Project Agreement General Provisions
(~~Bureau of Land Management Only~~ Federal Agencies Other Than Forest Service)

A. Definitions

1. The term “State” as used herein means the State of California, Department of Parks and Recreation.

2. The term “Act” as used herein means the Off-Highway Motor Vehicle Recreation Act of 2003 as amended.

3. The term “Application” as used herein means the individual Project Application and its required attachments pursuant to the enabling legislation, regulations, and/or Grant program, which is hereby incorporated into this agreement by this reference.

4. The term “Project” as used herein means the Project which is described on Attachment 1 of this agreement and in the Project Application, which is hereby incorporated into this agreement by reference.

5. The term “Project Cooperative Agreement” as used herein means the Application and the Project Agreement and its General Provisions.

6. The term “Federal Agency” as used herein means the unit of Federal Government named on page 1 of this agreement as the Federal Agency.

B. Project Execution

1. Subject to the availability of funds through an appropriation in the state budget, the State hereby commits to the Federal Agency a sum of money not to exceed the amount stated on page 1 of the Project Agreement in consideration of and on condition that the sum be expended in carrying out the purposes as set forth in the Project Description on Attachment 1 of the Project Agreement and under the terms and conditions set forth in this Project Cooperative Agreement. Subject to the availability of funds, the Federal Agency agrees to furnish any additional amounts in excess of that stated in the Project Agreement that may be necessary to complete the Project. Any modification or alteration in the Project as set forth in the Application on file with the State must be submitted to the State for approval prior to disbursement of funds.

   The Federal Agency agrees to furnish any additional funds that may be necessary to complete the Project. Any modification or alteration of the Project as set forth in the Application on file with the State must be submitted to the State for approval prior to disbursement of funds.

2. The Federal Agency agrees to execute and complete the Project in accordance with the Project performance period set forth on page 1 of the Project Agreement, and under the terms and conditions of this agreement.

3. If the Project includes development, the development plans, specifications and estimates or Force Account Schedule shall be reviewed and approved by the State prior to the Federal Agency proceeding with the Project. Unless the development plans, specifications and estimates are approved by the State the State shall have no obligations to make Grant payments for the work or any construction which is commenced.

4. The Federal Agency shall comply with all applicable current laws and regulations affecting Development Projects, including, but not limited to, legal requirements for construction contracts, building codes, health and safety codes, and laws and codes pertaining to individuals with disabilities. In addition, the Federal Agency shall complete the development work in accordance with the State approved development plans, specifications, and estimates or Force Account Schedule.

5. The Federal Agency shall make property or facilities acquired and/or developed pursuant to this Project Cooperative Agreement available for inspection upon request by the State to determine if development work is in accordance with the approved plans, specifications and estimates or Force Account Schedule, including a final inspection upon Project completion.

6. If the Project includes acquisition of real property, the acquisition shall be in accordance with the terms of the Title II and Title III, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646); 94 Stat. 1894 (1970), and the applicable regulations and procedures implementing such Act for all real property Acquisitions and where applicable shall assure that the Act has been complied with for property to be developed with assistance under the Project Cooperative Agreement and the Federal Agency agrees to comply with the Government Code Chapter 16 commencing with Section 7260 et seq., to the extent it may be applicable and all other applicable federal, state and local laws or ordinances affecting relocation and real property Acquisition. Documentation of such compliance will be made available for review upon request by the State.

7. This Project Cooperative Agreement in no way restricts either party from cooperating with or receiving cooperation from other public and private agencies, organizations and individuals, or from accepting contributions and gifts for the development, administration, and operation of vehicle activity on the lands of the Federal Agency or other public lands within California.

8. Nothing herein shall be construed as obligating either party here to expend or as involving either party in any contract or other obligation for the future payment of moneys in excess of appropriations authorized by law and administratively allocated for this purpose.

9. No member of, or Delegate to Congress or Resident Commissioner shall be admitted to share any part of the Project Cooperative Agreement, or to any benefit that may arise there from; but this provision shall not be construed to extend to this Project Cooperative Agreement if made with a corporation for its general benefit.

10. The Federal Agency and its employees in the performance of this Project Cooperative Agreement shall act in an independent capacity and not as officers or employees of the State. Neither party to this agreement shall have the authority, express or implied to bind the other party to any obligation except as may be authorized by this agreement.

11. All real property acquired or improvements constructed under this Project Cooperative Agreement shall be and will remain the property of the Federal Agency, but shall remain available for off-highway vehicle use in accordance with the Federal Agency Project Plan, the Off-Highway Motor Vehicle Act of 2003 and its implementing regulations and the Application.

C. Project Costs

The moneys to be provided to the Federal Agency under this Project Cooperative Agreement shall be disbursed as follows:

1. If the Project includes acquisition of real property, under the authority of the Act of October 10, 1978 (P.L. 95-442; 92 Stat. 1065), the State shall disburse Federal Agency funds as follow, but not to exceed in any event the allowable Project costs for acquisition or the State funds amount allocated for acquisition as set forth on page 1 of this Project agreement, whichever is less.

   State will disburse to the Federal Agency to be deposited immediately into escrow the sum of purchase price if within the maximum value indicated in the Federal Agency Project Plan and State approved costs of acquisition.

2. If the Project includes development, after approval by State of the Federal Agency's plans, specifications and estimates or Force Account Schedule and after completion of the Project or any phase or unit thereof, State shall disburse to the Federal Agency upon receipt and approval by State of a statement of incurred costs from the Federal Agency the amount of

such approved incurred costs shown on such statement, not to exceed the State funds amount allocated for development, as set forth on page 1 of this agreement, or any remaining portion of such amount to the extent of such statement. State may disburse up to a maximum of ninety (90) percent of the Grant amount allocated for development as shown on page 1 of this agreement, upon receipt and approval by State of plans, specifications and estimates from the Federal Agency.

The statements to be submitted by Federal Agency shall set forth in detail the incurred or estimated cost of work performed or to be performed on development of the Project and whether performance will be by construction contract or by Force Account Schedule. Statements shall not be submitted, nor shall the State make payments, more frequently than for work performed during ninety (90) day periods unless otherwise requested by State.

D. Project Administration

1. The Federal Agency shall promptly submit such progress, performance or other reports concerning the status of work performed on the Project as the State may request. In any event, the Federal Agency shall provide the State a report showing total final Project expenditures including State and all other moneys expended within one hundred twenty (120) days after completion of Project.

2. The Federal Agency shall make property and facilities maintained, operated, acquired or developed pursuant to this Project Cooperative Agreement available for inspection by the State upon request.

3. The Federal Agency may be provided advanced payments for Grants upon a showing by the Federal Agency that the Project may not proceed in the absence of advance payment. The Federal Agency shall use any moneys advanced by the State under the terms of this Project Cooperative Agreement solely for the Project herein described. All moneys advanced to the Federal Agency shall remain property of the State until expended for Project purposes.
4. The Federal Agency shall place advanced payments into a separate interest bearing account, setting up and identifying such account prior to the advance, interest earned on Grant moneys shall be used on the Project or paid to the State.

5. If Cooperative Agreement moneys are advanced, and not expended, the unused portion of the advance or that portion of the advance which is in excess of the Project cost, whichever is the larger amount, shall be returned to the State within one hundred twenty (120) days of completion of the Project or end of the Project performance period, whichever is earlier.

6. The Federal Agency will, provide and maintain a sign on the Project site that includes wording identifying the funding source (Off-Highway Vehicle Fund) and the administering agency (California State Department of Parks and Recreation).

7. Equipment must be used solely for OHV related purposes unless the Applicant is funding the portion of the purchase price not dedicated to OHV purposes

E. Project Termination

1. The Federal Agency may unilaterally rescind this Project Cooperative Agreement at any time prior to the commencement of the Project. After Project commencement this agreement may be rescinded, modified or amended by mutual agreement in writing. A Project shall be deemed commenced when the Federal Agency makes any expenditure, receives an advance of Cooperative Agreement moneys or incurs any obligation with respect to the Project.

2. Failure by the Federal Agency to comply with the terms of this Project Cooperative Agreement or any other agreement under the Act may be cause for suspension of all obligations of the State hereunder.

3. Failure of the Federal Agency to comply with the terms of this Project Cooperative Agreement or contract under the enabling legislation may be cause for suspension of all obligations of the State hereunder. However, such failure shall not be cause for the suspension of all obligations of the State hereunder if in the judgment of the State such failure was due to no fault, and was beyond the control of the Federal Agency to avoid, mitigate, or remedy such default.

F. Indemnification

1. The United States shall be liable, to the extend allowed by law, including the Federal Tort Claims Act, for claim for personal injuries or property damage resulting from the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his or her employment, arising out of this Agreement.

2. The State of California shall be liable, to the extend allowed by law, including the Government Tort Claims Act, for personal injuries or property damage resulting from the negligent or wrongful act or omission of State employees while acting within the scope of his or her employment, arising out of this Agreement.

G. Financial Records

1. The Federal Agency shall maintain and make available for inspection by the State at reasonable times all financial accounts, documents, and records for three (3) years from the expiration date of the Project agreement, or three (3) years from the start of an audit engagement, whichever comes first, and until an audit started during the three (3) years has been completed and a report published.

   During regular office hours each of the parties hereto and their duly authorized representatives shall have the right to inspect and make copies of any books, records or reports of the other party pertaining to this agreement or matters related thereto.

2. The Federal Agency may use any generally accepted accounting system provided such system meets the minimum requirements of Federal Management Circular 74 – 4 and Office of Management and Budget Circular A 102.

H. Use of Facilities

1. The property acquired or developed with Cooperative Agreement moneys under this Project Cooperative Agreement shall be used by the Federal Agency only for the purpose for which the State Grant moneys were requested and no other use of the area shall be permitted except by specific act of the Legislature.

2. The Federal Agency shall without cost to the State, except as may be otherwise provided in this or other agreement with the State, operate and maintain the property acquired or developed pursuant to this agreement in the manner of and according to the Off-Highway Motor Vehicle Recreation Act and related regulations, The Application, and other applicable provisions of law.

3. Use of the Project facilities shall comply with all applicable law including, but not limited to the registrations of all day-use vehicles with the Department of Motor Vehicles or identified under the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1993.

I. Nondiscrimination

1. The Federal Agency shall not discriminate against any person on the basis of sex, race, color, national origin, religion, ancestry, or physical handicap in the use of any property or facility acquired or developed pursuant to this agreement.

2. The Federal Agency shall not discriminate against any person on the basis of residence except to the extent the reasonable differences in admission or other fees may be maintained on the basis of residence and pursuant to law.

3. All facilities shall be open to members of the public generally, except as noted under the special provisions of this Project Cooperative Agreement.

J. Application Incorporation

1. The Application and any subsequent change or addition approved by the State is hereby incorporated in this Project Cooperative Agreement.

K. Severability

1. If any provision of this agreement or the Application thereof is held invalid, that invalidity shall not affect other provisions or Applications of the agreement which can be given effect without the invalid provision or Application, and to this end the provisions of this agreement are severable.

L. Governing Law

1. This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California, and the United States.

2. Grantee shall comply with all Federal, State, and/or Local laws, regulations, ordinances and executive orders that are applicable during the performance period.