

Agreement Number: 5018181238
Cost Code: 52421-9822-0350
Amount: \$50,000.00

COOPERATIVE AGREEMENT
Between The
MANOMET CENTER FOR CONSERVATION SCIENCES, MANOMET, Inc.
And The
U.S. FISH AND WILDLIFE SERVICE

I. BACKGROUND, AUTHORITY, AND PURPOSE

This cooperative agreement is made and entered into by and between the U.S. Fish and Wildlife Service, hereinafter referred to as the "Service", and the Manomet Center for Conservation Sciences (MCCS). The Executive Office of the Western Hemisphere Shorebird Reserve Network (WHSRN) is a program of the MCCS. The Service is acting on behalf of the Trustees for the T/V Anitra Oil Spill of 1996 under authority of the Oil Pollution Action of 1990 (OPA) (33 U.S.C. Section 2701 *et seq.*). Under OPA, natural resource trustees are authorized to assess and recover compensation for injury to or loss of natural resources resulting from a discharge or substantial threat of discharge of oil, and use recovered funds to achieve appropriate restoration. The Service is entering into this cooperative agreement under authority of the Fish and Wildlife Act of 1956 16 U.S.C. § 742f(a)(4).

Protection and restoration of migratory shorebirds is consistent with the program objectives of the MCCS and its WHSRN Program, as well as the Service and co-Trustees.

This cooperative agreement facilitates the cooperation of the two parties in protecting and restoring wintering habitat for migratory shorebirds in South America. The MCCS-WHSRN will, in cooperation with the Service, landowner(s) and other partners, protect and restore wintering habitat.

II. SCOPE OF WORK

MCCS-WHSRN is responsible for directing funds and implementing protection and restoration projects in South America consistent with its proposal, as approved and included by reference into the Trustee Council Resolution #3.

Specifically, the MCCS-WHSRN will:

1. Initiate and complete four migratory shorebird wintering habitat protection and restoration projects. These include one project in Chile, Bahía Lomas, Tierra del Fuego for \$13,000; and three projects in Argentina, Atlantic Coastal Reserve of Tierra del Fuego for \$10,000, Río Gallegos Estuary for \$12,000, and Santa Cruz and San Antonio Bay, Río Negro for \$12,000.

- a. Provide staff (paid or volunteer) to support delivery of protection and restoration work as described in MCCS-WHSRN's August 18, 2007 Proposal.

- b. Conduct outreach work aimed at building local and international support for protection and restoration activities at the four project sites in South America.
2. Coordinate protection and restoration activities with multiple partners for \$3,000, specifically those identified in MCCA-WHSRN's August 18, 2007 Proposal.
 - a. Submit project plans to the Service for review and approval to ensure consistency with the goals of this Agreement and Service policy, guidance, and consistency with the NRDAR regulations.
 - b. Provide a completion report(s) on the four projects undertaken in South America to the Service in the form of MCCA-WHSRN choosing regarding ongoing outcomes and accomplishments, brochures, educational or pictorial outreach materials as generally described in MCCA-WHSRN's August 18, 2007 Proposal .
 - c. MCCA-WHSRN shall provide the Service's – New Jersey Field Office with a final, one-time, accounting of all disbursements made to cooperators by MCCA-WHSRN in accordance with MCCA-WHSRN's August 18, 2007 proposal.

Specifically, the Service will:

1. Work closely with MCCA-WHSRN to promote and implement the four projects as outlined in the MCCA-WHSRN proposal of August 18, 2007 and approved by and incorporated into Trustee Council Resolution #3.
2. Provide funding, not to exceed \$50,000 in FY08, to MCCA-WHSRN for wintering habitat protection and restoration for migratory shorebirds.
3. Provide guidance on the use of Service funds consistent with Natural Resource Damage Assessment and Restoration (NRDAR) regulations codified at 43 CFR Part 11, and Service NRDAR policies and guidance.
4. Review project plans to ensure consistency with the goals of this Agreement and Service policy, guidance, and consistency with the NRDAR regulations.
5. Provide personnel to review protection and restoration project agreement details with South American Cooperators as developed by the MCCA-WHSRN. Provide MCCA-WHSRN with technical, biological, and coordination support, when needed and as available.
6. Document the four protection/restoration projects as part of the U.S Department of the Interior - Natural Resource Damage Assessment and Restoration Program database record.
7. Provide Co-Trustees, as needed, documentation as described above for their records.

III. PERIOD OF AGREEMENT

The period of performance of this agreement is from the date of final signature on this agreement and will expire one year from the date of said signature.

IV. FINANCIAL ADMINISTRATION

A. For all of the work described in Section II above and all expenses incurred in connection therewith, the Service shall reimburse MCCS-WHSRN for costs actually incurred of not more than \$50,000 and otherwise in accord with the MCCS-WHSRN Proposal as approved by the Trustee Council Resolution (and by reference, incorporated herein). MCCS-WHSRN shall submit its expense invoices for services no more frequently than monthly. The Service shall pay MCCS-WHSRN within thirty (30) days after the Service receives invoice(s) or other documentation as may be appropriate.

B. The MCCS-WHSRN and the Service agree that prior to the commencement of any restoration projects governed by this Agreement, the parties shall mutually agree on the projects that will be undertaken. The MCCS-WHSRN and the Service must jointly approve the projects in order for the activity to be eligible for reimbursement for any costs related to protection and restoration actions governed under this Agreement. The MSSC-WHSRN and the Service shall implement restoration projects either individually or jointly as mutually agreed upon and the MSSC-WHSRN shall be entitled to reimbursement for costs incurred by the MSSC-WHSRN as a result of conducting a project directly or through its agents, contractors, or others.

C. The MCCS-WHSRN will request reimbursement for specific projects or activities by submitting statements of reimbursement, with project-specific documentation as appropriate, such as funds transfers and signed agreements with cooperators in South America to the Service for expenditures covered by this Agreement as necessary. Invoices will contain the MCCS-WHSRN's name and mailing address, the project activity for which reimbursement is requested, and costs of each project. Requests for reimbursement should be directed to the Service Project Officer designated herein.

D. Funding of the Agreement, obtained through the New Jersey Field Office, will be allocated from the U.S. Department of the Interior NRDAR Trust Fund account associated with the Anitra Oil Spill of 1996.

E. The Debt Collection Improvement Act of 1996 (P.L. 104-134) requires that all Federal payments made by an agency after July 26, 1996, must be made by electronic funds transfer unless the recipient certifies that they do not have an account at a financial institution or authorized payment agent.

F. The Service will process reimbursement requests promptly upon receipt.

G. MSSC-WHSRN will perform reasonable due diligence to assure that all services and materials are provided at a reasonable cost.

H. An original invoice shall be submitted to the designated Service Project Officer for approval. Invoice shall include a reference to the cooperative agreement number.

V. PROJECT OFFICERS

For The Service

Timothy J. Kubiak, Assistant Supervisor
New Jersey Field Office
927 North Main Street
Pleasantville, NJ 08232
Telephone: (609) 383-3938 x26
Facsimile: (609) 383-3939
tim_kubiak@fws.gov

For The MCCA-WHSRN

Charles D. Duncan, Ph.D. Director
WHSRN Executive Office
76 Emery Street
Portland, Maine 04102
Telephone: (207) 871-9295
Facsimile: (207) 842-6496
cduncan@manomet.org

The MSCC-WHSRN financial officer, for the purpose of receiving reimbursable funds in support of this agreement is:

Daniel J. Federico, Director of Finance and Administration
Manomet, Inc., Manomet Center for Conservation Sciences
PO Box 1770, Manomet, MA 02345
Telephone: (508) 224-6521
Facsimile: (508) 224-9220
Email: dfederico@manomet.org

VI. SPECIAL PROVISIONS

Should MCCA-WHSRN be unable to complete the work as planned, all monies provided by the Service which prove to be cancelable obligations or unallowable in accordance with OMB Circular A-122. Cost Principles for Nonprofit Organizations, shall be refunded to the Service.

VII. GENERAL PROVISIONS

A. This agreement shall be subject to the following provisions which are attached hereto and incorporated herein by reference:

Appendix A - 43 C.F.R. § 12

Appendix B - DI-1350, Civil Rights Assurance

Appendix C - DI-2010, Certifications Regarding Debarment, Suspension, and Other Responsibility Matters, Drug-Free Workplace Requirements and Lobbying

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 there from, but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

C. During the performance of the Agreement, the cooperators agree to abide by the terms of Executive Order 11246 on non-discrimination and will not discriminate against any person because of race, color, religion, sex, or national origin. The cooperators will take affirmative action to ensure that applicants are employed without regard to their race, color, religion, sex, or national origin.

D. This Agreement and the obligations of the Service hereunder shall be subject to the availability of funding, and nothing herein contained shall be construed as binding either party to expend in any one fiscal year any sum in excess of appropriations made by Congress or administratively allocated for the purpose of this Agreement for the fiscal year, or to involve the Service in any contract or other obligation for the further expenditure of money in excess of such appropriations or allocations. This Agreement is subject to the laws, regulations and policies governing the Service whether now in force or hereafter enacted.

E. 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, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy 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 official, at his request, or to Congress or such official, through the proper official channels, requests for any legislation, law, ratification, policy or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence or national security activities. Violations of this section shall constitute violations of section 1352(a) of title 31.

F. Liability. Each party agrees that it will be responsible for its own acts and the results thereof and shall not be responsible for the acts of the other party and the results thereof. Each party therefore agrees that it will assume all risk and liability to itself, its agents or employees, for any injury to persons or property resulting in any manner from conduct of its own operations, and the operations of its agents, or employees, under this Agreement, and for any loss, cost, damage, or expense resulting at any time from any and all causes due to any act or acts, negligence, or the failure to exercise proper precautions, of or by itself or its own agents or its own employees, while occupying or visiting the premises under and pursuant to this Agreement.

G. This Agreement does not and shall not be construed to create any partnership or agency relationship whatsoever beyond the purposes set forth in this Agreement. The Service shall not be deemed a partner, agent, or legal representative of the Grantee for any purpose other than the purposes of this Agreement, nor shall the Service have any authority to act for, or to undertake any obligation or responsibility on behalf of the Grantee other than expressly herein provided.

VIII. MODIFICATIONS

Modifications or extensions to this agreement may be proposed at any time during the period of performance by any party and shall become effective upon approval and signature of both parties.

IX. DATA

A. All data, documentation, and information of any kind produced during this project, including all research notes, shall be delivered to the Service within 90 days of completion.

The grantee hereby grants the United States of America a world-wide, royalty free, non-exclusive and irrevocable license to publish, reproduce and use, and dispose of in any manner and for any purpose without limitation, and to authorize or ratify publication, reproduction or use by others, all copyrightable material first produced or composed under this Agreement by the cooperator, its employees, or any individual or concern specifically employed or assigned to originate and prepare such material.

B. The MCSS-WHSRN shall promptly disclose to the Service any patentable inventions derived from work conducted under this Agreement. The determination of the rights of ownership and disposition of inventions resulting from the performance of the work under this Agreement shall be in accordance with 37 C.F.R. Part 401, implementing the Bayh-Dole Act. The cooperator hereby grants the United States of America world-wide, royalty free, non-exclusive and irrevocable license to practice any inventions developed under this agreement.

X. TERMINATION CLAUSE

A. This agreement may be terminated by either signatory party giving written notice to the other party of at least 30 days in advance of the proposed termination. Notice to the Service shall be sent to Regional Director, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035. Notice to Manomet Center for Conservation Sciences Western Hemisphere Shorebird Reserve Network shall be sent to: 76 Emery Street, Portland, Maine 04102.

In WITNESS WHEREOF, the parties hereto have caused this cooperative agreement to be executed as of the date therein written.

MANOMET, Inc.; Manomet Center
For Conservation Sciences

U.S. FISH AND WILDLIFE SERVICE
Contracting and General Services, Region 5

By: [Signature]
Title: Director of F&W
Date: 5/9/2008

By: [Signature]
Title: Grants Officer
Date: 05/29/08