

Contracting Authority for Various Agreements with California State Parks

Engaging in Partnerships, November 7, 2023

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California State Park Agreements

- ▶ Cooperating Association - Public Resources Code § 513
- ▶ Concession - Public Resources Code § 5080.02 et seq.
- ▶ Operating (Public Agency) - Public Resources Code § 5080.30 et seq.
- ▶ Joint Power Agreements - Government Code § 6500 et seq.
- ▶ Operating / Co-management (Nonprofit) - Public Resources Code § 5080.42
- ▶ Donor - Public Resources Code §§ 5005, 5009.1 and 5009.2
- ▶ Proud Partner - Public Resources Code § 5009.3
- ▶ Memorandum of Understanding

All partnerships are valuable. No type of agreement is better than another. The type of partnership agreement depends on the mission of the partner and the goals the partner and California State Parks seek to accomplish together.



Cooperating Association Agreements

- ▶ Definition: The Department, as a means of furthering the interpretive and educational functions of the State Park System, may enter into an agreement to act cooperatively with a non-profit cooperating association engage in education or interpretive work in a State Park System Unit, whereby the cooperating association would furnish educational and/or interpretive materials and/or services to the public.
- ▶ Authority: Public Resources Code § 513
- ▶ Legal Requirements:
 - ▶ Nonprofit public benefit corporation organized pursuant to Part 2 of Division 2 of Title 1 of the Corporations Code
 - ▶ Articles of incorporation state that the specific purpose of the corporation is to provide support for educational and interpretive programs of the State Park System
 - ▶ Executed Cooperating Association agreement with the Department
 - ▶ The corporation is in compliance with the Department's policies and guidelines
 - ▶ Department may provide space for sale of approved materials, services or both

Concession Agreements

- ▶ **Definition:** The Department may enter into contracts with natural persons, corporations, partnerships, and associations for the construction, maintenance, and operation of concessions within units of the state park system for the safety and convenience of the general public in the use and enjoyment of, and the enhancement of recreation and educational experiences at, units of the state park system.
- ▶ **Authority:** Public Resources Code Sections 5080.02 - 5080.29
- ▶ **Legal Requirements:**
 - ▶ Terms more than three (3) years shall be competitively bid
 - ▶ Consistent with park classification and general plan
 - ▶ Estimated gross receipts or facility improvements valued over \$1M shall be approved by the State Park and Recreation Commission or the Off-Highway Motor Vehicle Commission as consistent with the park classification and general plan along with notification to the Joint Legislative Budget Committee
 - ▶ **Max Terms**
 - ▶ 10 - general term of agreement unless Director determines longer term is necessary to allow concession to amortize improvements
 - ▶ 20 - term shall not exceed 20 years without specific authorization by statute
 - ▶ 30 - marina facilities
 - ▶ 50 - multi-lodging facilities

Operating Agreement (Public Agencies)

- ▶ Definition: Agreements may be entered into between the Department and any agency of the United States, any city, county, district, or other public agency for the care maintenance, administration, and control by any party to the agreement, of lands under the jurisdiction of any party to the agreement for the purpose of the state park system.
- ▶ Authority: Public Resources Code Sections 5080.30 et seq.
- ▶ Legal Requirements:
 - ▶ Must be with a public entity
 - ▶ Consistent with general plan
 - ▶ Notification to Member(s) of the Legislature
 - ▶ Concessions may be allowed so long as public agency complies with State's bidding procedures and Director approval

Joint Power Agreements

- ▶ Definition: Agreement between public agencies or a federally recognized Indian tribe to jointly exercise any power common to the contracting parties.
- ▶ Authority: Government Code § 6500 et seq.
- ▶ Legal Requirements:
 - ▶ Must be between public agencies or a federally recognized Indian tribe
 - ▶ Must be for the exercise of a power common to the parties.

Operating / Co-management Agreement (Nonprofit Organizations)

- ▶ Definition: The Department may enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or portion of a unit, of the state park system.
- ▶ Authority: Public Resources Code Sections 5080.42 or specific statute
- ▶ Legal Requirements:
 - ▶ 501(c)(3) nonprofit organization
 - ▶ Principal purpose and activity is to provide visitor services in state parks, facilitate public access to park resources, improve park facilities, provide interpretive and educational services, or provide direct protection or stewardship of natural, cultural, or historical lands, or resources
 - ▶ Annual report made available to the public and shall be posted on Department and organization's website; joint public meeting to discuss report
 - ▶ All revenues shall be expended for the care, maintenance, operation, etc. of the unit
 - ▶ Existing concessions shall be honored, no new concessions authorized

Donor Agreement

- ▶ Authority: Public Resources Code Sections 5005, 5009.1 and 5009.2
- ▶ Definition:
 - ▶ Agreement to accept any gift, dedication, devise, grant, or other conveyance of title to or any interest in real property, to be added to or used in connection with the state park system to be used in acquiring title to or any interest in real property, or in improving it as a part of or in connection with the state park system, or to be used for any of the purposes for which the department is created (PRC 5005)
 - ▶ Agreement to accept funds or services for the maintenance, operation, restoration, repair, development, improvement, or enhancement of a designated state park system unit or facility, or for research, educational, interpretive, recreational, or visitor services provided on or for a state park system unit or facility (PRC 5009.1 and PRC 5009.2)
- ▶ Legal Requirements:
 - ▶ Must be a true donation
 - ▶ Donations valued over \$100,000 require Department of Finance approval
 - ▶ Deposited into State Park Contingent Fund
 - ▶ Expenditure information shall be provided to donor at least quarterly

Proud Partner Agreements

- ▶ **Definition:** The Department may enter into agreements with private, nonprofit benefit corporations or other private entities, as may be appropriate, to assist the Department in its efforts to secure long-term private funding sources for any and all units of the state park system and to ensure they are preserved and open for public use and enjoyment. The authority to enter into those agreements shall include, but not be limited to, securing donations, memberships, corporate and individual sponsorships, and marketing and licensing agreements.
- ▶ **Authority:** Public Resources Code § 5009.3
- ▶ **Legal Requirements:**
 - ▶ Must assist the Department in its efforts to secure funds and to ensure park units are preserved and open to the public.

Memorandum of Understanding (MOU)

- ▶ Definition: A nonbinding written document intended to express the parties' intentions for a common goal.
- ▶ Authority: None
- ▶ Legal Requirements:
 - ▶ None, MOUs are not legally binding
 - ▶ Cannot be used to transfer money
 - ▶ Cannot be used to authorize operations or a project
 - ▶ Cannot commit parties to any considerations

Which agreement to use? Let's put what we've learned into action.

- ▶ Molly would like to create a nonprofit organization to bring awareness to Julia Morgan's architectural achievements. She sees the organization selling interpretive and educational books, photos and stationary. What type of agreement would be appropriate for this nonprofit organization?
- ▶ Joe's Crawfish would like to sell food from their food truck at San Buenaventura State Beach. What type of agreement would be appropriate for Joe's Crawfish?
- ▶ The North Coast Redwoods District and a partner Native American Tribe would like to document the sharing of information with each other related to the history of the tribe. What type of agreement would be appropriate?
- ▶ Sand Dollar Organization, a nonprofit 501(c)(3), has offered to maintain the facilities at San Clemente State Beach. What types of agreement would be appropriate for Sand Dollar?

Questions

The background features abstract, overlapping geometric shapes in various shades of blue, ranging from light sky blue to deep navy blue. These shapes are primarily located on the right side of the frame, creating a modern, layered effect against the white background.