

CHAPTER 8: CHALLENGE COST-SHARE PROGRAM

Further guidance on the Challenge Cost-Share Program, Director's Order 27 is presently being developed.

SAMPLE CHALLENGE COST-SHARE AGREEMENT

Cooperative Agreement
between
The United States Department of the Interior
National Park Service
and
Creative Environmental Conservation

This Agreement is entered into under the Challenge Cost-Share Program, by and between the National Park Service (NPS) and Creative Environmental Conservation (CEC), a Non-Profit 501(c) 3 Public Benefit Corporation. Under the Challenge Cost-Share Program, the NPS works with communities, volunteer groups, historic property owners, universities, and others to carry out projects important to the NPS mission.

ARTICLE I – BACKGROUND AND OBJECTIVES

The Juan Bautista de Anza National Historic Trail (“Anza Trail”) is a 1,200-mile trail authorized by Congress as a component of the National Trails System in 1990, and is administered by the NPS, Pacific Great Basin Support Office.

The National Trails System Act, as amended, places heavy emphasis on cooperation with federal, state, and local land managing agencies and non-profit groups to mark and interpret the Anza Trail.

The 1996 *Comprehensive Management and Use Plan for the Anza Trail* recognizes Fort Ord Public Lands and Natividad Creek Park in the City of Salinas as being along the route of the Anza Trail and encourages their marking and interpretation.

CEC, located between Fort Ord and Salinas, through its Return of the Natives Restoration Education Project, wishes to interpret the American Indian relationship to the Anza Trail.

Both parties to this Agreement wish to cooperate with one another for their own mutual benefit and for the general benefit of the people of the United States and future generations.

ARTICLE II - AUTHORITY

Under Public Law 104-333 (*16 U.S.C. §1f*), the National Park Service has received permanent authority to enter into Challenge Cost-Share Agreements.

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ARTICLE III - STATEMENT OF WORK**A. CEC agrees to:**

1. Design, fabricate, and install two interpretive panels providing a map and information about the Anza Trail and its relation to American Indian peoples.
2. Use the official Anza Trail marker only on the interpretive panels and markers.
3. Place one interpretive panel at the sedge beds on Fort Ord Public Lands and one in Natividad Creek Park in the City of Salinas.
4. Coordinate closely with the NPS on the design, text, and presentation of the interpretive exhibits.
5. Coordinate as possible with other groups and agencies planning interpretation on Fort Ord Public Lands and in Natividad Creek Park to ensure consistency of interpretation of the Anza Trail.

B. The NPS agrees to:

1. Provide financial assistance as funds are available for work mutually agreed to and performed as part of this Agreement.
2. Be substantially involved in the project by reviewing the design, text, layout, and placement of the interpretive exhibits and location of the markers.
3. Assign the Anza Trail Superintendent as the key official to administer the Agreement and provide technical support, documentation, consultation, and liaison to CEC in connection with identified tasks.

C. Both parties agree to:

1. Cooperate to the fullest extent in all activities related to the production of the interpretive exhibit to ensure that the efforts of each party will complement those of the other.
2. Coordinate all review to ensure the efforts will result in the planned outcome.

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ARTICLE IV - TERM OF AGREEMENT

This Agreement will be for a term of one year, commencing on the date of final signature of this Agreement, unless when terminated earlier as provided in Article XI.

ARTICLE V - KEY OFFICIALS

A. Key officials are essential to ensure maximum coordination and communications between the parties and the work being performed. They are:

1. **For the NPS:**

Meredith Kaplan, Anza Trail Superintendent
Key Official
National Park Service
600 Harrison Street, Suite 600
San Francisco, California 94107
E-mail: meredith_kaplan@nps.gov
Telephone: 415-427-1438
Facsimile: 415-427-xxxx

2. **For the CEC:**

Scott Hennessy, Executive Director
Laura Lee Lienk, Project Director Return of the Natives
100 Campus Center
Seaside, California 93955-8001
E-mail: scott_hennessy@cec.org
Telephone: 831-582-3689
Facsimile: 831-582-xxxx

B. **Communications** - The CEC will address any communication regarding this Agreement to the key official with a copy to the Contracting. Communications that relate solely to routine operational matters described in the current work plan may be sent only to the superintendent.

C. **Changes in Key Officials** - Neither the NPS nor the NEC may make any permanent change in a key official without written notice to the other party reasonably in advance of the proposed change. The notice will include a justification with sufficient detail to permit evaluation of the impact of such a change on the scope of work specified within this Agreement. Any permanent change in key officials will be made only by modification to this Agreement.

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ARTICLE VI – AWARD AND PAYMENT

- A. NPS will apply Challenge Cost-Share Program funding in the amount of \$5,000 to “match” donation of CEC according to CEC’s proposal entitled “FY 99 Challenge Cost-Share Program Application,” included as Attachment A.
- B. The chargeable appropriation for this Agreement is _____. Payment will be made no more frequently than monthly and will be paid by electronic funds transfer directly into CEC’s account located at the financial institution as designated on Standard Form 3881, (Attachment E to Article XIII).
- C. Standard Form 270 (SF-270), “Request for Advance or Reimbursement,” must be submitted for payment to the NPS Contracting Officer in an original and two copies. The request for reimbursement will be accompanied by a breakdown sheet showing costs in each budgetary item.
- D. Each SF-270 furnished will be addressed to:

Juan Bautista de Anza National Historic Trail
National Park Service
600 Harrison Street, Suite 600
San Francisco, California 94107
Attn: Meredith Kaplan
- E. Nothing contained in this Agreement will be construed as binding the NPS to expend in any one fiscal year any sum in excess of appropriations made by Congress, for purposes of this Agreement for that fiscal year.

ARTICLE VII – PRIOR APPROVAL

In accordance with *OMB Circular A-110* and *43 CFR Part 12*. (Note: If applicable, list items requiring verbal or written approval, if other than shown in regulations referenced above.)

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ARTICLE VIII - LIABILITY

The CEC agrees:

- A. To indemnify, save and hold harmless, and defend the United States against all fines, claims, damages, losses, judgments, and expenses arising out of, or from, any act or omission of the City, its officers, employees, or (members, participants, agents, representatives, agents as appropriate) arising out of or in any way connected to activities authorized pursuant to this Agreement. This obligation shall survive the termination of this Agreement.
- B. To purchase public and employee's liability insurance at its own expense from a responsible company or companies with 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. The policies shall name the United States as an additional insured, shall specify that the insured shall have no right of subrogation against the United States for payments of any premiums or deductibles due thereunder, and shall specify that the insurance shall be assumed by, be for the account of, and be at the insured's sole risk. Prior to beginning the work authorized herein, CEC shall provide the NPS with confirmation of such insurance coverage.
- C. To pay the United States the full value for all damage to the lands or other property of the United States caused by CEC, its officers, employees, and representatives [as in Paragraph 1].
- D. To provide workers' compensation protection to CEC officers, employees, and representatives.
- E. To cooperate with the NPS in the investigation and defense of any claims that may be filed with the NPS arising out of the activities of the cooperator, its agents, and employees.

[If Cooperator occupies Federal Government property, use the following:]

- F. In the event of damage to or destruction of the buildings and facilities assigned for the use of CEC in whole or in part by any cause whatsoever, nothing herein contained shall be deemed to require the NPS to replace or repair the buildings or facilities. If the NPS determines in writing, after consultation with CEC that damage to the buildings or portions thereof renders such buildings unsuitable for continued use by CEC, the NPS shall assume sole control over such buildings or portions thereof. If the buildings or facilities rendered unsuitable for use are essential for conducting operations authorized under this Agreement, then failure to substitute and assign other facilities acceptable to CEC will constitute termination of this Agreement by the NPS.

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ARTICLE IX - REPORTS AND/ OR OTHER DELIVERABLES

- A. Draft design and layout of the interpretive exhibits, including proposed text, will be submitted to the NPS for review and comment before fabrication of the interpretive panels.
- B. Proposed exhibit location and orientation will be submitted to the NPS for review before installation of the exhibit.
- C. A brief description of activities and accomplishments should accompany the invoice for reimbursement including an itemization of costs and the “match” donation of CEC.
- D. A “Project Completion” form must be submitted with the final request for reimbursement.

ARTICLE X – PROPERTY UTILIZATION

- A. The CEC will utilize, manage, and dispose of property funded by this Agreement as specified in *OMB Circular A-110*, and *43 CFR §12.934 and 12.935*. The specific method for disposition of city-acquired equipment will be agreed to by the City and the Service prior to any disposition.
- B. The CEC will maintain records of all property acquired and disposed of under this Agreement, take a physical inventory of all remaining property, and reconcile the results of the inventory with the records at least once every two years in accordance with *OMB Circular A-110*, and *43 CFR §12.934 (f)(3)*.

ARTICLE XI – MODIFICATION AND TERMINATION

- A. This Agreement may be modified only by a written modification instrument executed by the parties. Modifications will be in writing and approved by the NPS Contracting Officer and the authorized representative of CEC.
- B. Either party may terminate this Agreement by providing the other party with thirty (30) days advance written notice. In the event that one party provides the other party with notice of its intention to terminate, the parties will meet promptly to discuss the reasons for the notice and try to resolve their differences.

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ARTICLE XII – GENERAL AND SPECIAL PROVISIONS**A. General Provisions**

1. **OMB Circulars and Other Regulations** – The following OMB Circulars and other regulations are incorporated by reference into this Agreement:
 - (a) *OMB Circular A-110*, as codified by *43 CFR Part 12, Subpart F*, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations.”
 - (b) *OMB Circular A-122*, “Cost Principles for Non-Profit Organizations.”
 - (c) *OMB Circular A-133*, “Audits of States, Local Governments, and Non-Profit Organizations.”
 - (d) *43 CFR Part 12, Subpart D*, “Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).”
 - (e) *43 CFR Part 12, Subpart E*, “Buy American Requirements for Assistance Programs.”
 - (f) *FAR Clause 52.203-12, Paragraphs (a) and (b)*, “Limitation on Payments to Influence Certain Federal Transactions.”
2. **Non-Discrimination** - All activities pursuant to this Agreement shall be in compliance with the requirements of *Executive Order 11246*; Title VI of the *Civil Rights Act of 1964*, as amended, (*78 Stat. 252; 42 U.S.C. §§2000d et seq.*); Title V, Section 504 of the *Rehabilitation Act of 1973*, as amended, (*87 Stat. 394; 29 U.S.C. §794*); the *Age Discrimination Act of 1975* (*89 Stat. 728; 42 U.S.C. §§6101 et seq.*); and with all other federal laws and regulations prohibiting discrimination on grounds of race, color, sexual orientation, national origin, disabilities, religion, age, or sex.

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3. **Lobbying Prohibition** - 18 *U.S.C. §1913*, Lobbying with Appropriated Moneys - No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.
4. **Anti-Deficiency Act** - 31 *U.S.C. §1341* - Nothing contained in this Agreement shall be construed as binding the NPS to expend in any one fiscal year any sum in excess of appropriations made by Congress, for the purposes of this Agreement for that fiscal year, or other obligation for the further expenditure of money in excess of such appropriations.
5. **Minority Business Enterprise Development:** *Executive Order 12432* - It is national policy to award a fair share of contracts to small and minority firms. NPS is strongly committed to the objectives of this policy and encourages all recipients of its Cooperative Agreements to take affirmative steps to ensure such fairness by ensuring procurement procedures are carried out in accordance with *43 CFR 12.944* for Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and *43 CFR 12.76* for State and Local Governments.

B. Special Provisions

1. **Public Information**
 - (a) The CEC will not publicize or otherwise circulate promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts, or other publications) which states or implies Federal Government, Departmental, bureau, or Federal Government employee endorsement of a product, service, or position which the CEC represents. No release of information relating to this Agreement may state or imply that the Federal Government approves of the work product of the CEC, or considers the CEC's work product to be superior to other products or services.

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- (b) The CEC will ensure that all information submitted for publication or other public releases of information regarding this project will carry the following disclaimer:

“The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions or policies of the U.S. Government. Mention of trade names or commercial products does not constitute their endorsement by the U.S. Government.”

- (c) The CEC will obtain prior NPS approval from the regional public affairs office for any public information release that refers to the Department of the Interior or any bureau or employee (by name or title), or to this Agreement. The specific text, layout, photographs, etc. of the proposed release must be submitted to the key official who will forward such materials to the public affairs office, along with the request for approval.
- (d) The CEC agrees to include the above provisions of this Article in any sub-award to any sub-recipient, except for a sub-award to a state government, a local government, or to a federally recognized Indian tribal government.

2. **Publications of Results of Studies**

No party will unilaterally publish a joint publication without consulting the other party. This restriction does not apply to popular publications of previously published technical matter. Publications pursuant to this Agreement may be produced independently or in collaboration with others; however, in all cases proper credit will be given to the efforts of those parties contribution to the publication. In the event no agreement is reached concerning the manner of publication or interpretation of results, either party may publish data after due notice and submission of the proposed manuscripts to the other. In such instances, the party publishing the data will give due credit to the cooperation but assume full responsibility for any statements on which there is a difference of opinion.

- C. **Certifications** – The following certification is required in accordance with the above provisions and made a part of this Agreement:

DI-2010, U.S. Department of the Interior Certification Regarding Debarment, Suspension and Other Responsibility Matters, Drug-Free Workplace Requirement and Lobbying.

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ARTICLE XIII - ATTACHMENTS

The following documents are attached to and made a part of this Agreement:

- A. FY97 Challenge Cost-Share Program Application submitted by the County, five pages.
- B. Standard Form 424, "Application for Federal Assistance," two pages incorporated by reference.
- C. Standard Form 424B, "Assurances – Non-Construction Programs," two pages incorporated by reference.
- D. DI-2010.
- E. Standard Form 3881.

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ARTICLE XIV - SIGNATURES

IN WITNESS HEREOF, the parties hereto have executed this Agreement on the date(s) set forth below.

FOR THE NATIONAL PARK SERVICE
PACIFIC GREAT BASIN SUPPORT OFFICE

FOR THE CREATIVE
ENVIRONMENTAL CONSERVATION

Anza Trail Superintendent Date

Executive Director Date

Contracting Officer Date

Director, Return of the Natives Date

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: Anza Trail Superintendent

Title: Executive Director

Date: _____

Date: _____

Signature: _____

Name: _____

Title: Director, Return of the Natives

Date: _____