



fiscal Oct 1 - Sept. 30.

Agreement Number

17450609 01 33

**Cooperative Agreement
Between
The United States Department of Interior
National Park Service
And the
The Missisquoi River Basin Association**

Beginning Date: (Date Signed) Completion Date: 5 years
Fiscal Year 2009 Funding: 4531-MIRI-662 Not to Exceed \$ 50,000
Budget Object Class: 411C
Project Title: Missisquoi and Trout Wild and Scenic Rivers Study Assistance
CFDA: 15.921

This Agreement is entered into by and between the Missisquoi River Basin Association (MRBA and the United States of America, U.S. Department of the Interior, National Park Service (NPS).

ARTICLE I - BACKGROUND AND OBJECTIVES

WHEREAS, the upper Missisquoi River and its tributary, the Trout River, were designated for study as a potential National Wild and Scenic River (WSR) in March, 2009 pursuant to enactment of PL 111-11 (the Omnibus Public Land Management Act of 2009);

WHEREAS, The MRBA is the principal non-profit conservation organization devoted to conservation, management, and public education associated with the Missisquoi and Trout Rivers;

WHEREAS, The MRBA has been the principal local sponsor developing community support to undertake the Wild and Scenic River Study (the Study) based on an understanding that MRBA will play a central role in convening and conducting the Study;

WHEREAS, The MRBA has a long history of working with state and federal agencies on conservation, restoration and public education initiatives associated with the Missisquoi River;

WHEREAS, The NPS has an established history and policy of conducting studies for potential National Wild and Scenic Rivers in New England through Cooperative Agreements with locally-based organizations which can maximize the participation and cooperation of local communities, town boards, riverfront landowners and other important local stakeholders.

ARTICLE II - AUTHORITY

16 U.S.C. § 1282 (b) (1), Wild and Scenic Rivers Act, authorizes the Secretary to "assist, advise and to cooperate with" States or their political subdivisions, landowners, private organizations, or individuals to plan, protect, and manage river resources through written agreements or otherwise. This authority applies within or outside a federally administered area and applies to rivers which are components of the National Wild and Scenic Rivers System and to other rivers;

PL 111-11 (Omnibus Public Land Management Act of 2009), authorizes the Secretary to conduct a study of the upper Missisquoi and Trout Rivers for potential designation as a component of the National Wild and Scenic Rivers System;

ARTICLE III - STATEMENT OF WORK

NOW, THEREFORE, in consideration of the foregoing as a basis for agreement, cooperation and assistance between the parties and to achieve their compatible objectives, the parties agree to perform the functions specified below in accordance with the provisions of this Agreement.

The NPS and MRBA agree to perform the functions specified below in accordance with the provisions of this agreement.

A. The NPS agrees to:

1. Work with MRBA in the coordination of Study activities and the conduct of all mutually agreed upon projects.
2. Assist MRBA in successfully meeting all required study components, including findings of 'eligibility' and 'suitability' for designation.
3. Provide ongoing technical assistance to MRBA related to the policy and legislative requirements of the Wild and Scenic Rivers Act to ensure that work products, processes and outcomes meet those requirements.
4. Provide funding, not to exceed \$50,000 in FY 2009, to accomplish mutually agreed upon projects. Additional funding may be provided in modifications to this agreement.

B. MRBA Agrees To:

1. Convene, facilitate, and coordinate the Study, including community and interest group involvement through the Missisquoi Wild and Scenic River Study Committee (Study Committee) and other committees/subcommittees as may be necessary and mutually agreed upon.
2. Provide planning, mapping, and other services to the Study and the Study Committee as mutually agreed upon and consistent with priorities established by the NPS, MRBA and the Study Committee.
3. Seek technical assistance from the NPS regarding Wild and Scenic Rivers Act requirements, and follow such assistance when provided.
4. Undertake, through direct support or subcontracting as necessary such other tasks and duties as may be mutually agreed upon. MRBA shall be responsible for any subcontracting deemed necessary and mutually agreed upon.

A. NPS and MRBA agree to:

1. Work together in partnership with the Study Committee to design, develop and implement Study workplan elements to meet NPS and local community objectives related to understanding the resources of the Missisquoi River, and planning for the conservation and public education related to those resources.

ARTICLE IV - TERM OF AGREEMENT

This Agreement will become effective upon signature of both parties and extend for 5 years unless terminated earlier in accordance with Article XI.

Projects identified in the FY09 Workplan and Budget (see summary in Article VI) should be completed within one year from the date of the Agreement. Additional funds may be obligated in future years based upon the Workplans and Budgets of those fiscal years.

ARTICLE V - KEY OFFICIALS

The Key Officials specified below are considered to be essential to ensure maximum coordination and communication between the parties and the work being performed hereunder. Either party, on notice to the other party, may designate another person or persons to act in his/her place for point of contact positions that do not require specific designation.

The NPS Agreements Technical Representative (ATR) will be designated in writing by the contracting officer. Authorities and limitations of authority will be explained in the designation letter.

The Cooperator may change its Key Officials by notifying the NPS contracting officer in writing. MRBA will address any communication regarding this Agreement to the NPS ATR.

A. For the NPS:

Signatory/Administrative

Marilyn Colot
Contracting Officer
200 Chestnut Street
Philadelphia, PA 19106
(215) 597-7143
Marilyn_colot@nps.gov

Agreements Technical Representative

Jamie Fosburgh
Rivers Program Manager, NER-Boston
15 State Street
Boston, MA 02109
Tel (617) 223-5191
Fax (617) 223-5164
Jamie_fosburgh@nps.gov

B. For MRBA:

Cynthia Scott
2839 VT Route 105,
East Berkshire, VT 05447
802 933-9009
MRBA@pshift.com

*Send qtrly reports to:
~~Tyler Brombach~~ Debbie Roth
Contracting office*

ARTICLE VI – AWARD AND PAYMENT

- A. The NPS has approved this Missisquoi Wild and Scenic River project according to the MRBA's proposal, entitled, "FY 2009 Missisquoi and Trout Wild and Scenic River Study Assistance," included as Attachment A. In addition to the proposal, the following documents have been submitted by the recipient prior to award:
1. SF-424, Request for Federal Financial Assistance
 2. SF-424A, Budget Information, Non-construction Programs
 3. SF-424B, Assurances, Non-construction Programs

- B. The following funds are obligated against this Agreement:

Amount \$50,000 Account Number: 4531-MIRI-662

- C. Payment will be made no more frequently than monthly and will be paid by electronic funds transfer directly into the MRBA account located at the financial institution as designated in the Central Contractor Register.
- D. Standard Form 270 (SF-270), "Request for Advance or Reimbursement," must be submitted for payment in signed original to the NPS Contracting Officer with a copy to the NPS ATR. The request will be accompanied by a breakdown sheet showing expended costs in each budgetary item.

Each SF-270 furnished will be addressed to:
Contracting Officer
National Park Service
Northeast Region
200 Chestnut Street, 3rd floor
Philadelphia, PA 19106

- E. When requesting reimbursement, the MRBA must demonstrate and certify that an amount equal to or exceeding the amount requested in any payment has been expended by the MRBA.
- F. When **Advance Payment** is requested by the recipient, the following procedures apply:

The Cooperator must submit a **Financial Management, Fund Control and Accountability Plan**. The Plan must be approved by the Contracting Officer prior to the release of any advance payment. The Plan must contain at least the following information:

1. Identify the estimated cash receipts holding time and the procedures enacted to minimize the time elapsing between transfer of funds and disbursement by the recipient.
2. Certify that financial management systems meet the standards for fund control and accountability as described in OMB Circular A-110.
3. Show that payment requests will be timed with the immediate cash requirements of the recipient in carrying out the purposes of the agreement. In general, advances of less than \$100,000 should fund expenditures no more than 30 days in advance. Advances over \$100,000 should be expended much more quickly.
4. Identify banking account information where transferred funds will be deposited in an insured account before disbursed.
5. Show a plan for accounting for the receipt, obligation, and expenditure of advance payments.
6. Show a plan to account for interest earned on advance payments and for the return of interest earned to the Federal Government.

- G. When submitting a request for advance payment, the request will be submitted with a SF-425, Federal Financial Report. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient.
- H. Nothing contained in this Agreement will be construed as binding the NPS to expend in any one fiscal year any sum in excess of the appropriation made by Congress for purposes of this Agreement in that fiscal year.

ARTICLE VIII – LIABILITY

MRBA agrees:

- A. To indemnify, save and hold harmless, and defend the United States against all fines, claims, damages, losses, judgments, and expenses arising out of, or from any omission of MRBA, its officers, employees, or (members, participants, agents, representatives, agents as appropriate) arising out of or in any way connected to activities authorized pursuant to this Agreement.
- B. To purchase public and employee's 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 any one 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 there under, 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, the contractor shall provide the NPS with confirmation of such insurance coverage.
- C. To pay the United States the full value for all damages to the lands or other property of the United States caused by MRBA, its officers, employees, or representatives [as in Paragraph I].
- D. To provide worker's compensation protection to MRBA officers, employees, and representatives.
- E. To cooperate with the NPS in investigation and defense of any claims that may be filed with the NPS arising out of the activities of the cooperator, its agents, and employees.

ARTICLE IX – REPORTS, RECORDS AND DELIVERABLES:

A. **Where to Submit** – In accordance with 43 CFR Part 12, the recipient will submit reports to the NPS Contracting Officer at the address specified in Article V. The recipient will also submit a copy of each report to the ATR at the address specified in Article V.

B: **What and When to Submit** – The recipient will submit to the NPS the following reports at the specified times:

1. Federal Financial Report (FFR), SF425, submitted quarterly, no more than 30 days after the end of the reporting period. The following reporting period end dates will be used for quarterly reports: 3/31, 6/30, 9/30 or 12/31. Upon completion of the project a final FFR will be submitted no more than 90 days after the final project end date.
2. Annual Progress Report - An annual progress report, beginning 12 months after the effective date of this Agreement and every 12 months thereafter. Each annual progress report will include:
 - (a) A summary of overall progress on the work plan, including results to date;
 - (b) Any problems or favorable or unfavorable developments;
 - (c) Other information pertinent to this Agreement.

C. **Recordkeeping** – The recipient will keep records concerning this Agreement in accordance with the requirements of the General Provisions, CFR and applicable Office of Management and Budget Circulars.

D. **Specific Deliverables-**

ARTICLE X - PROPERTY UTILIZATION

It is not anticipated that the National Park Service will provide equipment or that equipment will be purchased as the result of this agreement.

Any NPS property used or other property acquired under this Agreement, including intangible property such as copyrights and patents shall be governed by the provisions of 43 CFR, Subpart C, Sections 12.71 through 12.74.

All tools, equipment, and facilities furnished by the 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 43 CFR § 12.933 through 12.935 apply to this Agreement.

ARTICLE XI - MODIFICATION AND TERMINATION

Either party may terminate this Agreement by providing the other party with 60 days advance written notice. In the event that one party provides the other party with notice of its intention to terminate, the parties shall meet promptly to discuss the reasons for the notice and to try to resolve their differences amicably. The parties commit to using every reasonable means available, including the use of a neutral mediator if necessary, to avoid terminating this Agreement.

Modifications shall be in writing and shall be made with the agreement of both parties.

ARTICLE XII- GENERAL AND SPECIAL PROVISIONS

A. General Provisions

1. **OMB Circulars and Other Regulations** – The following *OMB Circulars* and other regulations are incorporated by reference into this agreement:
 - (a) OMB Circular A-110, as codified by 43 CFR Part 12, Subpart F, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations".
 - (b) OMB Circular A-122, "Cost Principles for Non-Profit Organizations".
 - (c) OMB Circular A-133, "Audits of State, Local Governments and Non-Profit Organizations".
 - (d) 43 CFR Part 12, Subpart E, "Buy American Requirements for Assistance Programs". FAR Clause 52.203-12, Paragraphs (a) and (b) "Limitations on Payments to Influence Certain Federal Transactions".
2. **Non-discrimination** - All activities pursuant this Agreement shall be in compliance with the requirements of Executive Order 11246; as amended, Title VI of the *Civil Rights Act of 1964* (78 Stat. 252; 42 U.S.C. § 2000d *et seq.*); Title V, Section 504 of the *Rehabilitation Act of 1973* (87 Stat. 394; 29 USC Section §794); the *Age Discrimination Act of 1975* (89 Stat. 728; 42 USC §6101 *et seq.*); and with all other Federal laws and regulations prohibiting discrimination on the grounds of race, color, sexual orientation, national origin, disabilities, religion, age, or sex .
3. **Lobbying Prohibition** - 18 U.S.C. §1913, Lobbying with Appropriated Moneys, as amended by *Public Law 107-273*, Nov. 2, 2002 - No part of the money appropriated by any enactment of Congress shall, in

the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Members or official, at his request, or to Congress or such official, through the proper official channels, requests for legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute violations of section 1352(a) of title 31.

4. **Anti-Deficiency Act – 31 U.S.C. § 1341-** Nothing contained in this Agreement shall be construed as binding the NPS to expend in any one fiscal year any sum in excess of appropriations made by Congress, or administratively allocated, for the purposes of this Agreement for that fiscal year, or other obligations for the further expenditure of money in excess of such appropriations or allocations.
5. **Minority Business Enterprise Development – Executive Order 12432 –** It is national policy to award a fair share of contracts to small and minority firms. The NPS is strongly committed to the objectives of this policy and encourages all recipients of its cooperative agreements to take affirmative steps to ensure such fairness by ensuring procurement procedures are carried out in accordance with 43 CFR § 12.944 for Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and 43 CFR § 12.76 for State and Local Governments.
6. **Trafficking in Persons**
 - a. Provisions applicable to a recipient that is a private entity.
 1. You as the recipient, you employees, sub-recipients under this award and sub-recipients' employees must not –
 - i. Engage in severe forms or trafficking of persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect ; or
 - iii. Used forced labor in the performance of the award or sub-awards under the award.
 2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a sub-recipient that is a private entity -
 - i. Is determined to have violated a prohibition of paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition of paragraph a.1 of this award term through conduct this is either –
Associated with performance under this award; or imputed to you or to the sub-recipient using standards and due process for imputing the conduct of an individual to an organization that provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement),” as implemented by our agency in 43 CFR Subpart 12.
 - b. Provisions applicable to any recipient

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition of paragraph a.1 of this award term.
2. Our right to terminate unilaterally that is described in paragraph a.2 of b of this section:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 USC § 7104(g)), and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
- c. Definitions for purposes of this award term:
 1. "Employee" means either:
 - i. An individual employed by you or a sub-recipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer, or individual whose services are contributed by a third party as an in-kind contribution towards cost sharing or matching requirements.
 2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.
 3. "Private entity":
 - i. Means: Any entity other than a State, local government, Indian tribe or foreign public entity as those terms are defined in 2 CFR § 175.25.
 - ii. Includes:
 - a. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe in 2 CFR § 175.25(b).
 - b. A for-profit organization
 4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meaning given as section 103 of the TVPA as amended (22 USC § 7102).

B. Special Provisions

1. Public Information

- (a) MRBA 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 product, service, or position which MRBA represents. No release of

information relating to this award may state or imply that the Government approves of MRBA's work products, or considers MRBA work product to be superior to other products or services.

- (b) MRBA will ensure that 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) MRBA will obtain prior NPS approval from the ATR for any public information which refers to the Department of the Interior, any bureau or employee (by name or title) to this agreement. The specific text, layout, photographs, etc., of the proposed release must be submitted to the ATR along with the request for approval.
- (d) MRBA agrees to include the above provisions of this Article in any sub-award to any subrecipient, except for a sub-award to a State government, a local government, or a federally- recognized tribal government.

2. Publications of results of studies

No party shall unilaterally publish a joint publication without consulting the other party. This restriction does not apply to popular publication 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 contributing 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.

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 Cooperator, its employees, or any individual or concern specifically employed or assigned to originate and prepare such material.

3. Websites applicable to this Agreement

- a. OMB Circulars: <http://www.whitehouse.gov/omb/circulars>

ARTICLE XIII --- ATTACHMENTS

- A. Workplan and Budget Detail, Phase I

ARTICLE XIV -- SIGNATURES

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

FOR MRBA

Signature: Cynthia Scott

Name CYNTHIA SCOTT

Title CO-ordinator

Date: Sept. 22/09

FOR THE NATIONAL PARK SERVICE:

Signature: Mandy Coy

Name _____

Title COLLECTOR
OFFICIALS OFFICER

Date: 9/29/09