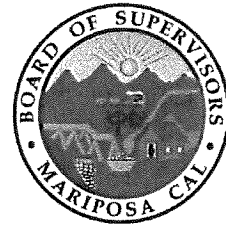




MARIPOSA COUNTY

Public Works • 209 966 5356



RESOLUTION - ACTION REQUESTED 2019-23

MEETING: January 8, 2019
TO: The Board of Supervisors
FROM: Mike Healy, Public Works Director
RE: Ratify Donor Agreement with Yosemite National Park

RECOMMENDATION AND JUSTIFICATION:

Ratify the Public Works Director's Signature for a Donor Agreement Between Mariposa County and Yosemite National Park.

With the Federal Government Shutdown trash cans have overwhelmed the severely reduced staffing at Yosemite National Park. This Donor Agreement will enable Mariposa County to assist the Park Service with trash collection during this period in order to insure that the Park can remain open while projecting a healthy and inviting environment for Mariposa County residents and visitors alike to enjoy during this Government Shutdown period.

This agreement is scheduled to terminate no later than January 30, 2019 or upon the return of National Park Service staffing levels sufficient to resume these responsibilities.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Mariposa County and Yosemite National Park have a long history of assisting and collaborating with each others organizationally on projects of mutual public benefit on behalf of County Residents and Visitors.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Trash will not be collected causing a less than healthy and inviting environment to appear which could cause the closure of the Park and the potential loss of return visitors for years to come.

FINANCIAL IMPACT:

There will be no additional fund appropriation required in order to accomplish these tasks.

ATTACHMENTS:

Fully Executed Donation Agreement w mods (PDF)

Resolution - Action Requested 2019-23

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Rosemarie Smallcombe, District I Supervisor

SECONDER: Kevin Cann, District IV Supervisor

AYES: Smallcombe, Jones, Long, Cann, Menetrey

Donation Agreement
Between the
National Park Service, United States Department of the Interior
and
Mariposa County, California

This agreement (hereinafter "Agreement") is entered into by and between the National Park Service (hereinafter "NPS"), an agency of the United States Department of the Interior, acting through its Director, and Mariposa County, California (hereinafter "Donor"), acting pursuant to its applicable authorities. This Agreement sets forth the terms and conditions under which the Donor may donate in-kind to the NPS, and under which the NPS may accept those in-kind donations, in order to enable continued operations in Yosemite National Park (hereinafter "Yosemite National Park") during the period when funds appropriated by the United States Congress for the operation of the National Park System are not available (hereinafter the "shutdown period"). Throughout this Agreement the NPS and the Donor may be referred to jointly as "the Parties."

Article I - Background

- A. Whereas, Yosemite National Park is located in California, and annually attracts more than 4 million visitors;
- B. Whereas, the visitors to Yosemite National Park, through their economic activity, play a vital role in the economics and well-being of the towns, business, and cities located near or in Yosemite National Park;
- C. Whereas, the federal Anti-Deficiency Act 31 U.S.C. § 1341, prohibits federal employees from making or authorizing an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation or involving the federal government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law;
- D. Whereas, as a result of a lapse in funds appropriated by the United States Congress for the operation of the National Park System, Yosemite National Park staffing levels were reduced to only essential personnel at 12:00 a.m. EDT on December 22, 2018;
- E. Whereas, absent alternative funding, Yosemite National Park will remain at reduced staffing levels until Congress appropriates funds for the operation of the National Park System and the shutdown period ends;
- F. Whereas, the Donor desires to donate trash collection service to the Wawona area which includes, but is not limited to the Wawona Campground, South Entrance Station, and Chinquapin area, to the NPS for the purpose of enabling the operation of safe visitor restroom facilities along two highway corridors, Hwy 41 and Hwy 120, of Yosemite National Park during part or all of the shutdown period;

G. Whereas, 54 U.S.C. § 101101 and 43 U.S.C. § 1473a authorize the Secretary of the Interior, in his administration of the NPS, to accept monies and other items, which may be donated for the purposes of the National Park System;

H. Whereas, the NPS desires to accept the Donor's donation on the terms and conditions described in this Agreement;

Now, therefore, the Parties agree as follows:

Article II - Statement of Agreement

A. The Donor agrees as follows:

1. For the sole purpose of enabling access to portions of Yosemite National Park to public use and visitation, the Donor will donate trash collection service to the Wawona area which includes, but is not limited to the Wawona Campground, South Entrance Station, and Chinquapin area, for each day that Yosemite National Park is partially open to public use and visitation during the shutdown period.

2. The Donor will provide trash collection service to the Wawona area which includes, but is not limited to the Wawona Campground, South Entrance Station, and Chinquapin area for the length of the shutdown beginning at 6:00 am on Tuesday, January 1, 2019, and ending at 5:00 pm on Wednesday, January 30, 2019.

3. If the Donor desires to continue to provide trash collection service to Wawona, CA to keep Yosemite National Park open beyond 5:00 p.m. on Wednesday, January 30, 2019, then the Donor will give notice to the NPS notice party to this Agreement. The NPS will accept, at a minimum, a donation sufficient to operate and manage portions Yosemite National Park for three calendar days.

4. Because the shutdown of the Yosemite National Park takes time and resources, the NPS will commence shutdown of Yosemite National Park UNLESS THE Donor maintains that it will continue providing portable toilets for at least the next two calendar days.

5. The Donor agrees that the donation is a gift with no conditions, and the Donor expects no benefit or credit to its contract in any form, ~~such as reduction or abatement of its Franchise Fee or adjustment of its contract term, any reimbursement, or any other~~ accommodation from the NPS in recognition of the donation.

B. The NPS agrees as follows:

1. Upon verification that Donor will be able to satisfactorily provide trash collection for Wawona, CA, the NPS will allow public access to highway 41, notwithstanding closures for safety reasons, in Yosemite National Park. The Parties understand and agree that if the Donor does not continue to provide the in-kind donation before Congress appropriates funds

for the operation of the National Park System, then the NPS may immediately close any open portions of the Yosemite National Park to public use and visitation.

C. The Parties further agree as follows:

1. Notwithstanding the execution of this Agreement, the Donor has no obligation to provide any donation to the NPS.

2. The Parties' representatives who are signing this Agreement warrant that they have full authority to bind their respective parties to the terms and conditions of this Agreement.

3. Notwithstanding this Agreement, the National Park Service is under no obligation to accept the donation, and may, at any time, adjust park staffing and status as deemed necessary.

Article III - Term of Agreement

This Agreement will be effective on the date of final signature and will continue in effect for 30 days thereafter or until terminated in accordance with article VIII below, whichever comes first.

Article IV - Designated Representatives

All notices and other written communications regarding this agreement will be sent via email and first-class mail to the following designated representatives of the parties:

For the NPS:
Michael T. Reynolds
Superintendent, Yosemite National Park
National Park Service
PO Box 577
Yosemite National Park, CA 95389
209-372-0201
michael_reynolds@nps.gov

For the Donor:
Mike Healy
Director of Public Works and Transportation
Mariposa County, California
4639 Ben Hur Road
Mariposa, CA 95338
209-966-5356
mhealy@mariposacounty.org

Article V - Prior Approval

Not applicable.

Article VI – Reports

Not applicable.

Article VII - Property Utilization

Unless otherwise agreed to in writing by the parties, any property furnished by one party to the other will remain the property of the furnishing party.

Article VIII - Modification and Termination

A. This agreement may be modified only by a written instrument executed by the Parties.

B. Either Party may terminate this agreement by providing the other Party with 24 hours' advance written notice of its intention to do so. If either party provides the other party with notice of its intention to terminate, then the parties' representatives will communicate promptly to discuss the reasons for the notice and to try to resolve their differences amicably.

Article IX - Standard Clauses

A. Civil Rights

During the performance of this agreement, the participants agree to abide by the terms of USDI-Civil Rights Assurance Certification, non-discrimination, and will not discriminate against any person because of race, color, religion, sex, or national origin. The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, religion, sex, or national origin.

B. Officials Not to Benefit

No member of or delegate to Congress or resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

C. No Third-Party Beneficiaries

Nothing in this agreement is intended to grant any rights or provide any benefits to any third party.

D. Compliance with Applicable Laws

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 shall be construed as in any way impairing the general powers of the NPS for supervision, regulation, and control of Yosemite National Park under such applicable laws,

regulations, and policies. Nothing in this Agreement shall be deemed inconsistent with or contrary to the purpose or intent of any Act of Congress.

E. Merger

This Agreement, including its attachments, is the sole and entire agreement of the parties.

F. Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original (including copies sent to a party by facsimile transmission or PDF/email) as against the party signing such counterpart, but which together shall constitute one and the same instrument.

Article X - Authorizing Signatures

In witness hereof, the following authorized representatives of the parties have signed their names on the dates indicated, thereby executing this agreement.

For the National Park Service:

MARY
CREACHBAUM

Digitally signed by MARY
CREACHBAUM
Date: 2018.12.31 15:50:14 -08'00'

Name (signature)

Stan Austin

Date

For the Donor:


Name (signature)

Mike Healy

12/31/2018
Date