

**MEMORANDUM OF AGREEMENT
MA 5280-3-9006**

BETWEEN

**THE UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
EVERGLADES NATIONAL PARK
40001 STATE ROAD 9336
HOMESTEAD, FLORIDA 33034-6733**

AND

**THE NATIONAL PARK FOUNDATION
1101 17TH STREET NW, SUITE 1102
WASHINGTON, D.C. 20036**

This Memorandum of Agreement is between the National Park Service, Everglades National Park (hereinafter the PARK), an agency of the United States Department of the Interior, acting in this behalf through the Superintendent of Everglades National Park, or his designee, and the National Park Foundation (hereinafter the FOUNDATION), a non-profit corporation chartered by Act of Congress, acting through its President.

WITNESSETH

Whereas, it is the purpose of the National Park Service to preserve, interpret, and manage the National Park System for the benefit, education and enjoyment of the people of the United States, as provided for in the Act of August 25, 1916 (16 U.S.C. §1 et seq.); and

Whereas, the FOUNDATION is authorized by Act of Congress to receive and administer donations made for the benefit of units of the National Park System; and

Whereas, 48 STAT. 816 passed May 30, 1934, provided for the establishment of Everglades National Park in the State of Florida, and

Whereas, the National Park Service and Everglades National Park recognize their responsibilities to control exotic pest plant species to prevent or reverse disruption to native communities, and

Whereas, Everglades National Park shall establish a regional mitigation bank within the area known as the Hole-in-the-Donut, through a Clean Water Act, section 404 permit through the U.S. Army Corps of Engineers and the Florida Department of Environmental Protection, for receipt of funds from various development actions in the southern Florida area for restoration of the Hole-in-

the-Donut, and

Whereas, the purpose of this Memorandum of Agreement is to establish terms for the FOUNDATION's administration of such funds.

Now, Therefore, pursuant to the authorities set forth above, the PARK and the FOUNDATION do hereby agree as follows:

1. TRUST FUND.

The FOUNDATION shall establish the "Everglades National Park Freshwater Wetlands Mitigation Trust Fund" (hereinafter the FUND) through which it will manage funds transferred from requests by mitigation applicants to utilize for mitigation purposes the Everglades National Park Mitigation Bank in the Hole-in-the-Donut. Monies from the FUND shall be used solely for restoration, research, monitoring and long term management of former wetlands within the "Hole-in-the-Donut" area of Everglades National Park, and as determined solely by the PARK for other purposes relating to this mitigation and restoration work. Elements of the project are detailed in a report entitled *Restoration of Former Wetlands within the Hole-in-the-Donut in Everglades National Park*, attached hereto as exhibit A.

2. INVESTMENT OF THE FUND.

Unless otherwise agreed by the PARK and the FOUNDATION, the FOUNDATION shall invest monies contained in the FUND in U.S. Government and Agency issues, with a ten year maximum maturity, and cash equivalents. All interest earned shall be credited to the FUND. The FOUNDATION shall be entitled to a fee for the management investment and audit services contemplated hereunder in the amount of 1% of the monies transferred to the FUND from applicants to the Everglades National Park Mitigation Bank.

3. REIMBURSEMENT PROCEDURES.

The PARK shall establish a reimbursable account into which the FOUNDATION shall transfer monies from the FUND upon request of the PARK. Monies so transferred shall be used for or to reimburse expenditures for the purposes set forth above and in accordance with the Everglades National Park Mitigation Bank Permit requirements. The PARK shall send a written request to the FOUNDATION requesting funding transfers approximately four times per year.

4. AUDIT.

The FUND will be audited annually by the FOUNDATION's auditors in connection with the June 30th fiscal year audit of the FOUNDATION's financial statements.

5. GENERAL.

(a) Term of Agreement. This Memorandum of Agreement shall be for twenty (20) years, beginning on the latest day and year noted on the WITNESS blocks, and may be terminated upon sixty days notice by either party, provided that such termination must be in accordance with applicable provisions of Everglades National Park Mitigation Bank Permit requirements and any other agreements the PARK may have regarding completion of mitigation work for monies already distributed for that purpose related to mitigation within the Hole-in-the-Donut. Any monies contained in the FUND upon such termination will be disposed of as directed by the PARK. This agreement may be renewed and extended by mutual written agreement of both parties.

(b) Required Clause. No member of, or delegate to, Congress, or Resident Commissioner, shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this Agreement if made with a corporation or company for its general benefits.

(c) Required Clause. The FOUNDATION agrees that all its activities shall be conducted in accordance with all applicable laws and regulations, both State and Federal. Specifically, the Association shall comply with the requirements of (a) Executive Order No. 11246 of September 24, 1967, (b) Title V., Section 503 of Government Contractors and Sub-contractors to take affirmative action to employ and to advance in employment qualified handicapped individuals, and (c) with regulations heretofore or hereafter promulgated, relating to non-discrimination in employment and in providing facilities and service to the public.

(d) Key Officials for the PARK. Richard Ring, Superintendent, will provide review and approval of terms of all agreements and will exercise the authority to approve conduct of agreements regarding Everglades National Park. Robert F. Doren, Assistant Research Director, will act as the Superintendent's authorized and designated representative with regard to implementation and coordination of this agreement. Written notice shall be provided to the FOUNDATION of any changes in key officials within thirty (30) days of such change.

(e) Key Officials for the FOUNDATION. The President of the FOUNDATION will provide review and approval of terms of all agreements and will exercise the authority to approve conduct of cooperative projects regarding The National Park FOUNDATION. The Controller with the National Park FOUNDATION, will provide contracting authority and fiscal control for the FOUNDATION. The FOUNDATION shall provide written notice to the PARK of any change in authorized technical representative within thirty (30) days of such change.

(f) Maintenance of Records. The FOUNDATION shall keep accounting records which conform with generally accepted accounting principles which shall include, but not be limited to, a cash receipt journal, general ledger, and all such subsidiary ledgers as reasonably necessary. All such records will be

retained by the FOUNDATION for not less than five (5) years beyond the term of this AGREEMENT.

g) Access to Records. The FOUNDATION shall provide access to all their records of or relating to this project and agreement, and agrees to provide such assistance as may be necessary to facilitate their review by the PARK when deemed necessary by the either to insure compliance with accounting and financial standards. The PARK shall have the right to access all records for not less than five (5) years beyond the terms of this AGREEMENT. The FOUNDATION shall make all records or documents which relate to this AGREEMENT available to the PARK at the FOUNDATION's offices during regular business hours.

h) Preparation and Submission of Reports. An annual report shall be generated by the FOUNDATION and provided to the PARK for distribution to any parties of their choosing. The FOUNDATION's reports shall include a statement showing the amount of funds received to date for the Everglades National Park Mitigation Bank and a summary of account activities (deposits and expenditures) relating to the Mitigation Bank, Hole-in-the-Donut restoration project.

IN WITNESS WHEREOF, the PARK and the FOUNDATION have caused this Memorandum of Agreement to be executed this _____ day of _____, 1993.

National Park Foundation

BY: _____
Alan A. Rubin, President

National Park Service

BY: _____
Richard Ring, Superintendent

BY: _____
Sherry Dague, Contracting Officer