

**Cooperative Agreement P18AC00439**  
Between the  
UNITED STATES DEPARTMENT OF INTERIOR  
NATIONAL PARK SERVICE  
AND  
PEACEFUL VALLEY DONKEY RESCUE, INC.  
DUNS No.: 003755831  
8317 Duckworth Road  
San Angelo, TX 76905

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CFDA: 15.954, National Park Service Conservation, Protection, Outreach and Education  
Project Title: Burro Roundup and Relocation Operations in Death Valley National Park and Mojave National Preserve  
Amount of Federal Funds Obligated: \$0  
Refer to Article VI.A. of this agreement.  
Period of Performance: 04/15/2018 – 04/15/2023

This Cooperative Agreement (Agreement) is entered into by the U.S. Department of the Interior, National Park Service (NPS), Death Valley National Park (Park), Mojave National Preserve (Preserve) and Peaceful Valley Donkey Rescue, Inc. (PVDR, or Recipient).

## **ARTICLE I – BACKGROUND AND OBJECTIVES**

### **A. Background**

Originally used to tame the west, burros were sturdy, sure-footed pack animals favored by miners throughout the California deserts. Nearly 100 years ago, as miners left their claims, they turned these animals loose. Absent any known predators or disease, invasive burro populations, on average, increase at a rate of nearly 20% per year. Since 1939, the NPS has worked to reduce burro populations by live trapping and removal or through direct reduction.

Burros have wide ranging impacts to park resources including altering geology and soils by denuding areas for sand wallowing; degradation of water quality, creation of broad trail networks; and trampling and compaction around springs. Particularly during the hot months of summer, burros congregate in family groups and actively drive other wildlife away from the springs. Burros are non-selective herbivores to an unusual degree – they prefer grasses and forbs but have been documented eating even the most aggressively thorny shrubs at springs in Death Valley. The effect of burro herbivory is most prevalent near springs where browsing pressure reduces or eliminates grasses and forbs and alters shrub community composition.

The springs systems in the Butte, Wildrose, and Saline valleys of Death Valley National Park host many endemic and important species. The federally endangered Inyo California towhee (*Melospiza (Pipilo) crissalis eremophilus*) survives in springs vegetation in just two mountain ranges, and the total population was 52 birds at the time of listing in 1998. The towhee was listed in large part because of the loss of habitat, forage, and escape structure due to burro grazing at springs. The springs also support a suite of significant endemic plant, invertebrate, and insect populations. Direct impacts to rare and endemic plants within Death Valley are not yet quantified, however burros are generalists and visibly denude large areas of all vegetation.

Bighorn sheep, an iconic, state protected, species of concern in Death Valley rely on permanent water sources during the summer months. Bighorn sheep have historically shared the same springs and forage preferences as burros. Park staff have observed springs that once supported bighorn sheep and are no longer are visited by sheep because of the growing burro populations. In the canyons of the Panamint Mountains, burros are reducing the vegetation around seeps and springs known to be habitat to the rare Panamint Alligator Lizard, currently under review by U.S. Fish and Wildlife for endangered species status.

In 1994 through the California Desert Protection Act, Congress created Mojave National Preserve (Preserve) and expanded Death Valley National Monument and reclassified it as a national park. In the late 1990s, both the Park and Preserve initiated a public planning process under the National Environmental Policy Act to prepare a GMP to guide future management decisions. The Park and the Preserve completed their GMPs in 2002.

The GMPs establish objectives of protecting native desert ecosystems, natural processes and cultural resources. However, as documented in the environmental analysis that accompanied the GMPs, burro populations adversely affect natural and cultural resources. In order to further the National Park Service's goal of protecting native desert species, the GMPs adopted a "no burro or wild horse" strategy and directed that burro populations be reduced.

The GMP "no burro" strategy is a multi-phased, humane approach to achieving a zero population goal. Phase one consists of a park-wide live capture program that was in effect for a maximum of 6 months. Phase two consists of working with interested and qualified animal protection groups and authorizing them to begin removing remaining burros. Phase two will last for a period of approximately two years. In Phase three, NPS staff and contractors will eliminate the remaining few burros in a humane manner to achieve a zero population. Phase three could involve a variety of techniques including, but not limited to, shooting, wrangler/helicopter roundups, and netting removal with helicopter. Additional compliance may be required for all phases to ensure adequate analysis and compliance with NHPA, Wilderness Act or other applicable laws not addressed in the GMPs.

The purpose of this agreement is to establish a cooperative relationship between the NPS and PVDR which would allow PVDR to undertake burro capture and relocation activities that are consistent with Phase Two of the General Management Plans for both parks. The Park and Preserve, working with PVDR, have a common interest in the humane removal of invasive burros from these national park units. All parties to this agreement benefit from the sharing of available expertise in animal wrangling, environmental education, and public outreach.

As outlined below, this Agreement authorizes PVDR to round-up and remove burros from the Park and Preserve subject to the terms of this cooperative agreement.

#### B. Objectives

- 1) Establish a cooperative relationship between the NPS and PVDR which would allow PVDR to undertake burro capture and relocation activities within Death Valley National

Park and Mojave National Preserve in a manner consistent with the Burro Management objectives in Phase Two of the General Management Plans for both parks.

- 2) Identify and locate burro populations
- 3) Roundup and relocate burros to offsite adoption and sanctuary facilities. Document burro populations within each park and track the fate of relocated animals.
- 4) Cooperatively document and educate the general public about burros, the need for management, and the process of relocating burros from the park and preserve.

#### C. Public Purpose

The public purpose of this agreement is to remove invasive burros and the threats they pose to native vegetation and species of concern. The public benefits include the restoration of springs that support vegetation, bighorn sheep, and rare species like the Inyo California towhee.

#### ARTICLE II – AUTHORITY

NPS enters into this Cooperative Agreement pursuant to:

54 USC §101702(d), Cooperative Agreements for System Unit Natural Resource Protection

(1) In general.—

The Secretary may enter into cooperative agreements with State, local, or tribal governments, other Federal agencies, other public entities, educational institutions, private nonprofit organizations, or participating private landowners for the purpose of protecting natural resources of System units through collaborative efforts on land inside and outside the System units.

(2) Terms and conditions. – A cooperative agreement entered into under paragraph (1) shall provide clear and direct benefits to System unit natural resources and—

(A) Provide for –

- (i) the preservation, conservation, and restoration of coastal and riparian systems, watersheds, and wetlands;
- (ii) preventing, controlling, or eradicating invasive exotic species that are within a System unit or adjacent to a System unit; or
- (iii) restoration of natural resources, including native wildlife habitat or ecosystems;

(B) include a statement of purpose demonstrating how the agreement will—

- (i) enhance science-based natural resource stewardship at the System unit; and
- (ii) benefit the parties to the agreement;

(C) specify any staff required and technical assistance to be provided by the Secretary or other parties to the agreement in support of activities

- (i) protect natural resources of the System unit; and
- (ii) benefit the parties to this agreement;

(D) identify any materials, supplies, or equipment and any other resources that will be contributed by the parties to the agreement or by other Federal agencies;

(E) describe any financial assistance to be provided by the Secretary or the partners to implement the agreement

(F) ensure that any expenditures by the Secretary pursuant to the agreement is determined by the Secretary to support the purposes of natural resource stewardship at a System unit; and

(G) include such other terms and conditions as are agreed to by the Secretary and the other parties to the agreement.

(3) Limitations.—



The Secretary shall not use any funds associated with an agreement entered into under paragraph (1) for the purposes of land acquisition, regulatory activity, or the development, maintenance, or operation of infrastructure, except for ancillary support facilities that the Secretary determines to be necessary for the completion of projects or activities identified in the agreement.

### ARTICLE III – STATEMENT OF WORK

#### A. PVDR shall:

1. Participate in an orientation session about conducting burro removal efforts in a National Park. The orientation session will instruct PVDR staff on the basics of preserving wilderness character, conserving endangered species, and complying with other regulatory requirements for approved actions undertaken by PVDR staff in either park unit.
2. Comply with all laws and regulations that apply to actions undertaken by PVDR pursuant to this Agreement.
3. Maintain liability insurance for all staff, PVDR volunteers and equipment, pursuant to Article VIII.
4. Maintain detailed records of animals collected from the Park and Preserve and provide such records to NPS upon request.
5. Communicate locations and methods for burro removal at least 2 weeks before entering the Park or the Preserve.
6. Provide at least 60 days notification if Helicopters or Unmanned Aerial Vehicles (UAV) are proposed for burro reconnaissance or removal operations. No rotorcraft will be used without prior NPS approval.
7. Not land or touch down helicopters, or use UAVs, without the express written approval of the NPS.
8. Accept responsibility for and provide humane care and treatment of the burros at all stages (round-up, staging, removal, quarantine and adoption/sanctuary).
9. Test all burros for equine infectious anemia (EIA), commonly known as Coggins, prior to transport.
  1. Any burro tested under this arrangement that receives a positive EIA shall be humanely euthanized according to PVDR's Standard Operating Procedures. The carcass shall be removed from the national park unit, in a discreet manner, by PVDR employees to the Kern County Landfill located in Bakersfield, California, or as directed by the California State Veterinarian's Office.
  2. Once the burros have cleared staging and PVDR is in possession of a negative Coggins and a veterinarian-issued health certificate, female and young burros shall be transported to PVDR's training facility in Scenic, Arizona. Males shall be transported to PVDR's main facility in San Angelo, Texas to await castration. All burros shall be quarantined away from any non-program burros for a period not less than 21 days.
10. Approval to use UAVs must be granted by the NPS prior to use. This agreement does not guarantee approval will be granted. If granted, PVDR must comply with all NPS regulations and policies relating to the use UAVs and/or helicopters in the Park or the Preserve and for filming in either NPS unit.
  1. Filming in wilderness must include a wilderness education component in order for the NPS to consider approving it.

#### B. The NPS Agrees to:

1. Not to allow other rescue groups to capture burros without consulting with PVDR.
2. Upon capture, the NPS relinquishes any rights to the feral burros.
3. Allow PVDR access to specific areas of the Park and the Preserve, as deemed appropriate by NPS, in order to further the objectives of this Agreement.
4. Develop a Formal Communications Plan in consultation with the NPS Regional Office.
5. Complete any necessary compliance documentation (e.g. Minimum Requirements Decision Guide, NEPA, or NHPA) for burro round up operations in a timely manner.
6. Provide access to NPS property and facilities as deemed appropriate by NPS.
  1. The holding pens at the Furnace Creek airport in Death Valley National Park may be appropriate facilities.
  2. Mojave National Preserve may make available legacy ranching facilities as necessary, for example Kessler Spring or Valley View.

C. NPS and PVDR responsibilities together shall:

1. Develop outreach and communication materials that may include press releases, social media, campground fliers, and posters.
  1. All messaging should be co-approved prior to release.
2. Identify filming locations and messaging.
3. Work towards the "no horse and burro" goal for Death Valley National Park and Mojave National Preserve.
4. Participate in a regular communication schedule. All Parties agree to monthly meetings (more frequent during active roundups).
  1. Communication can be made through regular channels (i.e., email and phone) to the Key Officials identified in Article V.
5. Develop metrics and timetables to explain and communicate progress and success.

#### ARTICLE IV – TERM OF AGREEMENT

This Cooperative Agreement shall become effective on April 15, 2018 through April 14, 2023, unless terminated earlier per Article XI. The period from the Effective Date to the Expiration Date is the period of performance for the Agreement (Agreement Term).

#### 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:

- a. Agreement Technical Representative (ATR):

Josh Hoines  
Chief of Resources  
Death Valley National Park  
579 Cow Creek Service Road

Building CC50  
Death Valley, CA 92328  
Phone: 760-786-3253  
Email: Josh\_Hoines@nps.gov

b. Awarding Officer:

Lilette J. Baltodano  
Financial Assistance Awarding Officer  
Pacific West Regional Office  
National Park Service  
333 Bush Street, Suite 500  
San Francisco, CA 94104  
Phone: 415-623-2251  
Email: lilette\_baltodano@nps.gov

c. Other Key Officials:

Debra Hughson  
Chief of Resources  
Mojave National Preserve  
2701 Barstow Road  
Barstow, CA 92311  
Phone: 760-252-6105  
Email: Debra\_Hughson@nps.gov

**2. For PVDR:**

a. Mark Meyers

Executive Director  
PO Box 216  
Miles, TX 76861  
Phone: 325-276-1662  
Email: mark@pvdr.org

b. Jack Yanez

VP of Ranch Operations  
PO Box 216  
Miles, TX 76861  
Phone: 325-763-7541  
Email: jack@pvdr.org

c. Kyle Nealey

Phone: 325-977-0818

Email: kyle@pvdr.org

- B. **Communications.** Recipient shall address any communication regarding this Agreement to the ATR with a copy to the Awarding Officer. Communications that relate solely to technical matters may be sent only to the ATR. Communications that relate solely to routine operational matters described in the current work plan may be sent to the specific point of contact at Park of the Preserve.
- C. **Changes in Key Officials.** Neither the NPS nor Recipient 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.

#### ARTICLE VI – AWARD AND PAYMENT

- A. Funds will not be exchanged under this Agreement. In-kind services will be exchanged as set forth in Article III. Should the parties deem it necessary to exchange money to further the goals of this agreement, a commitment of funds will be authorized through an amendment issued against this Cooperative Agreement identifying each project or group of projects, the amount of financial assistance and any other special terms or conditions applicable to that project task.

#### ARTICLE VII – PRIOR APPROVAL

- A. NPS approval will be required before PVDR may use any mechanized equipment off established roads, rights of way or developed areas
- B. The use of mechanized transport and mechanized equipment in areas managed as wilderness by PVDR must be approved in advance and in writing by NPS. Filming in wilderness can only be approved if the end product has a wilderness education component.
- D. NPS approval will be required prior to use of any facilities in the Park or the Preserve by PVDR for holding burros.

#### ARTICLE VIII – INSURANCE AND LIABILITY

- A. **Insurance.** PVDR shall be required to (1) obtain liability insurance or (2) demonstrate present financial resources in an amount determined sufficient by the Government to cover claims brought by third parties for death, bodily injury, property damage, or other loss resulting from one or more identified activities carried out in connection with this financial assistance agreement.
- B. **Insured.** The federal government shall be named as an additional insured under the PVDR's insurance policy.
- C. **Indemnification.** PVDR hereby agrees to indemnify the federal government, NPS or from any act or omission of PVDR, its officers, employees, or (members, participants, agents, representatives, agents as appropriate), (1) against third party claims for damages arising from one or more identified activities carried out in connection with this financial assistance agreement and (2) for damage or loss to government property resulting from such an activity. This obligation shall survive the termination of this Agreement.



1. To purchase public and employee 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 anyone 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, PVDR shall provide the NPS with confirmation of such insurance coverage.
  2. To pay the United States the full value for all damage to the lands or other property of the United States caused by PVDR, its officers, employees, or representatives.
  3. To provide workers' compensation protection to PVDR, its officers, employees, and representatives.
  4. To cooperate with NPS in the investigation and defense of any claims that may be filed with NPS arising out of the activities of the PVDR, its agents, and employees.
  5. In the event of damage to or destruction of the buildings and facilities assigned for the use of PVDR in whole or in part by any cause whatsoever, nothing herein contained shall be deemed to require NPS to replace or repair the buildings or facilities. If NPS determines in writing, after consultation with PVDR that damage to the buildings or portions thereof renders such buildings unsuitable for continued use by PVDR, 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 PVDR will constitute termination of this Agreement by NPS.
- D. **Flow-down.** For the purposes of this clause, "recipient" includes such sub-recipients, contractors, or subcontractors as, in the judgment of the recipient and subject to the Government's determination of sufficiency, have sufficient resources and/or maintain adequate and appropriate insurance to achieve the purposes of this clause.

## ARTICLE IX – REPORTS, SCHEDULE, AND/OR DELIVERABLES

### A. **Performance Reports.** PVDR must submit a performance reports on an annual basis.

1. The performance reports may be submitted using one of the following methods:
  - a. One original mailed to: Contracting Division, National Park Service, Pacific West Regional Office, 333 Bush Street, Suite 500, San Francisco, CA 94104
  - b. One copy, emailed to: [PWR\\_Agreements@nps.gov](mailto:PWR_Agreements@nps.gov)
  - c. Electronic submission through FedConnect
2. The performance reports must detail the following, in accordance with 2 CFR §200.328:
  - a. A comparison of actual accomplishment to the objectives of the award established for the period;
  - b. The reason why goals were not met, if appropriate; and
  - c. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.
3. The first interim performance report will be due in accordance with the following table:

Award Performance Start Date	First Annual Interim Report End Date (due the following year)	First Annual Interim Report Due Date
January 1 – March 31	March 31	June 29
April 1 – June 30	June 30	September 28



July 1 – September 30	September 30	December 29
October 1 – December 31	December 31	March 31

4. Subsequent interim performance reports are due 90 calendar days after the end of the reporting period, which ends on December 31.
  5. The final performance report will be submitted no later than 90 calendar days following the end of the term of agreement, or upon termination.
- B. The Secretary of the Interior and the Comptroller General of the United States, or their duly authorized representatives, will have access, for the purpose of financial or programmatic review and examination, to any books, documents, papers, and records that are pertinent to the Agreement at all reasonable times during the period of retention in accordance with 2 CFR §200.333 and 2 CFR §200.336.

#### **ARTICLE X – PROPERTY UTILIZATION**

All tools, equipment, and facilities furnished by NPS will be on a loan basis. Tools, equipment and facilities will be returned in the same condition received except for normal wear and tear in project use. Property management standards set forth in 2 CFR §§ 200.310-316 apply to this Agreement.

#### **ARTICLE XI – MODIFICATION, REMEDIES FOR NONCOMPLIANCE, AND TERMINATION**

- A. This Cooperative Agreement may be modified only by a written instrument executed by the parties. Modifications will be in writing and approved by the NPS Awarding Officer and the authorized representative of Recipient.
- B. Additional conditions may be imposed by NPS if it is determined that the Recipient is non-compliant to the terms and conditions of this agreement. Remedies for Noncompliance can be found in 2 CFR § 200.338.
- C. This Cooperative Agreement may be terminated consistent with applicable termination provisions for Cooperative Agreements found in 2 CFR §§ 200.339-342.

#### **ARTICLE XII – GENERAL AND SPECIAL PROVISIONS**

##### **A. General Provisions**

1. **Governing Regulations.** The following Federal regulations are incorporated by reference into this Agreement:
  - a. **Administrative Requirements:**  
2 CFR Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”
  - b. **Determination of Allowable Costs:**  
2 CFR Part 200, Subpart E, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”
  - c. **Audit Requirements:**

7. **Member of Congress.** Pursuant to 41 U.S.C. § 22, no Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or adopted by or on behalf of the United States, or to any benefit to arise thereupon.
8. **Agency.** The Recipient is not an agent or representative of the United States, the Department of the Interior, NPS, or the Park, nor will the Recipient represent its self as such to third parties. NPS employees are not agents of the Recipient and will not act on behalf of the Recipient.
9. **Non-Exclusive Agreement.** This Agreement in no way restricts the Recipient or NPS from entering into similar agreements, or participating in similar activities or arrangements, with other public or private agencies, organizations, or individuals.
10. **Survival.** Any and all provisions which, by themselves or their nature, are reasonably expected to be performed after the expiration or termination of this Agreement shall survive and be enforceable after the expiration or termination of this Agreement. Any and all liabilities, actual or contingent, which have arisen during the term of and in connection with this Agreement shall survive expiration or termination of this Agreement.
11. **Partial Invalidity.** If any provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such provision to the parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
12. **Captions and Headings.** The captions, headings, article numbers and paragraph numbers appearing in this Agreement are inserted only as a matter of convenience and in no way shall be construed as defining or limiting the scope or intent of the provision of this Agreement nor in any way affecting this Agreement.
13. **No Employment Relationship.** This Agreement is not intended to and shall not be construed to create an employment relationship between NPS and Recipient or its representatives. No representative of Recipient shall perform any function or make any decision properly reserved by law or policy to the Federal government.
14. **No Third-Party Rights.** This Agreement creates enforceable obligations between only NPS and Recipient. Except as expressly provided herein, it is not intended nor shall it be construed to create any right of enforcement by or any duties or obligation in favor of persons or entities not a party to this Agreement.
15. **Foreign Travel.** The Recipient shall comply with the provisions of the Fly America Act (49 USC 40118). The implementing regulations of the Fly America Act are found at 41 CFR 301-10.131 through 301-10.143.

## **B. Special Provisions**

1. **Public Information and Endorsements.**
  - a. Recipient shall 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 governmental, Departmental, bureau, or government employee endorsement of a business, product, service, or position which the Recipient represents. No release of information relating to this award may state or



- imply that the Government approves of the Recipient's work products, or considers the Recipient's work product to be superior to other products or services.
- b. All information submitted for publication or other public releases of information regarding this project shall 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. Recipient must obtain prior Government approval for any public information releases concerning this award which refer to the Department of the Interior or any bureau or employee (by name or title). The specific text, layout photographs, etc. of the proposed release must be submitted with the request for approval.
  - d. Recipient further agrees to include this provision in a subaward to a subrecipient, except for a subaward 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.
3. **Rights in Data.** The Recipient must grant the United States of America a 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, of all copyrightable material first produced or composed under this Agreement by the Recipient, its employees or any individual or concern specifically employed or assigned to originate and prepare such material.
4. **Retention and Access Requirements for Records.** All Recipient financial and programmatic records, supporting documents, statistical records, and other grants-related records shall be maintained and available for access in accordance 2 CFR §§ 200.333-336.
5. **Audit Requirements.**
- a. Non-Federal entities that expend \$750,000 or more during a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and 2 CFR Part 200, Subpart F, which is available at <http://www.ecfr.gov/cgi-bin/text-idx?SID=fd6463a517ceea3fa13e665e525051f4&node=sp2.1.200.f&rgn=div6>
  - b. Non-Federal entities that expend less than \$750,000 for a fiscal year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).
  - c. Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits. General guidance on the single audit process is included in a pamphlet titled, Highlights of the Single Audit Process" which is available on the internet at <http://www.oig.dol.gov/public/reports/oa/documents/singleauditpamphlet.pdf>. Additional information on single audits is available from the Federal Audit Clearinghouse at <http://harvester.census.gov/sac/>.



6. **Procurement Procedures.** It is a national policy to place a fair share of purchases with minority business firms. The Department of the Interior is strongly committed to the objectives of this policy and encourages all recipients of its grants and cooperative agreements to take affirmative steps to ensure such fairness. Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of Federal awards shall take all of the following steps to further this goal:
  - a. Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
  - b. Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
  - c. Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
  - d. Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
  - e. Use the services and assistance, as appropriate, of such organizations as the Small Business Development Agency in the solicitation and utilization of small business, minority-owned firms and women's business enterprises.
7. **Seat Belt Provision.** In accordance with Executive Order 13043, "Increasing Seat Belt Use in the United States" (signed April 18, 1997), as amended by Executive Order 13652 (signed September 30, 2013), the Recipient is encouraged to adopt and enforce on-the-job seat belt use policies and programs for their employees when operating company-owned, rented, or personally owned vehicles. These measures include, but are not limited to, conducting education, awareness, and other appropriate programs for their employees about the importance of wearing seat belts and the consequences of not wearing them.
8. **Recipient Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights.**
  - a. This award and employees working on this financial assistance agreement will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239).
  - b. The Award Recipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712.
  - c. The Award Recipient shall insert the substance of this clause, including this paragraph (c), in all subawards or subcontracts over the simplified acquisition threshold, 42 CFR § 52.203-17 (as referenced in 42 CFR § 3.908-9).
9. **Reporting Subawards and Executive Compensation.**
  - a. Reporting of first-tier subawards.
    1. Applicability. Unless you are exempt as provided in paragraph D. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery Act funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph E. of this award term).
    2. Where and when to report.
      - i. You must report each obligating action described in paragraph A.1. of this award term to <http://www.fsr's.gov>.

- ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
    3. What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.
  - b. Reporting Total Compensation of Recipient Executives.
    1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
      - i. The total Federal funding authorized to date under this award is \$25,000 or more;
      - ii. In the preceding fiscal year, you received—
        - a. 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
        - b. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
      - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
    2. Where and when to report. You must report executive total compensation described in paragraph A.1. of this award term:
      - i. As part of your registration profile at <https://www.sam.gov>.
      - ii. By the end of the month following the month in which this award is made, and annually thereafter.
  - c. Reporting of Total Compensation of Subrecipient Executives.
    1. Applicability and what to report. Unless you are exempt as provided in paragraph D. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—
      - i. In the subrecipient's preceding fiscal year, the subrecipient received—
        - a. 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
        - b. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
      - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
    2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
      - i. To the recipient.
      - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.
  - d. Exemptions.



1. If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:
  - i. Subawards, and
  - ii. The total compensation of the five most highly compensated executives of any subrecipient.
- e. Definitions. For purposes of this award term:
  1. Entity means all of the following, as defined in 2 CFR part 25:
    - i. A Governmental organization, which is a State, local government, or Indian tribe;
    - ii. A foreign public entity;
    - iii. A domestic or foreign nonprofit organization;
    - iv. A domestic or foreign for-profit organization;
    - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
  2. Executive means officers, managing partners, or any other employees in management positions.
  3. Subaward:
    - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
    - ii. The term includes your procurement of property and services needed to carry out the project or program. The term does not include procurement of incidental property and services needed to carry out the award project or program.
    - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
  4. Subrecipient means an entity that:
    - i. Receives a subaward from you (the recipient) under this award; and
    - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
  5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
    - i. Salary and bonus.
    - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
    - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
    - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
    - v. Above-market earnings on deferred compensation which is not tax-qualified.
    - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

## 10. Conflict of Interest.

- a. The Recipient must establish safeguards to prohibit its employees and Sub-recipients from using their positions for purposes that constitute or present the appearance of a personal or organizational conflict of interest. The Recipient is responsible for notifying the Awarding Officer in writing of any actual or potential conflicts of interest that may arise during the life of this award. Conflicts of interest include any relationship or matter which might place the Recipient or its employees in a position of conflict, real or apparent, between their responsibilities under the agreement and any other outside interests. Conflicts of interest may



- also include, but are not limited to, direct or indirect financial interests, close personal relationships, positions of trust in outside organizations, consideration of future employment arrangements with a different organization, or decision-making affecting the award that would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the Recipient and/or Recipient's employees and Sub-recipients in the matter.
- b. The Awarding Officer and the servicing Ethics Counselor will determine if a conflict of interest exists. If a conflict of interest exists, the Awarding Officer will determine whether a mitigation plan is feasible. Mitigation plans must be approved by the Awarding Officer in writing.
  - c. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR § 200.338, Remedies/or Noncompliance, including suspension or debarment (see also 2 CFR Part 180).

**11. Minimum Wages under Executive Order 13658 (January 2015).**

a. Definitions. As used in this clause—

“United States” means the 50 states and the District of Columbia.

“Worker”—

1. Means any person engaged in performing work on, or in connection with, an agreement covered by Executive Order 13658, and
  - i. Whose wages under such agreements are governed by the Fair Labor Standards Act (29 U.S.C. chapter 8), the Service Contract Labor Standards statute (41 U.S.C. chapter 67), or the Wage Rate Requirements (Construction) statute (40 U.S.C. chapter 31, subchapter IV),
  - ii. Other than individuals employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 C.F.R. § 541.
  - iii. Regardless of the contractual relationship alleged to exist between the individual and the employer.
2. Includes workers performing on, or in connection with, the agreement whose wages are calculated pursuant to special certificates issued under 29 U.S.C. § 214(c).
3. Also includes any person working on, or in connection with, the agreement and individually registered in a bona fide apprenticeship or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship.

b. Executive Order Minimum Wage rate.

- A. The Recipient shall pay to workers, while performing in the United States, and performing on, or in connection with, this agreement, a minimum hourly wage rate of \$10.10 per hour beginning January 1, 2015.
- B. The Recipient shall adjust the minimum wage paid, if necessary, beginning January 1, 2016 and annually thereafter, to meet the Secretary of Labor's annual E.O. minimum wage. The Administrator of the Department of Labor's Wage and Hour Division (the Administrator) will publish annual determinations in the Federal Register no later than 90 days before the effective date of the new E.O. minimum wage rate. The Administrator will also publish the applicable E.O. minimum wage on [www.wdol.gov](http://www.wdol.gov) (or any successor Web site) and on all wage determinations issued under the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute. The applicable published E.O. minimum wage is incorporated by reference into this agreement.

3.
  - i. The Recipient may request a price adjustment only after the effective date of the new annual E.O. minimum wage determination. Prices will be adjusted only if labor costs increase as a result of an increase in the annual E.O. minimum wage, and for associated labor costs and relevant subaward costs. Associated labor costs shall include increases or decreases that result from changes in social security and unemployment taxes and workers' compensation insurance, but will not otherwise include any amount for general and administrative costs, overhead, or profit.
  - ii. Subrecipients may be entitled to adjustments due to the new minimum wage, pursuant to paragraph (b)(2). Recipients shall consider any Subrecipient requests for such price adjustment.
  - iii. The Awarding Officer will not adjust the agreement price under this clause for any costs other than those identified in paragraph (b)(3)(i) of this clause, and will not provide duplicate price adjustments with any price adjustment under clauses implementing the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute.
4. The Recipient warrants that the prices in this agreement do not include allowance for any contingency to cover increased costs for which adjustment is provided under this clause.
5. The Recipient shall pay, unconditionally to each worker, all wages due free and clear without subsequent rebate or kickback. The Recipient may make deductions that reduce a worker's wages below the E.O. minimum wage rate only if done in accordance with 29 C.F.R. § 10.23, Deductions.
6. The Recipient shall not discharge any part of its minimum wage obligation under this clause by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Labor Standards statute, the cash equivalent thereof.
7. Nothing in this clause shall excuse the Recipient from compliance with any applicable Federal or State prevailing wage law or any applicable law or municipal ordinance establishing a minimum wage higher than the E.O. minimum wage. However, wage increases under such other laws or municipal ordinances are not subject to price adjustment under this subpart.
8. The Recipient shall pay the E.O. minimum wage rate whenever it is higher than any applicable collective bargaining agreement(s) wage rate.
9. The Recipient shall follow the policies and procedures in 29 C.F.R. § 10.24(b) and 10.28 for treatment of workers engaged in an occupation in which they customarily and regularly receive more than \$30 a month in tips.
- c.
  1. This clause applies to workers as defined in paragraph (a). As provided in that definition
    - i. Workers are covered regardless of the contractual relationship alleged to exist between the Recipient or Subrecipient and the worker;
    - ii. Workers with disabilities whose wages are calculated pursuant to special certificates issued under 29 U.S.C. § 214(c) are covered; and
    - iii. Workers who are registered in a bona fide apprenticeship program or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship, are covered.
  2. This clause does not apply to—
    - i. Fair Labor Standards Act (FLSA) – covered individuals performing in connection with contracts covered by the E.O., *i.e.* those individuals who perform duties necessary to the performance of the agreement, but who are not directly engaged in performing the specific work called for by the agreement, and who spend less than 20 percent of their hours worked in a particular workweek performing in connection with such agreements;
    - ii. Individuals exempted from the minimum wage requirements of the FLSA under 29 U.S.C. § 213(a) and 214(a) and (b), unless otherwise covered by the Service Contract



Labor Standards statute, or the Wage Rate Requirements (Construction) statute. These individuals include but are not limited to—

- A. Learners, apprentices, or messengers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. § 214(a).
  - B. Students whose wages are calculated pursuant to special certificates issued under 29 U.S.C. § 214(b).
  - C. Those employed in a bona fide executive, administrative, or professional capacity (29 U.S.C. § 213(a)(1) and 29 C.F.R. § part 541).
- d. The Recipient shall notify all workers performing work on, or in connection with, this agreement of the applicable E.O. minimum wage rate under this clause. With respect to workers covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, the Contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers whose wages are governed by the FLSA, the Recipient shall post notice, utilizing the poster provided by the Administrator, which can be obtained at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts), in a prominent and accessible place at the worksite. Recipients that customarily post notices to workers electronically may post the notice electronically provided the electronic posting is displayed prominently on any Web site that is maintained by the Recipient, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.
- e. Payroll Records.
1. The Recipient shall make and maintain records, for three years after completion of the work, containing the following information for each worker:
    - i. Name, address, and social security number;
    - ii. The worker's occupation(s) or classification(s);
    - iii. The rate or rates of wages paid;
    - iv. The number of daily and weekly hours worked by each worker;
    - v. Any deductions made; and
    - vi. Total wages paid.
  2. The Recipient shall make records pursuant to paragraph (e)(1) of this clause available for inspection and transcription by authorized representatives of the Administrator. The Recipient shall also make such records available upon request of the Awarding Officer.
  3. The Recipient shall make a copy of the agreement available, as applicable, for inspection or transcription by authorized representatives of the Administrator.
  4. Failure to comply with this paragraph (e) shall be a violation of 29 C.F.R. § 10.26 and this agreement. Upon direction of the Administrator or upon the Awarding Officer's own action, payment shall be withheld until such time as the noncompliance is corrected.
  5. Nothing in this clause limits or otherwise modifies the Recipient's payroll and recordkeeping obligations, if any, under the Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute, the Fair Labor Standards Act, or any other applicable law.
- f. Access. The Recipient shall permit authorized representatives of the Administrator to conduct investigations, including interviewing workers at the worksite during normal working hours.
- g. Withholding. The Awarding Officer, upon his or her own action or upon written request of the Administrator, will withhold funds or cause funds to be withheld, from the Recipient under this or any other Federal agreement with the same Recipient, sufficient to pay workers the full amount of wages required by this clause.



- h. Disputes. Department of Labor has set forth in 29 C.F.R. § 10.51, Disputes concerning Recipient compliance, the procedures for resolving disputes concerning an Recipient's compliance with Department of Labor regulations at 29 C.F.R. § 10. Such disputes shall be resolved in accordance with those. This includes disputes between the Recipient (or any of its Subrecipients) and the contracting agency, the Department of Labor, or the workers or their representatives.
- i. Antiretaliation. The Recipient shall not discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to compliance with the E.O. or this clause, or has testified or is about to testify in any such proceeding.
- j. Subcontractor compliance. The Recipient is responsible for Subrecipient compliance with the requirements of this clause and may be held liable for unpaid wages due Subrecipient workers.
- k. Subawards. The Recipient shall include the substance of this clause, including this paragraph (k) in all subawards, regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.

#### ARTICLE XIII – ATTACHMENTS

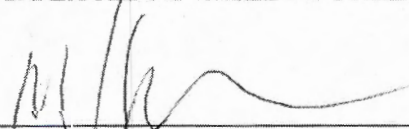
The following attachments are hereby incorporated into this Cooperative Agreement. In the event of any apparent conflict between the terms of the Cooperative Agreement and the attachments, the terms of the Cooperative Agreement, including its designations and modifications, will prevail.

- A. SF-424 - Application for Federal Assistance (incorporated by reference)
- B. SF-424A - Budget Information - Non-Construction Programs (incorporated by reference)
- C. SF-424 B - Assurances - Non-Construction Programs (incorporated by reference)

#### ARTICLE XIV – SIGNATURES

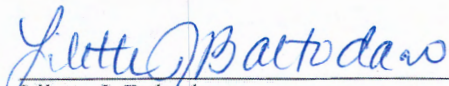
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) set forth below.

**FOR PEACEFUL VALLEY DONKEY RESCUE, INC.**

  
\_\_\_\_\_  
Mark Meyers  
Executive Director

9/17/2018  
Date

**FOR THE NATIONAL PARK SERVICE**

  
\_\_\_\_\_  
Lilette J. Battodano  
Awarding Officer

9/17/18  
Date