

FRIENDS PARTNERSHIP AGREEMENT
between the
Cibola National Wildlife Refuge
U.S. FISH AND WILDLIFE SERVICE
DEPARTMENT OF THE INTERIOR
AND
Friends of Cibola National Wildlife Refuge

This Friends Partnership Agreement (Agreement) is between the Cibola National Wildlife Refuge (Refuge), a division of the U.S. Fish & Wildlife Service (Service), an agency of the United States Department of the Interior, and Friends of Cibola National Wildlife Refuge (Friends).

I. AUTHORITY

The Service enters into this Agreement and any subsequent Friends Supplemental Partnership Agreement for Use of Service Property under the authorities of:

- A. The Anadromous Fish Conservation Act (16 U.S.C. 757a-757g), as amended.
- B. The Fish and Wildlife Act of 1956 (16 U.S.C. 741a-742j), as amended.
- C. The Fish and Wildlife Coordination Act of 1934 (16 U.S.C. 661-667e), as amended.
- D. Lobbying with Appropriated Moneys (18 USC 1913)
- E. The National Fish Hatchery System Volunteer Act of 2006 (16 USC 760aa – 1-4), as amended.
- F. The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-ee), as amended.
- G. The National Wildlife Refuge System Volunteer and Community Partnership Enhancement Act of 1998 (16 U.S.C. 742(f), as amended.
- H. The Refuge Recreation Act of 1962 (16 U.S.C. 460k - k-4), as amended.

II. PURPOSE

The purpose of this Agreement is to facilitate and formalize collaboration between the Service and Friends in support of mutual goals and objectives defined by this Agreement.

III. BACKGROUND

- A. Service Mission: The mission of the U.S. Fish and Wildlife Service is working with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people.
- B. Service Program Mission: The mission of the National Wildlife Refuge System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.
- C. Service Site/Program Description: The Refuge, located in the floodplain of the lower Colorado River, was established on August 21st, 1964 by Public Land Order 3442, as mitigation for the straightening, channelization, and armoring of the banks of the Colorado River by the Bureau of Reclamation to prevent flooding. The purpose of the 18,444-acre refuge is to protect and recreate the marshes, backwaters, and meanders that historically provided wintering grounds for migratory waterfowl and other wildlife that natural flooding would have formed.
- D. Friends Description: The purpose of the Friends is to support the Refuge by promoting the appreciation and conservation of wildlife and habitat on the refuge, and neighboring habitat. The Friends are an Arizona 501(c)3 organization.
- E. Partnership History: Citizens and refuge neighbors had an interest in forming an organization to support the Refuge for the benefit of wildlife, and to provide more opportunities for the public to enjoy this important wildlife resource. Prior to the establishment of the Friends, several Friends board members had previously volunteered at the Refuge. When they learned about the Friends partnership program, they realized they could provide additional assistance to the Refuge by forming a Friends organization. The Friends are a 501(c)3, Arizona non-profit corporation, and were formed in March 2018.
- F. Partnership Scope of Work: The partnership is centered on working together collaboratively to carry out the conservation mission of the Refuge. The Friends will engage surrounding communities through outreach and education. They will develop appropriate partnerships and funding opportunities to support the Friends mission and aids the Refuge in meeting its wildlife conservation mission. The Friends will work with the Refuge to promote natural resources on a local, state, and national level.
- G. Fundraising and Solicitation Description: The Friends current fundraising efforts consist of donations and organization memberships. The Friends intend to generate revenue to support the activities authorized by this Agreement by conducting the following fundraising and solicitation activities:

(1) Sale of goods and services:

- a. Memberships: The monetary amount of funds received through memberships & renewals varies from year to year. The revenue generated through membership, as well as other revenue, assists the Friends with the ability to cover annual operating expenses as well as other costs of doing business. Any remaining revenue then may be applied to fund the mission of the Friends.
- b. Workshops and programs, i.e. photography workshops: None at this time, but may consider in the future.

(2) Soliciting or acquiring donations of funds and in-kind goods and services:

- a. Donations from the public and private sector (e.g., donation boxes, foundations): A donation box is currently located in the Visitor Center building on the refuge. Donations from the public are allowed at any time in which are collected off the Refuge site. The Friends provide multiple platforms for the convenience of the public, such as cash, checks, and digital applications. Received donations are applied to the annual operating expenses first, and then may be applied to fund the mission of the Friends.

(3) Applying for grants for project or activities: The Friends apply for grants for projects and activities that have been approved by the refuge. The Friends may also apply for grants in which will help further the mission of the Friends.

IV. AUTHORIZATION AND TERM OF AGREEMENT

- A. 5-Year Performance Period: Both parties enter into this Agreement for a period of 5 years beginning on the day following Service ratification, with four annual modification options within the 5-year performance period to update significant changes in the partnership. Both parties expect that the terms in this Agreement will be renewed every 5 years so that they will not expire. The Project Leader must meet annually with the Friends Board of Directors to review and assess the effectiveness of the partnership as it relates to the purpose, goals, objectives, roles, and responsibilities outlined in this Friends Partnership Agreement.
- B. Agreement Renewal: Each time the Agreement is up for its 5-year renewal, the Project Leader and the Friends president or designee will meet to review and modify the Agreement as described above. All agreements must be signed by the Friends President. The Friends Partnership Agreement is pre-approved by the Department of the Interior's Solicitor's office and Service Director. Regional Solicitor review is not required unless the scope of the added language is significant enough to require such a review. The Regional Coordinator/Regional Liaison will determine if additional Regional Solicitor review is necessary. Any revisions to the modified Agreement by the Regional Coordinator/Liaison/Solicitor shall be subject to the mutual review and approval of both parties. To become effective, the Regional Director (or designee) must review, approve, and sign this Agreement.

C. 501(c)(3) Nonprofit Status: The Friends must have applied for and maintain nonprofit, tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and under applicable State and Federal laws. This Agreement and any Supplemental Agreements will automatically terminate if the Friends organization does not maintain its nonprofit status. At least once annually during the period of performance, the Friends must provide evidence of nonprofit, tax-exempt status as an attachment to this Agreement and or a copy of the letter from the Internal Revenue Service (IRS) confirming an application has been filed.

D. Agreement Termination:

- (1) Termination: Each party may terminate this Agreement for any reason by giving advance written Notice of Termination. Termination is effective 60 calendar days from the date of receipt of the Notice, or upon the termination date specified in the Notice, whichever is later.
- (2) Termination for Breach: Each party may immediately terminate this Agreement for a material breach of this Agreement by the other party. If a breach occurs, this Agreement terminates upon the breaching party's receipt of a written Notice of Termination for Breach. In each case, the Project Leader and the Friends Board of Directors must first meet to address concerns prior to termination. If either party is unwilling to meet, that fact should be documented prior to terminating the Agreement or any part of it. The non-breaching party may, but is not required to, provide the breaching party with an opportunity to cure the breach by a date specified in a cure letter. If the breach is not cured to the satisfaction of the non-breaching party by the specified date, this Agreement will automatically terminate on that specified date.
- (3) Liability for Costs and Damages: Unless expressly provided for in this Agreement or related agreements, neither party is liable for any costs, damages, or other claims that result directly or indirectly from termination of this Agreement. All other rights and claims of the parties are preserved.
- (4) Disputes and Venue: The parties agree that if there is a dispute between them, the Service and the Friends will promptly use their best efforts to resolve the dispute in an informal fashion through communication and consultation, or other forms of non-binding alternative dispute resolution that are mutually acceptable to the parties. The parties agree that the venue to begin litigation of any disputes stemming from this Agreement is a Federal court with appropriate jurisdiction.
- (5) Disposition of Assets upon Termination or Expiration of this Agreement or Cessation of Friends Operations: Upon the termination or expiration of this Agreement or cessation of the operations of the Friends organization for any reason, those funds held for Service projects and activities, including all interest and earnings and all in-kind contributions, will be transferred to the Service or to a third-party the Service agrees to and (under such terms and conditions as the Service deems acceptable and consistent with Federal and State law) for use consistent with the purposes for which the donations were made. Nothing in this Agreement shall prevent Friends from satisfying allowable outstanding obligations reasonably incurred in association with this Agreement prior to the termination or expiration of the Agreement, with the funds described herein. Any personal property belonging to the Friends remains property of the Friends. Any Service property or resources held by Friends should be returned to the Service.

- (6) Agreement Suspension: Suspension of this Agreement may occur if in the sole judgment of the Service there is a violation of law or policy or risk to resources or public health and safety. Friends may appeal any such suspension of this Agreement in writing, and the Service shall within 15 days of such an appeal provide a written justification for the suspension, and state what corrective actions would be necessary to reinstate this Agreement.

V. SERVICE AND FRIENDS RESPONSIBILITIES

A. Joint Responsibilities of the Service and Friends. Both parties jointly agree to:

- (1) Work actively and collaboratively to achieve the following specified goals and objectives during the term of this Agreement:

Assist the Refuge with the following: maintaining the biological program, maintaining and improving refuge facilities, improving and maintaining recreational opportunities, and developing and maintaining interpretative and educational programs.

- (2) Participate in regular meetings to foster close cooperation on Agreement implementation.
- (3) Communicate on a regular basis to discuss applicable site-related issues and projects and make timely decisions on matters necessary for proper implementation and administration of this Agreement.
- (4) Work in good faith to execute additional agreements, as necessary, to meet the mutual objectives of the parties.
- (5) Work jointly to encourage community engagement in shared stewardship of the Service by the local and national community.
- (6) Meet annually to assess the effectiveness of the partnership as it relates to the purpose, goals, objectives, roles, and responsibilities outlined in this Friends Partnership Agreement to ensure expectations are clear and realistic and modify this Agreement if there are any significant changes to the scope of the partnership. The meeting should also assess compliance with Service policies and procedures, discuss effectiveness of internal controls, and evaluate accountability for revenues, donations and expenditures.
- (7) Take steps to avoid the appearance that either party represents the views of or directs the management or decision-making process of the other. The Service and the Friends must always maintain an evident and distinct separation between their distinct organizational management activities.
- (8) Work together in good faith to resolve differences.
- (9) Identify how donations from the Friends to the Service, including money, goods, or services, will be used to improve, maintain, and update the Service site (or sites) or programs for which the donations were intended and are consistent with Departmental (374 DM 6) and Service policies ([212 FW 8](#))

- (10) Review and comply with Service policies for guidance prior to initiating any new fundraising efforts (capital campaigns, endowments, events, etc.) on behalf of the Service that are not already described in Section III.G of this Agreement. A modification to this Agreement is required for all fundraising efforts on behalf of the Service, and certain dollar thresholds may also trigger a separate Fundraising Agreement requirement prior to beginning fundraising (see [212 FW 8](#)).
- (11) Ensure that Friends fundraising and solicitation activities conducted on Service-managed property are described in the Supplemental Agreement, done on behalf of the Service site (or sites) or program with which they are affiliated, and are consistent with the mission, goals, and objectives of the Service.
- (12) Ensure that all net funds collected on Service-managed property through direct solicitation activities by Friends are deposited into the appropriate Service contributed funds account for which the funds were raised (e.g., Gifts, Community Partnership Enhancement donation receipt account) and used exclusively for the benefit of the particular site (or sites) or program for which the funds were generated. This requirement does not apply to donations collected by Friends through indirect solicitations (e.g., donation box), nature store revenue, memberships, or any fundraising activities conducted off Service property (see [633 FW 4](#) and [212 FW 8 Donations, Fundraising, and Solicitation](#)).
- (13) Ensure that Friends fundraising activities that involve games of chance (e.g., raffles for a fee, Bingo, door prizes for a fee) or that are associated with lobbying activities are not conducted on the Service's behalf or on Service-managed property, and do not express or imply involvement or endorsement of the Service.

B. The Service agrees to:

- (1) Designate a site/program employee as the Service Liaison with the Friends. The liaison role is to provide the Friends with regular and timely communication of mutually developed programs and projects.
- (2) Regularly attend Friends meetings and events, as appropriate, as a Service employee, subject to compliance with applicable Federal ethics statutes and regulations, including the Standards of Ethical Conduct for Employees of the Executive Branch and Department of the Interior policies, and invite Friends board members to appropriate Service planning meetings and events.
- (3) Help identify and provide opportunities for training and skill development for appropriate Service employees and Friends members that will improve the effectiveness of the partnership.
- (4) Provide an annual orientation to the Friends Board of Directors on the Department, Service, divisions and site goals, objectives, scope of operations, and the many programs that play a role at the site/program.
- (5) Identify and follow applicable laws, regulations, and Department and Service policies with which both parties must comply, and provide information to the Friends on laws, regulations, and policies.

- (6) Ensure that the Volunteer Services Agreements (Optional Form (OF) 301A) are properly completed and signed for each Friends member who will be acting as a Service volunteer, and that they accurately describe the work and duties that will be performed at or in support of the Service site/program. Review and update Volunteer Services Agreements annually.
- (7) Publicly recognize the Friends as the official site/program Friends organization.
- (8) Support the independence of the Friends organization's operation and administration by refraining from Service involvement in Friends' organization's management. As such, absent documented Service approval and legal and ethics review, Service employees will not serve on a Friends Board of Directors; dictate operations of a Board of Directors and its employees; complete State and Federal nonprofit requirements, such as writing bylaws and applying for tax exempt status under 501(c)(3) of the Internal Revenue Code; attend board meetings that are focused on the operation and administration of the board and organization; generally administer a nature store; develop organizational documents; execute business transactions and grant applications on behalf of Friends; or maintain Friends websites, newsletters, or social media sites.
- (9) Meet Departmental and Service regulations and policies for receiving and managing donations of funding, goods, services, real property, and other items. Verify quarterly reviews and annual reporting are completed. Annually report to Friends on the status of projects funded through Contributed Funds accounts.
- (10) Provide Friends with Service volunteer uniform components while working on behalf of the Service and ensure that Friends are providing their members and employees with readily identifiable insignia of the Friends organization while working on behalf of the Friends organization on Service property.
- (11) Engage with the Friends organization in compliance with applicable Federal ethics laws and regulations, including the Standards of Ethical Conduct for Executive Branch Employees and Departmental and the Service policies, and consult with ethics officials in the servicing Departmental Ethics Office (DEO) for ethics guidance as appropriate.

C. The Friends agree to:

- (1) Maintain active tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and ensure that its articles of incorporation and bylaws comply with the requirements of the State in which it is incorporated.
- (2) Act as a volunteer-based organization with the mission of supporting a Service site (or sites) or program that may solicit funds or in-kind donations for the primary purpose to help advance the mission, purpose, and goals of that particular Service site (or sites) or program.
- (3) Conduct its fiscal operations in accordance with applicable State and Federal laws, and, when applicable, "Generally Accepted Accounting Principles" published by the Financial Accounting Standards Board.

- (4) Consider the need for obtaining a periodic evaluation of financial records (e.g., compilation, review, audit) by an independent accounting firm or someone with an accounting background, such as a Certified Public Accountant.
- (5) Identify a Friends Liaison, typically the president or other board member, to facilitate regular and timely communication with the Project Leader or Service Liaison about mutually developed programs and projects.
- (6) Ensure that Friends members and their staff, while working on behalf of the Friends organization, do not act in any way that leads to the public perception that they are Service employees or volunteers. Friends members should wear an easily observable and readily identifiable insignia of the Friends organization while working on behalf of the Friends or a Service volunteer uniform while working on behalf of the Service.
- (7) Avoid express or implied Service endorsement for a particular business, brand, product, service, enterprise, or nonprofit organization or state, imply, or attribute any partisan political activity to the Service or Service employees, including distribution of material directed at the success or failure of any political party, candidate for partisan political office, or any partisan political group.
- (8) Provide timely notification and invitation of appropriate meetings to the Project Leader and Service Liaison.
- (9) Ensure compliance with Service policies, procedures, and standards regarding the use of Service logos and program sub-logos and avoid the creation and use of anything that is confusingly similar.
- (10) Work with local Service staff regarding the display of Friends-created and printed materials, and outreach and interpretive displays on Service property
- (11) Cooperate with the Service's Regional Director, designee, or Project Leader in sharing information on the Friends organization's records as it relates to the activities conducted under this Agreement. This cooperation shall include reviewing key information quarterly and providing an annual report which must include, annual total expenditures and revenues, and current number of members (if applicable). Annual reporting will also include descriptions of how expenditures donated to the Service benefitted the Service. Section 501(c)(3) of the Internal Revenue Code describes compliance requirements on recordkeeping, reporting, and disclosure to the public upon request.
- (12) Not use any Service-appropriated funds (including property, utilities, services, or supplies) to lobby; attempt to influence Congress or any official of the government; favor or oppose any legislation, law, or appropriations; raise funds through games of chance; or conduct fundraising that is not in direct support of the Service site in which this Agreement is held.
- (13) Cooperate in Service efforts to comply with Departmental and Service policies, procedures, and standards regarding ethics laws and regulations, and provide information to Service employees regarding Friends meetings, events, and activities to assist them in complying with ethics laws and regulations, including the Standards of Ethical Conduct for Executive Branch Employees.

- (14) To the extent Friends commit to this Agreement or any related agreement, to raise funds for a particular project to benefit the Service (e.g., new facility), the Friends agree that it will not lobby for or otherwise seek appropriated funds from Congress for that project.
- (15) A separate Fundraising Agreement is required if the Friends organization leads a specific fundraising effort on our behalf with the intent of raising more than \$25,000. (Subject to change and according to [212 FW 8, Donations, Fundraising, and Solicitation](#)).

VI. SUPPLEMENTAL AGREEMENT

Use of Service Property: The Service and the Friends further agree that, by inclusion of a Supplemental Agreement (see attached) at the time of ratification, the Service and Friends will cooperate in the use of Service-managed property to support the mutual goals and objectives defined by this Agreement.

VII. LIABILITY AND INDEMNIFICATION

- A. Friends must indemnify, save, and hold harmless the Department of the Interior, the Service, and its agents and employees from and against any and all liabilities, obligations, losses, damages, judgments, claims, actions, suits, penalties, fines, costs, and expenses (including reasonable attorneys' fees and experts' fees) of any kind and nature arising out of acts or omissions of the Friends, its employees, agents, and contractors (including any contractors' subcontractors). This includes injury to people (including injury resulting in death) and damage to property in connection with activities under this Agreement.
- B. Friends must promptly pay the Service the full value of all damages to the lands or other property of the Service caused by Friends, its employees, agents, representatives, or contractors (including any contractors' subcontractors) or, as agreed to by the parties, must work to repair or replace the damaged lands or property.
- C. Friends will cooperate with the Service in the investigation of any claim that may be filed with the Service because of the activities of the Friends, its employees, agents, representatives, or contractors (including any contractors' subcontractors).
- D. The Service shall be liable for any acts or omissions of its employees and/or agents, as permitted under the Federal Tort Claims Act.

VIII. INSURANCE

- A. Friends activities performed both on and off Service property may require general liability, Board of Directors and Officers, event, personal property, or other insurance.
- B. The Friends should periodically consult with a qualified professional to determine insurance needs that are consistent with best practices in the nonprofit industry. However, where the Service's Project Leader grants a Friends organization permission to conduct certain specialized activities on behalf of the Service and the activity is hosted or co-hosted by the Friends, the Project Leader may require that the Friends acquire appropriate insurance that is acceptable to the Service before hosting the activity.

- C. Where Friends have acquired insurance, the Department of the Interior and the Service must be listed as additional insured entities (Department of the Interior, U.S. Fish and Wildlife Service, 1849 C St NW, Washington, D.C. 20240). The insurance policy or policies must specify that the insurer has no recourse against the Department of the Interior and the Service for claim expenses, payments of any premiums, or deductibles due. The Service will not be responsible for any omissions or inadequacies of insurance coverage and amounts if the insurance purchased by the Friends is inadequate or otherwise insufficient.

The Friends currently hold the following insurance policies:

Evanston Insurance Company: General Liability Insurance

- D. The Service reserves the right to file insurance claims on its own behalf or to require the transfer of insurance proceeds from Friends to the Service where, in the Service's judgment, the Service will have to pay to fix the problem for which the claim is paid.
- E. While performing work on behalf of the Service under an approved Volunteer Services Agreement (Optional Form (OF) 301A), only individual volunteers, not the nonprofit organization, are provided protection for tort claims under the Federal Tort Claims Act and injuries under the Federal Employees Compensation Act.

IX. ASSIGNMENT

- A. Assignment – Binding Effect: Neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party. This Agreement is binding upon the parties who entered into it and their respective successors and permitted assigns. The parties waive the defense of lack of consideration.
- B. Waiver: No waiver of any provision of this Agreement is effective unless made in writing and signed by the waiving party. No waiver of any provision of this Agreement constitutes a waiver of any prior, concurrent, or subsequent breach of the same or any other provisions of this Agreement.
- C. No Third-Party Beneficiaries: Unless expressly stated in this Agreement, nothing in it is intended to grant any legally enforceable rights or provide any benefits to a third party.

X. MISCELLANEOUS

- A. Service Rules Govern: The rights and benefits conferred in this Agreement and other Supplemental Agreements are subject to the laws, regulations, and rules that govern the Service and its employees. The mention of specific restrictions, conditions, and stipulations in this Agreement and any Supplemental Agreements do not in any way impair the general powers of supervision, regulation, and control by the Service.
- B. U.S. Fish and Wildlife Service Appropriations: Under 31 U.S.C. 1341, nothing contained in this Agreement may be construed to obligate the Service, the Department of the Interior, or the United States of America to any current or future expenditure of funds in advance of the availability of appropriations from Congress and their administrative allocation for the purposes of this Agreement, nor does this Agreement obligate the Service, the Department of the Interior, or the United States of America to spend funds on any particular project of purpose, even if funds are available.

- C. Confidentiality Clause: The Service will make every legally permitted effort to maintain the confidentiality of information the Friends share with the Service, which is either the type of personal information protected under the Privacy Act of 1974, as amended, or constitutes confidential business information of the type the organization would not normally make available to the public.

XI. AGREEMENT OFFICERS

Officer for the U.S. Fish & Wildlife Service, Cibola National Wildlife Refuge:

Linda L. Miller
Acting Refuge Manager
Cibola National Wildlife Refuge
66600 Cibola Lake Road
Cibola, AZ 85328
928-857-3253
linda_l_miller@fws.gov

Officer for Friends of Cibola NWR:

John Rosenfeld
President
Friends of Cibola NWR
PO Box 2492
Covina, CA 91722
626-484-2752
friendsofcibolanwr@gmail.com

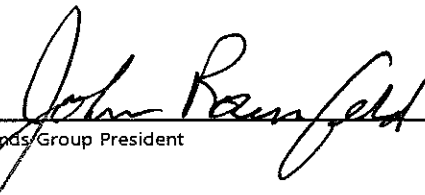
The parties below have caused this Agreement to be executed by their respective duly authorized representatives.

X

Regional Director
U.S. Fish & Wildlife Service

X 

Project Leader/Refuge Manager
U.S. Fish & Wildlife Service

X 

Friends Group President

REQUIRED ATTACHMENTS CHECKLIST

633 FW 2 Exhibit 2 – Supplemental Partnership Agreement, Use of Service Property (if applicable)

Attachment A – Articles of Incorporation

Attachment B – IRS Determination Letter (or a copy of the letter from the IRS confirming an application has been filed)

Attachment C – Proof of Insurance policies

Attachment D – Fundraising Agreement (if applicable)

Attachment E – Bylaws

Attachment F – Current IRS form 990 (if applicable, for renewing agreements).