



Division of State Parks

General #00-11	Cooperative Agreements and Interlocal and Intrastate Interlocal Contracts	Rev. 7/2011	Page 1 of 2
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REFERENCES: NRS Chapters 277 and 407; SAM chapter 0300

PURPOSE: This policy provides criteria and guidelines for negotiating and drafting cooperative agreements, interlocal and intrastate interlocal contracts in an effort to make the process responsive to legal requirements and liability concerns.

ORGANIZATION: Agreements between units of the state park system and other agencies, companies or organizations, which may obligate the Division of State Parks, must be approved by the administrator or his designated representative (e.g. administrator or designee;) or chief of planning and development.

DEFINITIONS:

Cooperative Agreement – Agreement between two or more public agencies for “joint exercise of powers, privileges and authority,” including, but not limited to law enforcement. A third entity may be created and a separate budget account (i.e. TRPA). Note: Federal agencies refer to cooperative agreements as a Memorandum of Understanding (MOU).

Interlocal Contract – Agreement by public agencies (one agency is from outside Nevada) to “obtain a service” from another public agency.

Intrastate Interlocal Contract – Agreement by public agencies (all from Nevada) to “obtain a service” from another public agency.

PRIOR POLICY: This policy supersedes the prior policy dated 7/2008.

PROCEDURE:

The park supervisor and regional manager (RM) will decide whether to issue a cooperative agreement or interlocal contract effecting a particular park or region. If required, the administrator (or designee) will make the recommendation on the type of agreement or contract to be issued.

Cooperative agreements shall conform to the attached "Cooperative Agreement/Interlocal Contract Checklist" (see Attachment B), and in accordance with the following procedures:

- I. The originator of the agreement or contract will draft the required form in accordance with the aforementioned outline/checklist and forward it to the appropriate supervisor, regional manager administrator (or designee), in accordance with the line of supervision.
- II. The RM may disapprove, recommend approval, or change the agreement and then recommend approval. If the recommendation is approved, the RM will forward it to the administrator (or designee) for approval.
- III. If the administrator (or designee) disapproves the agreement, it will be returned with an explanation to the originator of the agreement through the RM.

- IV. A cover memo and contract summary form must accompany any agreement or contract.
- V. Signatures may vary depending on the agreement; see Attachment B under "Signatures."

RULES:

- I. A draft copy will be sent to *the administrator (or designee)* for review prior to finalizing the agreement. Use the forms provided on State Park's website or ask the Agency Contract Manager for copies. See blank forms in Attachments C (Cooperative Agreement), D (Interlocal Contract) and E (Intrastate Interlocal Contract).
- II. Prior to becoming effective, any agreement involving State Parks must be signed by the administrator or his designated representative. Cooperative agreements and interlocal and intrastate interlocal contracts must be signed by the division's deputy attorney general.
- III. Approval of the division head is required for agreements and contracts under \$2,000. Approval of the clerk of the Board of Examiners is required for contracts and agreements between \$2,000 to \$9,999. Approval of the Board of Examiners is required for contracts and agreements \$10,000 or more
- IV. Attachment A is a standard letter format to notify agencies regarding non-payment of an agreement or contract. A copy of this letter must be sent to the RM, *administrator (or designee)* and the Agency Contract Manager.
- V. All agencies entered into the agreement will receive a copy.

Original signed by:	
SIGNED	7/17/08
_____ David K. Morrow, Administrator	_____ Effective Date

Original signed by:	
SIGNED	7/30/08
_____ Leo M. Drozdoff, Director	_____ Date

Copy to regions: 7/31/08

Review Date: _____

AGENCY/REGION LETTERHEAD ONLY

Date

Contract Holder
Address

Dear (Contract Holder):

The Nevada Division of State Parks has not received your payment for the agreement/contract that you hold with us.

Please note that this violates the terms of your agreement/contract section _____. Please submit the required payment (including late fees) within the next ten days. If you have any questions regarding payment, please contact (staff person's name, phone number and email address).

*Submit payment to:
(Insert appropriate address.)*

Billing Information

Fees required for: _____

Amount due: _____ Date Due: _____

Late fees: _____

Total due: _____

Sincerely,

Park Supervisor or Regional Manager

cc: Administrator
Certified Agency Contract Manager

NEVADA DIVISION OF STATE PARKS COOPERATIVE AGREEMENT/INTERLOCAL CONTRACT GUIDE

This is a guide to correctly complete a cooperative or interlocal packet. For questions, contact the Agency Contract Manager. Also follow guidelines in S.A.M. 0300, Coop. Agreements & Interlocal Contracts.

COVER MEMO

To: Regional Manager, Administrative Services Officer, Administrator, Deputy Attorney General, Budget Analyst (where applicable).

Summarize the **reason** for the agreement or contract and each agency's part in the agreement/contract.

CONTRACT SUMMARY (S.A.M. 0344.0)

This document must be able to stand alone as the Board of Examiners (B.O.E.) only reference to approve the agreement/contract. To access the online forms, go to our home page at <http://parks.nv.gov/>. Click on "office forms" on the menu to the left or ask the Agency Contract Manager for a copy.

Description of Agreement/Contract

#1 Agency Name is "State Parks."

Agency Code is "704."

Appropriation Unit is the budget account and category numbers for all funding sources (ie.4162/04)

Is budget authority available? - this means are the funds for this agreement/contract in your budget or appreciated?

Vendor Number – most state, county and city agencies are already set up, if not, they must complete the "Vendor Registration" form and your regional accounting assistant can assist with this.

CDB# - for Agency Contract Manager use only.

State all Fiscal Years this agreement/contract will cover.

Funding Sources- do not use category numbers or G/L numbers.

#2 Contract Start Date - either check "Yes" for B.O.E. approval or enter the date the agreement/contract will be effective. Make sure these dates agree with the agreement/contract date.

If the agreement/contract's effective date is retroactive, an explanation must be given in the cover memo.

If the agreement/contract goes before the BOE, enter the date of the next meeting.

#4a Type of Contract – check interlocal contract or cooperative agreement.

#4b Contract Description – i.e. law enforcement services, weed abatement, etc.

#5 Purpose of Contract - summarize what the other agency is providing or accomplishing.

#6a Must give the maximum estimated amount of the contract.

Payment of the contract can be answered in one of the next two sentences. NOTE: Cooperative agreements have no section to reference payment, so enter "N/A."

#6b This is only filled out if this is an amendment to the agreement/contract. Leave no blanks; put "N/A" if necessary.

Justification

#7 Explain why this agreement/contract was done.

#8 Explain why State employees are not able to do this work.

#9 Check both answers as "No." If an amendment, check "No."

#9a Enter "N/A."

#9b Leave blank.

#9c Enter "Cooperative Agreement" or "Intrastate/Interlocal Contract"

#9d Enter "N/A."

#10 If "yes" the agreement/contract needs DoIT approval.

Other Information

#11 If "yes" checked - further information is needed.

#12 If "yes" is checked - further information needed.

Ask the agency if they have done any work for the State before and when or ask the Agency Contract Manager to check the contract database for this information.

#13 Put "N/A" if the contract is under \$25,000.

If the contract is over \$25,000, then contact the Deputy Attorney General for further information.

#14 To be signed by the Agency Field Contract Monitor, who will see the agreement/contract fulfilled.

#15 To be signed by the Agency Contract Manager at division.

- #16 To be signed by the Agency Head.
- #17 To be filled out by the preparer.

COOPERATIVE AGREEMENT, INTRASTATE/INTERLOCAL CONTRACT

Title
 Fill in the name, address, phone and fax number of the park, region or division.
 Fill in the name, address phone, and fax number of the other agency, organization; reference NRS's, which authorize the contracting parties to enter into a cooperative or interlocal contract.
 In interlocal contracts, enter the name of each agency in the second paragraph after the title.

#3 Contract Term (S.A.M 0340.0, Effective Dates)
 Either enter "B.O.E. Approval" to termination date or enter the start date to termination date – this must agree with #2 in the contract summary.

#4 Enter the number of days an agency must notify the other agency before this agreement/contract can be terminated.

#6 Incorporated Documents
 Attach the Scope of Cooperative Action/Work which details the arrangements of the agreement/contract.
 Specific provisions or requirements applicable to each party (separate section for each party), including but not limited, to the following items (as applicable):

1. Description of area involved (i.e. park, building, floor area, etc.), be as specific as possible.
2. Expenses to be born by each party in exchange for goods or services rendered; are the terms reasonably equitable?
3. Utility and equipment expenses allocation including power, telephone, water, sewer, heat and/or AC, copiers and other shared office equipment, vehicles, fuel, custodial services, building and/or equipment maintenance, etc.
4. Parking areas and storage description.
5. Sign restrictions.
6. Insurance and liability responsibilities and requirements (especially important when dealing with parties other than state agencies).
7. Accounting procedures for reimbursement of labor and/or equipment time, materials expenditures, billings, and time limits for reimbursement.

Mutual Provisions

1. Security requirements and responsibilities.
2. Requirements for changes and modifications to building and grounds.
3. On-site or local representative of each party to the agreement by position or title.
4. Statement that the signed, written agreement comprises the agreement in its entirety; if there are other considerations or attachments, they should each be referenced by exact title or description.
5. Provision for modification of agreement by mutual consent.
6. Provisions for handling complaints or infractions.
7. Date agreement goes into effect and period it will remain in effect.

#7 Consideration
 Only the interlocal contracts have this section. The entered information should agree with #6a or b on the contract summary.

Signatures
 Signatures are required from the other agency head, park supervisor, regional manager, administrative services officer, administrator, deputy attorney general and, if funding is over \$1,999.00, the BOE.

AGREEMENT/INTERLOCAL PACKET- Order of Paperwork:

1. Cover Memo – Use letterhead.
2. Contract Summary – Proofread, as this is the only portion of the contract the B.O.E. reviews for approval.
3. Agreement/Interlocal – Must have four original signature pages.
4. Scope of Cooperative Action/Work.

COOPERATIVE AGREEMENT BETWEEN PUBLIC AGENCIES

An Agreement Between the State of Nevada Acting By and Through Its

(NAME, ADDRESS, PHONE AND FACSIMILE NUMBER OF CONTRACTING AGENCY)

and

(NAME, ADDRESS, PHONE AND FACSIMILE NUMBER OF CONTRACTING AGENCY)

WHEREAS, NRS 277.110 authorizes any two or more public agencies to enter into agreements for joint or cooperative action; and

WHEREAS, it is deemed that the cooperative action as hereinafter set forth between the parties is in the best interests of the State of Nevada;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Agreement shall not become effective until and unless approved by appropriate official action of the governing body of each party.
2. **DEFINITIONS.** "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
3. **AGREEMENT TERM.** This Agreement shall be effective upon approval to _____, unless sooner terminated by either party as set forth in this Agreement.
4. **TERMINATION.** This Agreement may be terminated by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until _____ days after a party has served written notice upon the other party. This Agreement may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Agreement shall be terminated immediately if for any reason federal and/or State Legislature funding ability to satisfy this Agreement is withdrawn, limited, or impaired.
5. **NOTICE.** All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth above.
6. **INCORPORATED DOCUMENTS.** The parties agree that the scope of the cooperative action shall be specifically described in accordance with State Administrative Manual '0308.0; this Agreement incorporates the following attachments in descending order of constructive precedence: ATTACHMENT A: SCOPE OF COOPERATIVE ACTION
7. **ASSENT.** The parties agree that the terms and conditions listed on incorporated attachments of this Agreement are also specifically a part of this Agreement and are limited only by their respective order of precedence and any limitations expressly provided.
8. **INSPECTION & AUDIT.**
 - a. **Books and Records.** Each party agrees to keep and maintain under general accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.
 - b. **Inspection & Audit.** Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.
 - c. **Period of Retention.** All books, records, reports, and statements relevant to this Agreement must be retained a minimum three years and for five years if any federal funds are used in this Agreement. The retention period runs from the date of termination of this Agreement. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.
9. **INDEMNIFICATION.**
 - a. To the fullest extent of NRS chapter 41 liability limitations, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions

INTERLOCAL CONTRACT BETWEEN PUBLIC AGENCIES

A Contract Between the State of Nevada Acting By and Through Its

(NAME, ADDRESS, PHONE AND FACSIMILE NUMBER OF CONTRACTING AGENCY)
and
(NAME, ADDRESS, PHONE AND FACSIMILE NUMBER OF CONTRACTING AGENCY)

WHEREAS, NRS 277.180 authorizes any one or more public agencies to contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform; and

WHEREAS, it is deemed that the services of [AGENCY NAME] hereinafter set forth are both necessary to [PARK or REGION NAME] and in the best interests of the State of Nevada;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by appropriate official action of the governing body of each party.
2. **DEFINITIONS.** "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
3. **CONTRACT TERM.** This Contract shall be effective upon approval to _____, unless sooner terminated by either party as set forth in this Contract.
4. **TERMINATION.** This Contract may be terminated by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until _____ days after a party has served written notice upon the other party. This Contract may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Contract shall be terminated immediately if for any reason federal and/or State Legislature funding ability to satisfy this Contract is withdrawn, limited, or impaired.
5. **NOTICE.** All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth above.
6. **INCORPORATED DOCUMENTS.** The parties agree that the services to be performed shall be specifically described; this Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT A: SCOPE OF WORK

7. **CONSIDERATION.** [AGENCY NAME] agrees to provide the services set forth in paragraph (6) at a cost of \$ _____ per _____ (state the exact cost or hourly, daily, or weekly rate exclusive of travel or per diem expenses) with the total Contract or installments payable: _____, not exceeding \$ _____. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.
8. **ASSENT.** The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations expressly provided.
9. **INSPECTION & AUDIT.**
 - a. **Books and Records.** Each party agrees to keep and maintain under general accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.
 - b. **Inspection & Audit.** Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant

federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.

c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three years and for five years if any federal funds are used in this Contract. The retention period runs from the date of termination of this Contract. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

10. BREACH; REMEDIES. Failure of either party to perform any obligation of this Contract shall be deemed a breach. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation \$125 per hour for State-employed attorneys.

11. LIMITED LIABILITY. The parties will not waive and intend to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Actual damages for any State breach shall never exceed the amount of funds, which have been appropriated for payment under this Contract, but not yet paid, for the fiscal year budget in existence at the time of the breach.

12. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.

13. INDEMNIFICATION.

a. To the fullest extent of limited liability as set forth in paragraph (11) of this Contract, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist as to any party or person described in this paragraph.

b. The indemnification obligation under this paragraph is conditioned upon receipt of written notice by the indemnifying party within 30 days of the indemnified party's actual notice of any actual or pending claim or cause of action. The indemnifying party shall not be liable to hold harmless any attorneys' fees and costs for the indemnified party's chosen right to participate with legal counsel.

14. INDEPENDENT PUBLIC AGENCIES. The parties are associated with each other only for the purposes and to the extent set forth in this Contract, and in respect to performance of services pursuant to this Contract, each party is and shall be a public agency separate and distinct from the other party and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

15. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

16. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

17. ASSIGNMENT. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Contract without the prior written consent of the other party.

18. OWNERSHIP OF PROPRIETARY INFORMATION. Unless otherwise provided by law any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Contract shall be the joint property of both parties.

19. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.

20. CONFIDENTIALITY. Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Contract.

21. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract and that the parties are authorized by law to perform the services set forth in paragraph (6).

22. GOVERNING LAW; JURISDICTION. This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the jurisdiction of the Nevada district courts for enforcement of this Contract.

23. ENTIRE AGREEMENT AND MODIFICATION. This Contract and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto, approved by the Office of the Attorney General.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

Public Agency Signature

Date Title

Park Supervisor or Regional Manager of State Parks

Date

Administrator, Division of State Parks

Date

Admin. Services Officer II, Division of State Parks

Date

Approved as to form by:

Deputy Attorney General for Attorney General

On _____
(Date)

APPROVED BY BOARD OF EXAMINERS

Signature - Board of Examiners

On _____
(Date)

INTRASTATE INTERLOCAL CONTRACT BETWEEN PUBLIC AGENCIES

A Contract Between the State of Nevada Acting By and Through Its

(NAME, ADDRESS, PHONE AND FACSIMILE NUMBER OF CONTRACTING AGENCY)

and

(NAME, ADDRESS, PHONE AND FACSIMILE NUMBER OF CONTRACTING AGENCY)

WHEREAS, NRS 277.180 authorizes any one or more public agencies to contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform; and

WHEREAS, it is deemed that the services of **[AGENCY NAME]** hereinafter set forth are both necessary to **[PARK or REGION NAME]** and in the best interests of the State of Nevada;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by appropriate official action of the governing body of each party.
2. **DEFINITIONS.** "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
3. **CONTRACT TERM.** This Contract shall be effective upon approval to _____, unless sooner terminated by either party as set forth in this Contract.
4. **TERMINATION.** This Contract may be terminated by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until _____ days after a party has served written notice upon the other party. This Contract may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Contract shall be terminated immediately if for any reason federal and/or State Legislature funding ability to satisfy this Contract is withdrawn, limited, or impaired.
5. **NOTICE.** All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth above.
6. **INCORPORATED DOCUMENTS.** The parties agree that the services to be performed shall be specifically described; this Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT A: SCOPE OF WORK

7. **CONSIDERATION.** **[PARK or REGION NAME]** agrees to provide the services set forth in paragraph (6) at a cost of \$ _____ per _____ (state the exact cost or hourly, daily, or weekly rate exclusive of travel or per diem expenses) with the total Contract or installments payable: _____, not exceeding \$ _____. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.
8. **ASSENT.** The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations expressly provided.
9. **INSPECTION & AUDIT.**
 - a. **Books and Records.** Each party agrees to keep and maintain under general accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.
 - b. **Inspection & Audit.** Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the State Auditor, Employment Security, the Department of Administration,

- Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.
- c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three years and for five years if any federal funds are used in this Contract. The retention period runs from the date of termination of this Contract. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.
10. BREACH; REMEDIES. Failure of either party to perform any obligation of this Contract shall be deemed a breach. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation \$125 per hour for State-employed attorneys.
11. LIMITED LIABILITY. The parties will not waive and intend to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Actual damages for any State breach shall never exceed the amount of funds, which have been appropriated for payment under this Contract, but not yet paid, for the fiscal year budget in existence at the time of the breach.
12. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.
13. INDEMNIFICATION.
- a. To the fullest extent of limited liability as set forth in paragraph (11) of this Contract, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist as to any party or person described in this paragraph.
- b. The indemnification obligation under this paragraph is conditioned upon receipt of written notice by the indemnifying party within 30 days of the indemnified party's actual notice of any actual or pending claim or cause of action. The indemnifying party shall not be liable to hold harmless any attorneys' fees and costs for the indemnified party's chosen right to participate with legal counsel.
14. INDEPENDENT PUBLIC AGENCIES. The parties are associated with each other only for the purposes and to the extent set forth in this Contract, and in respect to performance of services pursuant to this Contract, each party is and shall be a public agency separate and distinct from the other party and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.
15. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.
16. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.
17. ASSIGNMENT. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Contract without the prior written consent of the other party.
18. OWNERSHIP OF PROPRIETARY INFORMATION. Unless otherwise provided by law any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Contract shall be the joint property of both parties.
19. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.

20. **CONFIDENTIALITY.** Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Contract.

21. **PROPER AUTHORITY.** The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract and that the parties are authorized by law to perform the services set forth in paragraph (6).

22. **GOVERNING LAW; JURISDICTION.** This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the jurisdiction of the Nevada district courts for enforcement of this Contract.

23. **ENTIRE AGREEMENT AND MODIFICATION.** This Contract and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto, approved by the Office of the Attorney General.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

Public Agency Signature

Date Title

Park Supervisor or Regional Manager of State Parks

Date

Administrator, Division of State Parks

Date

Admin. Services Officer II, Division of State Parks

Date

Approved as to form by:

Deputy Attorney General for Attorney General

On _____
(Date)

APPROVED BY BOARD OF EXAMINERS

Signature - Board of Examiners

On _____
(Date)