

MEMORANDUM OF UNDERSTANDING
Between the
NATIONAL PARK SERVICE
[Blue Ridge Parkway]
And the
CAROLINA MOUNTAIN CLUB

This Memorandum of Understanding (hereinafter "Agreement") is entered into between the National Park Service (NPS), a bureau of the United States Department of the Interior, and the Carolina Mountain Club (hereinafter "CMC") regarding annual maintenance and construction of hiking trails located in the Pisgah District of the Blue Ridge Parkway.

Article I. Background and Objectives

The Carolina Mountain Club began in 1923 with its primary objectives to explore the mountains of Western North Carolina and adjacent regions through its hiking trails and rivers, to carry out the maintenance and stewardship responsibilities given by the Appalachian Trail Conservancy and the Friends of the Mountains-to-Sea Trail, to develop and maintain other hiking trails in western North Carolina as approved by the Club's Council, to encourage the conservation of our natural scenery, and to foster hiking, trail construction and maintenance, and fellowship, and enjoyment of the out-of-doors in Club members.

The Blue Ridge Parkway was established by an act of Congress to provide for the administration and maintenance of the 469-mile corridor in the States of North Carolina and Virginia by the Secretary of the Interior, and for other purposes. The Parkway was created to preserve these assets "for the use and enjoyment of present and future generations."

The objective of this Agreement is to establish the terms and conditions under which the agreed parties will provide mutual assistance for Parkway trail maintenance, reconstruction and new construction on lands within Parkway boundaries. The Agreement includes responsibility for construction of the Mountains to the Sea Trail (hereinafter the MST) between Balsam Gap and Soco Gap. It will also include agreement for the CMC to maintain MST trails from the Black Mountain Campground to Heintooga Road. Portions of this section of trail include lands managed by the United States Forest Service (Pisgah, Nantahala and Appalachian Districts) covered under separate agreements with the CMC.

Article II. Authority

General Authority to Take Actions that Promote and Regulate units of the National Park System (16 U.S.C. § 1): The NPS Organic Act directs the Secretary to promote and regulate National Park System lands by such means and measures as to conform to the fundamental purpose of such lands, namely, conservation of the scenery and the natural and historic objects and wildlife therein, and to provide for the enjoyment of these

resources in a manner and by such means as will leave them unimpaired for the enjoyment of future generations.

Article III. Responsibilities and Understandings of the Parties

A. The Parkway and the CMC jointly agree to:

1. Promote this relationship as a way of accomplishing mutual goals pursuant to this Agreement, and recognize the partnership as a way of leveraging scarce resources so that, together, more is accomplished than either party could do on its own.
2. Increase partnering skills and management capacity and motivate and empower NPS and CMC volunteers to develop a supportive and collaborative culture for the benefit of the park resources and the public.
3. Increase productivity and collective competency by building on successes and expanding capacities for future achievement.
4. Commit energy, people and resources to goals of mutual interest, as identified in the Annual Work Plan. Prior to March 1st of each year, NPS and CMC shall jointly develop a written plan (Annual Work Plan) that identifies the projects and programs that the parties agree to undertake in a specific year and specifies the respective roles of NPS and CMC in carrying out the Identified Projects.
5. Submit all materials that are intended for public distribution and that refer to the partnership or each other, to one another for advance review and approval.
6. Adhere to mutually agreed upon trail standards, boundaries and other guidelines.
7. Provide the other party with a list of responsible persons with phone numbers where they may be contacted in the event of an emergency. This list will be updated whenever it changes and will be reviewed annually.

B. The NPS agrees to:

1. Consider volunteers and guests of CMC as Federal employees for purposes (and only for purposes) of worker's compensation insurance for work-related injuries or illnesses, and tort claims to the extent not covered by the sponsor in accordance with Blue Ridge Parkway policy and authorities contained within the Volunteers in National Parks Act of 1969 (VIP),
2. With appropriate notice, assist the CMC in constructing and maintaining Parkway trails by providing ingress and egress access to these trails within Parkway property. Within the scope of the annual work plan, address any needed NEPA compliance required and consider the CMC to be qualified to

construct any new trails within the Parkway boundary that have completed the NEPA compliance approval process and that will be constructed in accordance with Parkway trail construction standards.

3. Provide access to staff and reference materials that ensures all trail work is completed to Parkway construction and maintenance standards.
4. Allow the CMC to use Parkway overlooks, parking areas or roadways to access trails.
5. Provide the CMC with hand tools routinely loaned to volunteers for trail maintenance tasks on an as-available basis and subject to the written terms under which said tools might be loaned to the organization.
6. Provide safety training and, as needed, chain saw and/or string trimmer certification training to CMC volunteers. In addition, the Parkway will recognize sawyer certification performed by other USFS certified instructors.
7. Provide the CMC with copies of current fire management plans for their areas of primary responsibility, including maps of areas involved and descriptions of special or extraordinary actions to be taken for reason of safety for the CMC volunteers.
8. Provide the CMC with copies of the Parkway hazardous tree management plan, upon request. To ensure the preservation of protected tree species, the Parkway shall provide the CMC with the Federal and State species protection list upon request. Whenever possible, the Parkway shall mark trees over 6 inches in diameter that may be removed for new trail construction/re-construction.
9. Provide selected CMC Crew leaders with gate keys.
10. Provide the CMC with up-to-date JHA's related to the type of work the CMC provides.
11. Provide personal safety equipment specifically required only by the Parkway.

C. The CMC agrees to:

1. Recognize park boundaries for trail maintenance and hiking events.
2. Apply only "Minimal Impact Trail Maintenance" when maintaining trails within the Park. No ground-disturbing equipment such as graders or bulldozers will be used without the permission of the Parkway Superintendent or his/her designee.

3. Report any accident or injury to the appropriate Parkway Official within 48 hours of the incident or within an otherwise mutually agreed upon time period.
4. To construct and maintain trails to NPS standards and as approved and outlined in annual work plan; such as maintaining trail tread and related treadway structures such as steps, cribbing, bridges, and water-bars on a routine basis providing for user safety, protection of adjacent resources, and user access, brushing, drainage maintenance, sign and blaze maintenance.
5. Provide records of volunteer work on Parkway trails to the designated Parkway representative on a quarterly basis. This information shall include the names of the volunteers and the number of hours worked in the period.
6. Allow only certified chain saw operators to operate motorized chain saws for the purposes of trail maintenance or construction on Parkway property.
7. Construct and/or maintain trails in a responsible manner that is sensitive to the natural and cultural resources of the Parkway.
8. Provide the Parkway with the names of all volunteers, for the purposes of recognition that have or shall participate in trail maintenance within Parkway lands.
9. Provide supervision, transportation, tools, equipment and supplies to their volunteers performing work on Parkway trails. The CMC will schedule all work and notify Park dispatch of work crew locations and times prior to start of work.
10. Construct new trail within the Parkway boundary that has been approved through the National Environmental Protection Act (NEPA) compliance process.

Article IV. Term of Agreement

Unless earlier terminated by operation of the terms of this Agreement, or by agreement of the parties in writing, this Agreement will be in effect for a period of five (5) years beginning on the date the last signature is affixed to this Agreement.

Article V. Modification and Termination

- A. This Agreement may be modified by a written instrument executed by the parties.

- B. Either party may terminate this Agreement for any reason by providing thirty (30) days written notice setting forth the reasons for proposing termination. Neither party will be liable to the other for any costs or claims in the event of termination.

Article VI. Key Officials

The personnel specified below are considered essential to the successful coordination and communication between the CMC and the Blue Ridge Parkway for the work to be performed pursuant to this Agreement. Upon written notice to all the other parties, that party may designate an alternate to act in place of the designated Key Official, or designate a new Key Official.

For the Blue Ridge Parkway:

Superintendent Mark Woods
Blue Ridge Parkway
199 Hemphill Knob Road
Asheville, NC 28803

For the CMC:

President Lenny Bernstein
Carolina Mountain Club
P.O. Box 68
Asheville, NC 28802

Article VII. Standard Clauses

- A. **Non-Discrimination:** All activities pursuant to or in association with this Agreement shall 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 shall be construed to obligate NPS, the Department, or the United States of America to any current or future expenditure of funds in advance of the availability of appropriations from Congress and their administrative allocation for the purposes of this Agreement, nor does this Agreement obligate NPS, the Department, or the United States of America to spend funds on any particular project or purpose, even if funds are available.
- C. **Prior Approval:** The CMC shall obtain prior written approval from the NPS before:
 - 1. Holding special events within the Park;
 - 2. Entering into third-party agreements of a material nature;
 - 3. Assigning or transferring this Agreement or any part thereof;

4. Constructing any structure or making any improvements within the Park's boundaries:
 5. Releasing any public information that refers to the Department, the NPS, the [Park or NPS Program], any NPS employee (by name or title), this Agreement or the projects contemplated hereunder.
- D. **Compliance with Applicable Laws:** This Agreement and performance hereunder is subject to all law, regulations and management policies including those governing the NPS property and resources, whether now in force or hereafter enacted or promulgated. Nothing in this Agreement shall be construed as in any way impairing the general powers of the NPS for supervision, regulation, and control of its property under such applicable laws, regulations, and management policies. Nothing in this Agreement shall be deemed inconsistent with or contrary to the purpose of or intent of any Act of Congress.
- E. **Disclaimers of Government Endorsement:** The CMC will not publicize or circulate materials (such as advertisements, solicitations, brochures, press releases, speeches, pictures, movies, articles, manuscripts, or other publications), suggesting expressly or implicitly, that the Government, the Department, NPS, or Government employees endorse the [Partner's or Partners'] business, goods, or services. All materials referring to the Government must be approved by the NPS Key Official prior to publication. Nothing herein is intended to prevent the NPS or the Department of the Interior from recognizing the partnership or contributions made by the Partners to NPS, and from authorizing an inclusion of such recognition in materials generated by the [Partner or Partners] related to this Agreement.
- F. **Modifications:** This Agreement may be extended, renewed, supplemented or amended only when agreed to in writing by the NPS and the CMC.
- G. **Waiver:** No waiver of any provisions of this Agreement shall be effective unless made in writing and signed by the waiving party. No waiver of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof.
- H. **No Agency:** The CMC is not an agent or representative of the United States, the Department of the Interior, or the NPS, nor will the CMC represent itself as such to third parties. The NPS is not an agent or representative of the CMC, nor will the NPS represent itself as such to third parties. Nothing in this Agreement shall at any time be construed so as to create the relationship of employer and employee, principal and agent, or joint venture as between the CMC and the NPS.
- I. **Non-Exclusive Agreement:** This Agreement in no way restricts either the NPS or the CMC from entering into similar agreements, or participating in similar activities or arrangements, with other public or private agencies, organizations, or individuals.
- J. **Partial Invalidity:** If any provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such provision to the parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each

provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

Article VIII. Signatures

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below.

FOR THE Carolina Mountain Club:

Lenny Bernstein 9/14/15
Lenny Bernstein Date
President
Carolina Mountain Club

FOR Blue Ridge Parkway:

Mark H. Woods 9-7-15
Mark H. Woods Date
Superintendent
Blue Ridge Parkway

