost, as approved by the NPS. The NPS may require additional performance and payment bond protection if the estimated costs increase during Project planning, design, or construction;
  - b. All bonds must be in the form of a firm commitment from a certified company listed in Treasury Department Circular 570;
  - c. Bonds obtained pursuant to this Article must be consistent with the term of this Agreement; and
  - d. Should any bond issued pursuant to this section be canceled or withdrawn, the Partner must immediately notify the NPS in writing.
11. Include the following requirements verbatim in any Third-Party Contract for the performance of any work or for fulfilling any obligation related to the Project:

“The contractor agrees:

- a. That the National Park Service is a third-party beneficiary of this contract, with all legal rights associated with that status, including the right to enforce the contract.
- b. To comply with all applicable laws, regulations, rules, orders, and other legal requirements, and NPS policies;
- c. To comply with the terms and conditions of the Project Development Plan, project implementation plan, or special use permits relating to the Project;
- d. To follow any NPS order to suspend work and that at any time the NPS may monitor, inspect, or access the construction site and construction-related materials and documents;
- e. To obtain, and transfer to the NPS from subcontractors, manufacturers or suppliers for work performed and materials furnished all warranties that would be given in normal commercial practice:
  - i. For a period of not less than one year; and
  - ii. Executed, in writing, for the benefit of the Partner and the United States;
- f. To be responsible for all damages to persons or property that occur as a result of the contractor’s fault or negligence because of, or in any way related to the Project;
- g. To waive any defense to any claim based on the contractor’s alleged reliance on the Partner’s or the NPS’s Project monitoring, inspections or tests. All monitoring, inspections or tests are for the benefit of the Partner or the NPS and do not relieve the contractor of responsibility for (i) providing adequate quality control measures, or (ii) ensuring against damage or loss before Project acceptance. In addition, such monitoring, inspections or tests do not imply acceptance of the contractor’s work by either the Partner or the NPS, nor does it affect the continuing rights of the Partner or the NPS after acceptance of the contractor’s work.

- h. That neither the Partner's nor the NPS's review, approval, or acceptance of the contractor's services nor the Partner's payment for those services will be construed to operate as a waiver of any rights of the Partner or the NPS, or of any cause of action that the Partner or the NPS may have, and the contractor will be and remain liable to the Partner and the NPS in accordance with the terms of this Contract and applicable law for all damages for which the contractor is legally responsible.
- i. That in the event of a conflict between the provisions of this Contract and the provisions of the Partner Design and Construction Agreement between the NPS and the County of Summit, Ohio, Office of Summit County Engineer, dated \_\_\_\_\_, recognize that the terms of the Partner Design and Construction Agreement control.
- j. To obtain and maintain insurance consistent with the requirements of Article IX of the Partner Design and Construction Agreement;
- k. That the contractor has no recourse against the United States with respect to any aspect of construction activities and will not lien any land, structures, fixtures, or improvements associated with this Contract; and
- l. To be jointly and severally liable under this Contract if the contractor consists of more than one legal entity."

In addition to provisions a-l above, any Third Party Contract for the provision of architectural or engineering services must contain verbatim the following provisions:

"The contractor agrees:

- m. That it is solely responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the contractor and warrants that the Project can be built as designed;
- n. To correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services without any additional compensation; and
- o. That the final signed and sealed Final Construction Documents



provided by the contractor, as reviewed and approved in writing by the NPS, are the only true contract documents of record for this Project. By submission of the Final Construction Documents to the Partner, the contractor warrants that all review comments have been resolved to the satisfaction of the NPS and have been incorporated into the Final Construction Documents.”

**NOTE:** Additional Third-Party contract terms are described in Article X.A.1.

12. At no cost to the NPS, promptly take steps necessary, including the suspension of work, to address any concerns raised by the NPS.
  13. Before the NPS accepts the Project as complete, certify in writing that the Project is free and clear of all debts, liabilities, liens, or obligations.
- C. The parties further agree as follows:
1. The Project’s overall cost is estimated to be approximately \$1,145,000. The Partner’s and the NPS’s financial contributions are detailed in Attachment B. The Partner’s financial contribution is subject to actual receipt by the Partner of the TASA funding and other funding specified in Attachment B. The Partner’s financial contribution shall not exceed, and is limited to, the TASA funding.
  2. Prior to soliciting construction bids, the parties will confirm that all funds needed to carry out the project are in a dedicated ODOT Project account(s) and will remain available through the Project’s completion.
  3. Other Contracts/Agreements: Comprehensive Project Agreement between CVNP and MWRO which outlines roles and responsibilities of CVNP and MWRO and provides for the transfer of funding from MWRO to Federal Highway Administration.
  4. The NPS’s review or approval of documents under Article IV.A of this Agreement will not be construed to operate either as a waiver of any rights of the NPS or as a waiver of any cause of action that the NPS may have under this Agreement or any Third-Party Contract.
  5. The United States will own all right, title, and interest in or to the completed Project, including all fixtures and other property described in Attachment A, and the Partner hereby waives all claims of right, title, or interest in or to the completed Project. At the NPS’s request the Partner will execute any documents necessary to confirm the United States’ title.

**ARTICLE V. ATTACHMENTS**

Attachments include: A—Project Description, B—Financial Contributions of the Partner and the NPS, C—Project Development Plan, D—Site Plan, and E—Contractor Certification Form. Attachments A-E are hereby incorporated into this Agreement.

**ARTICLE VI. KEY OFFICIALS**

**For the County of Summit, Ohio:**

Ilene Shapiro, County Executive  
Address: 175 S. Main St.  
Akron, Ohio 44308

*Key Contact & Project Manager:*

Name: Joseph Paradise  
Title: Deputy Director of Engineering Services  
Phone: 330-643-8105  
Email: jparadise@summitengineer.net

**For the National Park Service:**

Cuyahoga Valley National Park  
Address: 15610 Vaughn Road  
Brecksville, Ohio 44141

*Key Contact:*

Name: Eric Semple  
Title: CVNP Project Manager  
Phone: 440-546-5930  
Email: Eric\_Semple@nps.gov

*Project Manager:*

Name: Kim Norley  
Title: Landscape Architect  
Phone: 440-546-5974  
Email: Kim\_Norley@nps.gov

*Agreement Technical Representative:*

Name: Jennifer McMahon  
Title: Partnership Coordinator  
Phone: 440-546-5908  
Email: Jennifer\_McMahon@nps.gov

**ARTICLE VII. TERM OF AGREEMENT**

This Agreement will be effective on the date of final signature and, unless modified or terminated by the parties in accordance with Article VIII below, will continue in force and effect for a period of five (5) years thereafter, or until final completion and acceptance of the Project, whichever occurs later.

**ARTICLE VIII. MODIFICATION, DISPUTE RESOLUTION, AND TERMINATION**

- A. This Agreement may be modified only by a written instrument executed by the parties' authorized representatives.
- B. The parties agree that in the event of a dispute between them, they will promptly use their best efforts to resolve the dispute in an informal fashion through communication and consultation, or other forms of non-binding alternative dispute resolution that are mutually acceptable to the parties.
- C. If either party reasonably believes that the other party has breached its obligations under this Agreement, the alleging party must provide the other party a written Default Notice (Notice) of such alleged breach. The party receiving the Notice will have 30 days (the Cure Period) after receipt of the Notice to cure such alleged breach. The Cure Period may be extended by mutual agreement of the parties.
- D. If the alleged breach is not cured within the Cure Period the alleging party may, without first obtaining a judgment or declaration of breach by any court, board, arbitrator or any other adjudicator, exercise its rights to proceed against the bonds required in Article IV.B.11.a-d of this Agreement, or seek any alternative or additional remedies available to it, including termination of this Agreement.

**ARTICLE IX. INSURANCE AND LIABILITY**

**A. Insurance**

1. The Partner and its contractors must comply with all insurance-related provisions of this Article. The Partner and its contractors are responsible for ensuring that these insurance requirements are included, as appropriate, in their respective contracts with subcontractors.
2. Insurance must be acquired before the initiation of any in-Park activities and must be maintained until the Project is accepted as complete by the NPS.
3. Insurance coverage must be commensurate with foreseeable risk, and coverage limits may ultimately be greater than the minimum limitations required below. The NPS will not be responsible for any omissions or inadequacies of any insurance coverage or amounts in the event that insurance purchased by the Partner or a contractor proves to be inadequate or insufficient for any reason.
4. The Partner and all contractors must procure and maintain the following insurance and comply with the following associated requirements:

- a. The Partner and all contractors must have appropriate insurance including coverage for commercial general liability, contractual liability, automobile, valuable papers, umbrella coverage, and workers' compensation, from a responsible company or companies. Unless higher limits are required by the NPS in writing, commercial general liability insurance and automobile insurance must each have a minimum limitation of One Million Dollars (\$1,000,000) per person for any one claim, and an aggregate limitation of Three Million Dollars (\$3,000,000) for any number of claims arising from any one incident.
  - b. The Partner or the Partner's prime contractor or general contractor must have Builder's Risk Insurance sufficient to cover the replacement cost of the Project.
  - c. The Partner and contractors, as appropriate, must have appropriate insurance coverage when warranty work is conducted. This provision will survive termination or expiration of this Agreement. Warranty work requires the NPS Superintendent's prior approval.
  - d. Contractors providing architectural or engineering service must have Professional Error and Omissions Insurance coverage that, at a minimum, conforms to the requirements of applicable state, territorial, or district law.
  - e. Where a Partner or contractor is authorized to utilize NPS structures or facilities in conjunction with this Agreement, the Partner or contractor must procure and maintain, at its sole cost and expense, fire and hazard protection insurance in an amount equal to the replacement cost of structures or facilities utilized. This insurance must be maintained for the term of use.
5. All insurance policies required by this Agreement must be payable to the Partner, and the Partner will use insurance proceeds to correct the damage, harm, or deficiency that is the basis of the insurance claim. Partner expenditure of insurance proceeds will be in conformance with law, NPS policies, and NPS approvals. Insurance proceeds that are paid to the Partner, but that are not needed or cannot be used to correct the harm or deficiency at issue, must, if allowed under the insurance policy, be used to further Park projects and programs as agreed to by the parties.
  6. All insurance policies required by this Agreement must name the United States as an additional insured and must specify that the insurer must specify that the insurer has no right of subrogation vis-à-vis the United States with respect to claims against other parties. If in the NPS's judgment the Partner is unable to meet its obligation to correct the damage, harm, or deficiencies at issue, then the NPS may file insurance claims and use insurance proceeds consistent with law and NPS policies.
  7. Before beginning the work authorized herein, the Partner must provide the NPS with

copies of Certificates of Insurance demonstrating that the Partner and contractors have acquired all insurance required by this Article. Insurance coverage must be reviewed every year beginning on the date of execution of this Agreement and must be modified if necessary to ensure consistency with generally accepted insurance practices and NPS policies. The Partner and contractors must immediately notify the NPS if an insurance policy is canceled or terminates for any reason.

8. Insurance Carrier Requirements:

- a. Each issuer of the insurance required by this Article must be rated no lower than A- by the most recent edition of the A.M. Best's Key Rating Guide (Property-Casualty Edition).
- b. All insurers for all coverage must have a Best's Financial Size Category of at least VII according to the most recent edition of A.M. Best's Key Rating Guide (Property-Casualty Edition).
- c. All insurers must be admitted, licensed, and approved to operate in the state, territory, or district in which the Project will occur.

B. Liability

1. To the extent authorized by applicable law, and subject to any applicable defenses, the Partner will be liable for the negligent or other wrongful acts or omissions of its officers or employees while acting within the scope of their office or employment.
2. To the extent authorized by applicable federal law, including the Federal Tort Claims Act, codified as amended primarily at 28 U.S.C. §§ 2671-80 (2014), the NPS will be liable for the negligent or other wrongful acts or omissions of its officers or employees while acting with the scope of their office or employment. The NPS's commitment to pay any lawful liability incurred by the NPS under this Agreement is backed by the full faith and credit of the United States.
3. The Partner must cooperate with the NPS in the investigation and defense of any claims that may be filed with or against the NPS arising out of the activities of the Partner, or the Partner's employees, agents, representatives, or contractors (including a contractor's subcontractor).

**ARTICLE X. CONFIDENTIAL AND PROPRIETARY INFORMATION AND INTELLECTUAL PROPERTY**

- A. With respect to confidential and proprietary information and intellectual property created in association with this Agreement the Partner agrees that:

1. Rights to Works Produced in the Performance Contract

The Partner is bound by the following provisions. Additionally, the Partner will ensure that provisions a through c below are incorporated into all contracts and subcontracts with contractors that are executed in furtherance of this Agreement. These provisions should be modified by including the Partner's name and the contractor's name when such provisions are inserted into any contract.

a. "The NPS will own any and all rights, titles, and interests, including design and construction documents and any and all patents, copyrights, trademarks, trade secrets, inventions, products or other intellectual property rights created as a result of, arising from, or relating to this Agreement, including without limitation intellectual property utilized in bid proposals and any pre-existing intellectual property belonging to the Partner and/or contractor that is provided in association with the Project, provided, however, that the Partner may request from the NPS a non-exclusive license to use any intellectual property for purposes related to the Partner's fundraising and promotional activities associated with the Project. The NPS will consider the request for such non-exclusive license on a case-by-case basis. This provision will survive expiration or termination of this Agreement.

b. The Partner and the contractor will fully cooperate with the NPS in the protection and enforcement of any intellectual property rights resulting from activities and services performed in connection with this Agreement. This obligation includes timely execution, acknowledgment, and delivery to the NPS of all documents and papers that may be necessary to enable the NPS to utilize in any manner any copyrights, patents, trademarks, trade secrets, and other intellectual property and proprietary rights.

c. If any invention or material created in the course of performing tasks under this Agreement or any associated agreement is patentable intellectual property, the contractor will report the invention or patentable intellectual property to the Partner within thirty days of its creation and the Partner will immediately report the invention or intellectual property to the NPS."

2. NPS Review of Bid Proposals

- a. The Partner will receive all bid proposals, associated documents, and other communications from bidders and provide copies of them to the NPS Key Official identified in this Agreement so that they may be distributed to appropriate NPS personnel for review. Any information delivered in writing or by other tangible form from the Partner to the NPS, or from the NPS to the Partner, that is to be considered Confidential Information must be

conspicuously labeled on every page as "Confidential and Proprietary" at the time of delivery. If proprietary information is delivered orally by either the Partner (including information provided by the bidder) or the NPS, the Partner or the NPS (as the case may be) must identify such information at the time of disclosure, subsequently reduce it to writing, label it "Confidential and Proprietary," and provide this writing to the appropriate Key Official. Each Party will implement reasonable internal controls to protect confidential information in its possession. NPS retention, release, and destruction of information that is labeled "Confidential Information" are governed by applicable federal law.

- b. In all bid solicitations, the Partner will notify bidders of all provisions in this Article that affect their interests, and will provide that all such provisions will be binding on all bidders including the winning contractor.
- c. Section A.2 of this Article will survive termination or expiration of this Agreement.

#### **ARTICLE XI. ACCOUNTING AND REPORTS**

The Partner and its contractors and subcontractors must maintain accounting books and records under a system of accounts and financial controls meeting Generally Accepted Accounting Principles and must permit the Department of the Interior or its designee, including the NPS Comptroller and the Department's Office of the Inspector General, to verify and audit financial documents from the books, correspondence, memoranda and other records of the Partner relating to this Agreement, during the period of this Agreement, and for such time thereafter as may be necessary to accomplish such verification.

#### **ARTICLE XII. STANDARD CLAUSES**

- A. **Non-Discrimination:** All activities pursuant to or in association with this Agreement will be conducted without discrimination on grounds of race, color, sexual orientation, national origin, disabilities, religion, age, or sex, as well as in compliance with the requirements of any applicable federal laws, regulations, or policies prohibiting such discrimination.
- B. **NPS Appropriations:** Pursuant to 31 U.S.C. § 1341, nothing contained in this Agreement will be construed to obligate the government to any current or future expenditure of funds in excess or advance of the availability of appropriations from Congress, nor does this Agreement obligate the government to spend funds on any particular project or purpose, even if funds are available.
- C. **Limitations on Lobbying:** To the extent that the Partner commits in this Agreement or

any related agreement to raise funds from non-federal sources for the Project, the Partner further agrees that it will not lobby for or otherwise seek the appropriation of funds from Congress to meet that commitment. The Partner may not use any appropriated funds (including property, utilities, or services acquired with or supported by appropriated funds) to lobby or attempt to influence Congress or any official of any government.

- D. **Compliance with Applicable Law:** This Agreement and performance hereunder is subject to all applicable laws, regulations, and government policies whether now in force or hereafter enacted or promulgated. Nothing in this Agreement will be construed as in any way limiting the general powers of the NPS for supervision, regulation, and control of its property under such applicable laws, regulations, and management policies.
- E. **Release of Information:** The Partner will obtain prior written approval through the NPS Key Official for any public information releases which refer to this Agreement or Project. The specific text, layout, photographs, etc., of the proposed release will be submitted with the request for approval.
- F. **Assignment:** No part of this Agreement may be assigned to any other party without prior written approval of the NPS.
- G. **Agency:** The Partner is not an agent or representative of the United States, the Department of the Interior, or the NPS, or the Park, nor will the Partner represent its self as such to third parties. NPS employees are not agents of the Partner and will not act on behalf of the Partner.
- H. **Non-Exclusive Agreement:** This Agreement does not restrict the Partner or the NPS from entering into similar agreements, or participating in similar activities or arrangements, with other public or private agencies, organizations, or individuals.

**Signature Page Follows**



**ARTICLE XIII. AUTHORIZING SIGNATURES**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date the last signature is affixed:

**NATIONAL PARK SERVICE**

Reginald Chapple  
Reginald Chapple, Acting Assistant Director,  
Partnerships and Civic Engagement

9-30-19  
Date

**COUNTY OF SUMMIT, OHIO**

\_\_\_\_\_  
Ilene Shapiro, County Executive

\_\_\_\_\_  
Date

**SUMMIT COUNTY ENGINEER**

\_\_\_\_\_  
Alan Brubaker  
Approved as to form:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Deborah Matz, Director of Law, Insurance,  
and Risk Management

\_\_\_\_\_  
Date

\_\_\_\_\_  
Marvin D. Evans, Assistant Prosecutor

\_\_\_\_\_  
Date

- ATTACHMENTS:**  
Attachment A – Project Description  
Attachment B – Financial Contributions  
Attachment C – Project Development Plan  
Attachment D – Site Plan  
Attachment E – Contractor Certification Form

## ATTACHMENT A – PROJECT DESCRIPTION

### DESCRIPTION

This project is the design and construction of a new pedestrian and bicycle bridge over the Cuyahoga River in the community of Boston, located in Boston Township, Summit County, Ohio. The project length, from the beginning to end of pavement, including the bridge, is 300 feet. Pavement width is planned to be 12 feet. Approaches to the western edge of the bridge will be a landscaped court yard adjacent to the new Visitor Center and on the eastern edge existing pedestrian and bicycle circulation routes will connect to the Towpath Trail. This project is PMIS #245587.

### BACKGROUND

In January 2013, the Boston Mills Area Conceptual Development Plan and Environmental Assessment was signed. The plan focused on improvements to visitor services and circulation in the community of Boston. This community is a historic district listed on the National Register of Historic Places. It has two primary nodes. A node that grew around the Ohio & Erie Canal is located on the east side of the river; a node that grew around the historic Valley Railway is located on the west side of the river.

Two major initiatives identified by the Boston Mills Area Conceptual Development Plan and Environmental Assessment are currently underway on the west side of the river. They include the construction of a central visitor center in Zielenski Court and construction of a new parking area. These two initiatives will ultimately create a pedestrian-friendly environment on the east side of the river.

Another identified need in the Plan, which is focused on circulation improvements, is for the construction of a pedestrian bridge over the Cuyahoga River.

### PURPOSE

The purpose of the new pedestrian bridge is threefold:

1. Provides for visitor safety. This project will result in separated vehicular and pedestrian/cyclist crossing of the Cuyahoga River in a high-traffic area. While sidewalks are available on the existing vehicular bridge, they are narrow. It is difficult for pedestrians to walk side-by-side on the sidewalks. Visitors are routinely observed walking directly on the road rather than using the sidewalks.
2. Supports multi-modal visits. The three main transportation spines that visitors use to visit CVNP and the Ohio & Erie Canalway are the Scenic Byway, Cuyahoga Valley Scenic Railroad, and Towpath Trail. They come together in the community of Boston, but are separated by the Cuyahoga River. The byway and train are on the west side of the Cuyahoga River; the Towpath

Trail, on the east side of the river. A safe river crossing will link the three transportation spines.

3. Supports preserving the historic character of the community of Boston. Through the current parking project, cars will be kept at the western edge of the community, promoting pedestrian visitation on the east side of the river. Since the community straddles the river, the pedestrian bridge over the river supports this pedestrian-oriented vision.

**ATTACHMENT B – FINANCIAL CONTRIBUTIONS**

The Summit County Engineer’s Office (SCE) has secured \$700,000.00 in Transportation Alternative Set Aside (TASA) funds from the Akron Metropolitan Area Transportation Study (AMATS) to construct a new pedestrian bridge over the Cuyahoga River in the community of Boston located in Boston Township and within CVNP. This local transportation funding will be devoted to the construction costs. The remainder of the funding will be provided by the Midwest Regional Office (MWRO) of the National Park Service (NPS) through Federal Lands Transportation Program (FLTP) funding via Federal Highway Administration transfer to Ohio Department of Transportation and ultimately to SCE.

Project Phase	% of total project	Funding Source /Yr	Responsible Party	Notes	Amount
Bridge design	100	FLTP – FY19	NPS – MWRO Bob Kammel	MWRO FLTP (Title 23) funds will be transferred to FHWA to ODOT to SCE to administer the planning/design process.	\$195,000
Bridge Construction	80	TASA – FY20/21	SCE	SCE is responsible for Advertising and Award of Contract and Construction Inspection	\$700,000
Construction Match	20	FLTP – FY21	NPS – MWRO Bob Kammel	MWRO FLTP (Title 23) funds will be transferred to FHWA to ODOT to SCE to advertise, award and oversee the bridge contract.	\$175,000
Construction Inspection & Administration	100	FLTP – FY21	NPS – MWRO Bob Kammel	MWRO FLTP (Title 23) funds will be transferred to FHWA to ODOT to SCE for bridge inspection.	\$75,000

## **ATTACHMENT C – PROJECT DEVELOPMENT PLAN**

The Project Development Plan describes the (1) Project specific design elements and NPS construction standards that must be addressed in Project designs, (2) the NPS's Development Advisory Board reviews, and (3) Project deliverables and delivery dates.

### **Project Specific Design Elements**

This project will result in the design and construction of a new multi-purpose pedestrian and bicycle bridge over the Cuyahoga River in the community of Boston. The bridge will provide a safe circulation route between amenities on the west side of the river (primary parking area for the Boston Mill village, the new Boston Mill Visitor Center, and Boston Mill train boarding station) and the east side of the river (Towpath Trail, commercial services, Volunteer Center, and public program spaces). The bridge will be universally designed and expected to be 12' wide and approximately 300' in length and to comply with all accessibility standards and guidelines for pedestrian and bicycle use. The design of the bridge will incorporate NPS sustainability, green building, life cycle and maintenance objectives and designed to be compatible with the historic district of Boston Mills and the surrounding cultural landscape. Particular attention is needed to blend the western approach to the bridge with the new Visitor Center court yard and the eastern approach with the Towpath connector trail, future connections and adjacent public space.

### **NPS Construction Standards - Compliance and Permits**

The SCE and Ohio Department of Transportation (ODOT)'s Office of Environmental Services (OES) will develop the undertaking through their standard project development process, which includes environmental review.

The NPS and SCE will need to develop an Interdisciplinary Team (IDT) and a Cultural Resource Management Team (CRM) to review and approve project design and construction drawings.

The NPS will supplement and adopt the findings of the ODOT environmental review, subject to the proposal to review under NPS National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA) processes.

The NPS will issue an environmental document that considers the effects of the action on Park lands and resources to satisfy the NPS NEPA and Section 106 (NHPA) responsibilities. This environmental approval will be conditioned by the requirement that ODOT/SCE are responsible for the achievement of any 404/401 permit and Section 10 consultation.

### **Development Advisory Board Reviews**

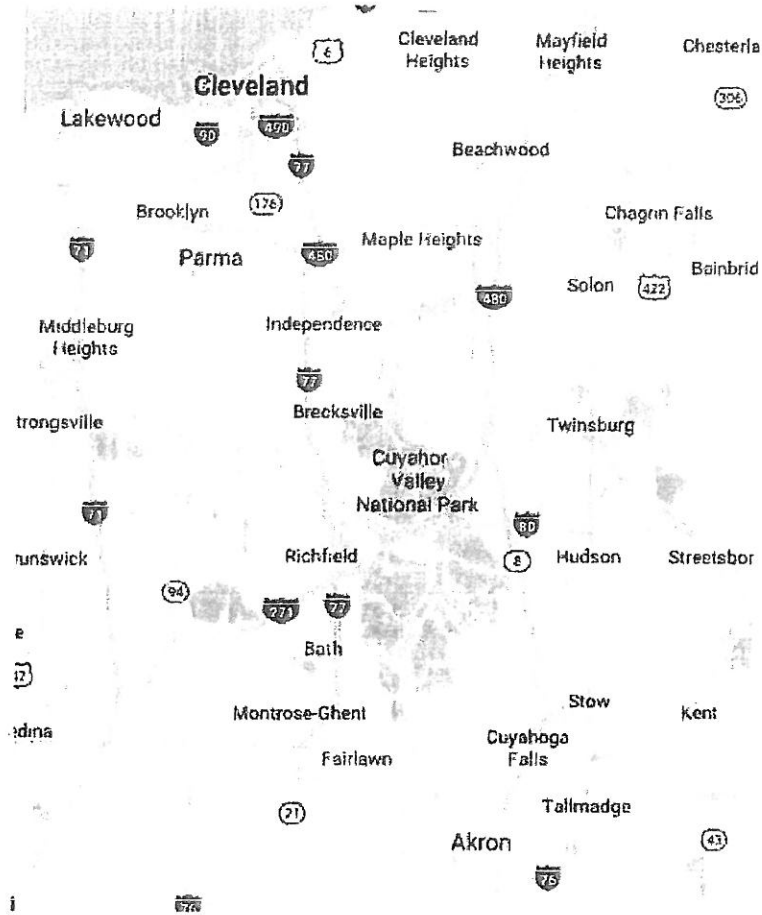
CVNP presented the concept of the new pedestrian bridge to the Regional Development Advisory Board (RDAB) on May 30, 2018. It was determined that a new bridge is the optimum solution for safe pedestrian and bicycle circulation. RDAB approved the project concept. CVNP will need to return to the RDAB at the Schematic Design phase of the Project.

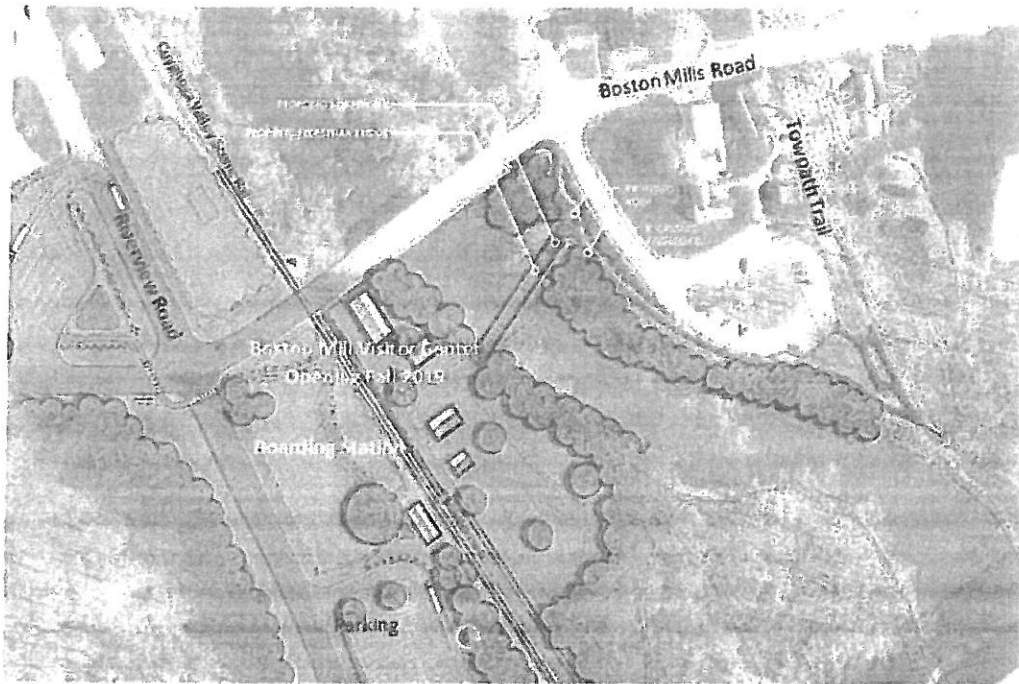
Responsibility Chart  
6/26/2019

X = Primary Responsible Agency (Review, Approval, Acceptance or Rejection)  
XX = Jointly Responsible Agency  
R = Review and comment

TASK	RESPONSIBLE AGENCY		
	ODOT	SCE	CVNP
LPA Project Scope of Services	XX	XX	XX
County Legislation to enter into an LPA Agreement with ODOT		X	
LPA Agreement	XX	XX	
CVNP Legislation/Resolution to enter into an agreement with the County		X	R
Agreement between CVNP and the Executive to enter into an agreement to construct the BRIDGE		XX	XX
Field Review with ODOT	XX	XX	XX
Detailed Scope of Services		X	R
Consultant Selection - QBS Process - ODOT to Post	X	X	R
County Legislation to enter into an Agreement to hire a consultant		X	R
Request Letters of Interest	XX	X	
Receive LOI		X	
Evaluate LOI		XX	XX
Request Fee Proposal		X	
Accept or Negotiate Fee		X	R
Submit to County BOC		X	R
Submit to County Council		X	
Executive Signs Contract		X	
Issue Authorization to Proceed to Consultant	XX	XX	R
Receive, Review & Approve Consultant Invoices		X	R
Pay Local Share of Invoice & Forward Remaining Invoice to ODOT	X		
Pay Federal Share of Invoice	X		
Stage 1 Plans Prepared		Consultant	
Stage 1 Plans Reviewed	XX	X	XX
Environmental Clearance	XX	Consultant	XX
Stage 2 Plans Prepared		Consultant	
Stage 2 Plans Reviewed	XX	X	XX
Stage 3 Plans Prepared		Consultant	
Stage 3 Plans Reviewed	XX	X	XX
R/W Plans approved or not required		X	
Utilities Cleared		X	
Final Plans to SCE		Consultant	R
Authorization to Bid Legislation	XX	XX	
Bid Documents Prepared		X	
Bid Documents Submitted to District		X	
Plan Package Submitted to Central Office	X		
Authorization to Advertise	X	XX	
Sale Date		X	
Award Date		X	
Award Contract		X	R
Pre-construction meeting	XX	XX	XX
Start of Construction		X	
Inspect, Test & Approve Materials and Construction		X	
Receive, Review, Approve Contractor/Inspector & Testing Invoices		X	
Forward Invoice amounts to ODOT FOR PAYMENT		X	
Pay Federal Share of Invoice	X		
If Needed, Approve change orders	XX	XX	XX
End of Construction		X	
Final Contract Closing	XX	X	

ATTACHMENT D – SITE PLAN





The community of Boston is a gateway location for Cuyahoga Valley National Park and the Ohio & Erie Canalway National Heritage Area. It is centrally located within the park and between the major cities of Cleveland and Akron. With easy access to several major highways (I-271, I-77, I-80, and SR 8) as well as being located directly on the Ohio & Erie Canalway America's Byway (as designated by the U.S. Secretary of Transportation) this location is ideally located to draw visitors. Boston Mill Visitor Center is located directly on the historic route of the Valley Railway, the modern home of the Cuyahoga Valley Scenic Railroad, the primary alternative transportation system serving the park. The popular Towpath Trail, a walking and bicycle trail that extends the length of the park and beyond, comes through Boston. The Buckeye Trail is a long-distance hiking trail that circles the State of Ohio. It comes through the community of Boston and requires hikers to cross the Cuyahoga River.



**ATTACHMENT E – CONTRACTOR CERTIFICATION FORM**

[INSERT CONTRACTOR’S NAME] (Contractor) agrees and certifies that any contract between the Contractor and the County of Summit, or any subcontract between the Contractor and a subcontractor, including any associated addendum, attachment, exhibit, modification, or change order thereto, whether executed in writing or not, must be consistent with the terms of the Partner Design and Construction Agreement (PDC Agreement) between the County of Summit and the National Park Service, dated \_\_\_\_\_.

The Contractor agrees and certifies that in the event of a conflict between the PDC Agreement, as it may be amended from time-to-time, and any contract or subcontract relating to the PDC Agreement to which the Contractor is a party, the terms of the PDC Agreement will control.

Nothing herein is intended to prohibit the Contractor from seeking payment from the County of Summit in association with potential modifications to the PDC Agreement, consistent with law and the payment terms of its contract with County of Summit. The County of Summit will promptly provide the Contractor with copies of any modifications to the PDC Agreement.

The Contractor agrees and certifies that it has received a copy of the PDC Agreement, dated \_\_\_\_\_, and that it has reviewed that PDC Agreement. The Contractor will provide certification of receipt of any modifications to the PDC Agreement provided by the County of Summit upon request of the County of Summit.

**COUNTY OF SUMMIT, OHIO**

\_\_\_\_\_  
Ilene Shapiro, County Executive

\_\_\_\_\_  
Date

**SUMMIT COUNTY ENGINEER**

\_\_\_\_\_  
Alan Brubaker

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name, Title  
[Contractor Name]

\_\_\_\_\_  
Date