

**Cooperative Management Agreement
between
Petroglyph National Monument
and the
City of Albuquerque**

February 2023

This Cooperative Management Agreement (hereinafter “Agreement”) is entered into by and between the National Park Service (hereinafter “NPS”), an agency of the United States Department of the Interior, acting through the Superintendent of Petroglyph National Monument (hereinafter “Monument”), and the City of Albuquerque (hereinafter “City”), a New Mexico municipal corporation, acting through its Mayor. The City and the NPS will be referred to collectively as “the parties” throughout this agreement.

Article I. Background and Objectives

The United States Congress established the Monument in the Petroglyph National Monument Establishment Act of 1990 (hereinafter “Establishment Act”), Pub. L. No. 101-313, 104 Stat. 272, as amended by the Petroglyph National Monument Boundary Adjustment Act (hereinafter “Boundary Adjustment Act”), § 3305 of the 1998 Supplemental Appropriations and Rescissions Act, Pub. L. No. 105-174, 112 Stat. 58, 82. The Monument is located in the City of Albuquerque, New Mexico and in Bernalillo County, New Mexico.

Prior to the establishment of the Monument, starting in 1963, the City began purchasing lands within what is now Petroglyph National Monument. The first “City Goals Program” called for preservation of the volcanoes and escarpment, allowing the City to prioritize areas for acquisition. Consequently, the City purchased the five cinder cones and surrounding land along the escarpment, and, in 1973, established the Indian Petroglyph State Park at what is now known as Boca Negra Canyon. The 1975 City Comprehensive Plan identified additional areas important for preservation and the City continued to acquire land through the late 1980s, including Piedras Marcadas Canyon. At the time of the establishment of the Monument in 1990, the City owned nearly 4,000 acres of land within the Monument boundaries.

The Monument comprises 7,212 acres of land owned by the City of Albuquerque, State of New Mexico (hereinafter “State”), and the U.S. Government. The Establishment Act provides that the Monument will be administered in cooperation with the City of Albuquerque, the State of New Mexico, and the NPS. The Substitute Joint Powers Agreement (New Mexico #78-521.81-277A) entered into by the three parties established that the parties shall manage all lands within the boundaries of the Monument in accordance with the Establishment Act.

The State, through the Substitute Joint Powers Agreement, designated the City as the lead agency to consolidate management of its responsibilities for state-owned lands within the Monument. By virtue of that assignment of authority, the present agreement is hereby limited to the City and the NPS.

The Establishment Act § 105 (a) provides that the NPS shall administer, manage, and protect the Monument in such a manner as to preserve, for the benefit and enjoyment of present and future generations, its cultural and natural resources, and to provide for the interpretation of and research on such resources. § 105 (c) authorizes the NPS to enter into a cooperative management agreement with

either the State or the City under which the NPS may manage and interpret any lands owned by the State or the City within the boundaries of the monument. § 105 (e) states that federal laws generally applicable to units of the national park system shall apply to the Monument.

The Establishment Act envisions that the NPS and the City will manage the Monument in a cooperative and consistent manner. In the interest of better protecting the Monument's natural and cultural resources and better meeting the needs of the public, and to ensure the consistent management of lands within the Monument, the City and the NPS now desire to enter into an agreement setting forth the parties' obligations for the administration and management of the Monument.

Pursuant to § 105 (e), the Secretary is authorized to pursue concurrent jurisdiction of the Monument for the purposes of law enforcement and implementation of Federal regulations. As such, on April 1, 2019, the lands within the Monument were granted Concurrent Legislative Jurisdiction per New Mexico Senate Joint Resolution 3 (SJR 3) "Transfer of Jurisdiction of National Park Units." This means that federal officers share law enforcement responsibilities with state and local officers in the Monument. In other words, should a crime occur in the Monument, either a federal law enforcement agency or a state/local law enforcement agency can respond. To provide for public safety, officer safety, shared responsibility and interagency cooperation for the protection of all lands within the Monument, a separate law enforcement agreement, a memorandum of understanding (MOU), between the NPS and the Albuquerque Police Department (APD) will be completed and maintained as an additional guiding document for emergency response and assistance, shared dispatching, and law enforcement communication services.

Consistent with the City of Albuquerque Resolution, Council Bill No. F/S R-17-171, Enactment No. R-2017-040, *Reaffirming the Agreement Between the City of Albuquerque and the United States Park Service for the Management and Protection of the Petroglyph National Monument and Calling for the Creation of a Joint Visitor Use and Resource Management Plan*, the City Parks Department shall work with the NPS to create the plan and to support implementation of the plan (the Petroglyph National Monument Visitor Use Management Plan was approved in 2019).

It is the intent of this Agreement to define the working relationship between the parties, to promote the protection of the cultural and natural resources and to provide for visitor services, law enforcement, public safety, project compliance and other activities within the monument boundaries. To this end, the undersigned concur on the following guiding principles:

- 1) The level and quality of visitor services, law enforcement, resources management and protection, and other functions at Petroglyph National Monument should endeavor to be consistent with the level and quality of such services at other similar units of the NPS. In the interest of providing this consistency, the NPS will administer and manage visitor services, and resources management and protection within the Monument boundaries. In this case, "administer and manage" means conducting daily operations and functions of the Monument, including but not limited to visitor services, resources management and protection, project management and compliance, administration, facilities management and maintenance, and delivery of interpretive and educational programs.
- 2) Information sharing shall be a keystone of this agreement. Data and other information on natural and cultural resources, visitor experiences, stakeholder satisfaction, project compliance, permitted activities and law enforcement incidents will be shared among the parties in a timely manner. Joint monthly planning meetings between the City Open Space Division and NPS will be conducted, and cross training will be encouraged. Information sharing also includes staffing levels and budgetary plans for the development of annual plans, and strategic plans.

- 3) The protection of the cultural and natural resources of Petroglyph National Monument will be the parties' foremost concern. To accomplish this goal, the parties will jointly develop, review, and implement strategic plans, monument goals, management plans (including the Visitor Use Management Plan and Boca Negra Canyon Development Concept Plan), and project proposals to best address resource management issues. Proposed projects on federally and City-owned lands within the Monument boundaries will be assessed following NPS guidelines for compliance with applicable federal laws, including, but not limited to, the National Environmental Policy Act, the National Historic Preservation Act; and other applicable federal, state, and local laws and regulations. Consultation and collaboration with traditionally associated Pueblos and Tribes and the State Historic Preservation Office will be an on-going standard practice.

Article II. Statements of Agreement

- 1) The City agrees as follows:

- a) The City recognizes the importance of administering and managing the entire Monument in a consistent manner, regardless of land ownership, and in accordance with the Establishment Act's mandates and prescriptions. The City's responsibilities include, but are not limited to, the following:
 - i) The City hereby consents to the NPS' cooperative administration and management of visitor services and cultural and natural resources protection on City-owned lands within the Monument, and the parties hereby affirm that this Agreement is a "written instrument" as that phrase is used in 36 Code of Federal Regulations (hereinafter "C.F.R") subsection 1.2(a) (2). NPS law enforcement rangers may enforce regulations found in 36 C.F.R Chapter I on all City-owned lands within the authorized boundaries of Petroglyph National Monument, regardless of land ownership.
 - ii) Through the development of subsequent Memorandums of Understanding, the City of Albuquerque Police Department and Fire and Rescue Department will support public safety including law enforcement, wildland and structural fire suppression, emergency medical services, and other related services involving interagency cooperation for the protection of all lands, facilities and structures within the Monument boundaries.
 - iii) The City Open Space Division will provide personnel, services, and equipment as available for supporting day-to-day operations, visitor services and facility maintenance at Boca Negra Canyon and Piedras Marcadas Canyon though the NPS shall have primary responsibility for operations, visitor services and facility maintenance throughout the Monument.
 - iv) The City Department of Parks and Recreation will maintain the paved, multiuse trail on the former Atrisco Drive at Boca Negra Canyon.
 - v) The City Open Space Division will provide personnel, services, and equipment, as available, to assist with the implementation of the Visitor Use Management Plan (VUMP), including Monument operations, facility management / maintenance, project work (e.g., fencing, trail work, construction, trash removal, signage, trail maintenance, and land restoration), interpretation and education, special events, and activities in coordination with the NPS.

- vi) The City Open Space Division will provide maps and/or GIS layers, upon request by the NPS, that detail land ownership, City utilities, easements, and any other current or future infrastructure projects within and/or adjacent to Monument boundaries.
- vii) The City will provide and maintain access to the Monument via adjacent City-owned lands and streets.
- viii) The City will administer the issuance of commercial filming permits on City-owned lands within the Monument in consultation with the NPS to ensure no adverse impacts occur as a result of the filming activity. No commercial filming will be allowed at the Piedras Marcadas Pueblo site, the Northern Geologic Window, and the Southern Geologic Window, except for educational purposes, as those areas are closed to public access.
- ix) The City will work with the University of New Mexico Maxwell Museum of Anthropology on the curation of the archeological and historical materials that have been collected or will be collected on Major Public Open Space within or adjacent to the Monument. The Maxwell Museum will catalog, store, and administer the collection in accordance with 36 C.F.R. Part 79 and standard museum practices.

2) The NPS agrees as follows:

- a) The NPS shall administer and manage visitor services and cultural and natural resource protection for all lands now owned or hereafter acquired by the City (hereinafter “City-owned lands”) within the Monument, in accordance with § 105 of the Establishment Act. The NPS responsibilities include, but are not limited, to the following:
 - i. Interagency coordination, consultation with traditionally associated communities and tribal/pueblo governments; providing services related to staffing, budget, purchasing, and contracting; providing public information and outreach; and establishing and implementing Monument mandates in accordance with NPS Management Policies, Director’s Orders, federal guidelines, and Monument plans and priorities.
 - ii. Strategic planning, development of annual work plans, implementation plans, facility and landscape design; information analysis; environmental and natural and cultural resource compliance; and ensuring the adherence to land use policies and requirements.
 - iii. Cultural and natural resource management including resource inventory and monitoring; resource surveys; database , maps and records management; using resource information to make well-informed management decisions; coordinating the review of research permits and subsequent federal or state reviews/permits/approvals specific to the project (e.g., New Mexico Cultural Properties Act, Archaeological Resource Protection Act, etc.); implementing visitor use monitoring protocols; and overall management of the cultural and natural resource program.
 - iv. Visitor Services including outreach and educational programs; developing exhibits, literature and information for the visiting public and surrounding communities; developing kiosks and wayside exhibits; establishing partnerships and agreements with area tribal and pueblo communities for education and cultural demonstrations; conducting visitor surveys; and managing volunteers and volunteer projects.

- v. Operations and Maintenance including facility planning, construction, maintenance, and repair; fencing installation and removal; trash removal; signage design, development, procurement, and repair; trail maintenance; and land restoration.
- vi. Providing maps and/or GIS layers that detail electrical facilities and transmission lines, land ownership and monument boundaries, monument gates and access points, roads and trails, and locations of documented possible unexploded ordnance (UXO) areas.
- vii. Permitting and oversight of special activities including special use permits, commercial use authorizations, educational permits, and research permits in accordance with NPS guidelines and relevant state laws, as appropriate. Managing the public use of lands in the Monument by developing a written Superintendent's Compendium for defining and restricting types of public use. This document will be updated annually and will be made available to the public.
- viii. Seek funds to 1) develop a plan to determine appropriate interpretive facilities for the Monument, including construction of a new visitor center, (2) implement the Boca Negra Canyon development concept plan, and 3) develop a plan for a virtual or facility-based rock art research center to enhance public understanding of prehistoric and historic rock art and fulfill the obligations of the Establishment Act.

3) The Parties further agree as follows:

- a) The NPS and the City Open Space Division shall ensure that signs, brochures, and other material used to identify the Monument or provide information shall use the graphic design standards of the NPS; however, all such materials shall incorporate references to and/or official logos of both parties.
- b) Whenever feasible, the NPS and the City shall jointly plan and conduct training opportunities for Monument and City Open Space employees. To the extent practicable and as permitted by applicable law, each party may notify the other party of anticipated consultations and collaboration with communities affiliated or associated with the Monument.
- c) The NPS and City will continue to seek funding for facilities repair and rehabilitation, cyclic maintenance, resource preservation and protection, visitor services, interpretation and education, stormwater planning, and land acquisition for all lands within the Monument.
- d) The NPS and City will work together to ensure the protection of the Piedras Marcadas Pueblo site following the processes approved in the Visitor Use Management Plan (2019). Planning efforts currently underway, such as the Archaeological Management Strategy, Indigenous Cultural Landscape Report, insights gleaned from research that has occurred at the site, and continued communications with traditionally associated pueblos and tribes, will contribute to long-term, thoughtful management of the site.
- e) Both parties will provide each other with copies of all public information releases related to the Monument and shall endeavor to notify the other party prior to such releases; when appropriate, the parties will draft and issue such releases jointly.

- f) Public safety is a shared responsibility, and cooperation with the City as detailed in a Memorandum of Understanding (MOU) includes resource, facility and visitor protection; routine patrols; investigations; interagency coordination; radio communications and related facilities (e.g., repeaters), and sharing of reports and intelligence (at the sole discretion of each agency).
- g) A Structural and Wildland Fire MOU between the NPS and the Albuquerque Fire and Rescue (AFR) will be completed and maintained by both agencies.
- h) Right-of-Way (ROW) permits for existing ROWs and easements will be authorized by the appropriate land management agency depending on the land ownership status. New ROW permits and/or projects related to the construction of new utilities, water/wastewater, telecommunications facilities, drainage, or similar projects will be reviewed per Article I. (3).
- i) The parties shall standardize museum collection and archival processes through a MOU for items found within the Monument boundaries to determine which will be stored and managed by the City and which will be stored and managed by the NPS.
- j) The parties shall review updates to the City of Albuquerque Integrated Development Ordinance (IDO), proposed variances, and external development projects which may affect Monument resources. The parties will confer and coordinate responses to these actions through established administrative channels.
- k) The parties shall continue to collaborate on the preparation and implementation of a Boca Negra Canyon development concept plan and for future opportunities to partner in the management of the Boca Negra Canyon area.
- l) The parties agree to provide opportunities for internships and partnerships with area schools, universities, and youth corps with an emphasis on Native American and other diversity hires.
- m) The parties shall keep confidential any protected information that may develop or otherwise be acquired through co-management of the Monument, except as specifically authorized by the NPS or required by law or Court order. Protected information is safe-guarded by applicable federal and state laws, including the Archaeological Resource Protection Act, the National Historic Preservation Act, the Paleontological Resource Protection Act, the New Mexico Cultural Properties Protection Act, and applies to, but is not limited to, the nature and specific location of archaeological sites, paleontological sites, museum collections, caves, ethnographic resources, sacred ceremonial sites, and sensitive information shared by the Monument's traditionally associated pueblos and tribes.
- n) Subsequent agreements may be developed to address specific goals and tasks associated with this Agreement.

Article III. Other Provisions Relating to Administration and Management of the Monument

The parties recognize the importance of administering and managing the entire Monument in a consistent manner, regardless of land ownership, and in accordance with the Establishment Act's mandates and prescriptions. Accordingly, to the maximum extent practicable, the City and the NPS shall communicate and coordinate with each other regarding activities and events within the Monument, shall consult with

each other before taking or approving actions affecting the Monument, and shall attempt to substantiate the cooperative spirit envisioned by the Establishment Act.

The Secretary of the Interior has sole responsibility and authority to make boundary adjustments to the Monument in accordance with applicable federal law. The City and Monument will coordinate the land protection program to include establishing priority areas for land acquisitions and minor boundary adjustments.

Both parties agree to use approved Cadastral Survey plats for management and protection of Monument resources.

Absent compliance with the City's property management and disposal regulations and a written agreement between the parties transferring specific property, or other written agreement for NPS use of City-owned property, the City will be deemed to own any improvements permanently attached to City-owned lands within the Monument. Absent compliance with federal property management and disposal regulations and a written agreement between the parties transferring specific property, the United States will be deemed to own any improvements permanently attached to federally owned lands within the Monument.

Roads and parking lots within the Monument shall be maintained for public safety and access by the most appropriate party with regards to time, resources, and personnel. The City Department of Municipal Development shall continue to maintain the portion of Unser Blvd and City-owned stormwater management structures within the Monument boundaries.

Each party shall supervise its own employees and shall control the method and manner of its employees' work. Employees shall report only to their usual supervisors within their respective organizations. Nothing in this Agreement is intended to alter the parties' usual chain of command or to create an employer-employee or principal-agent relationship between one party and the other party's employees.

As between the parties, each party shall be solely liable for property damage, personal injury, or death arising out of the acts or omissions of its employees, officers, or agents. The parties' liability is subject to the immunities and limitations contained in applicable law, including the New Mexico Tort Claims Act, codified at N.M. Stat. Ann. §§ 41-4-1 through 41-4-29 (Repl. Pamp. 1996 and Cum. Supp. 2021), and the Federal Tort Claims Act, codified primarily at 28 U.S.C. §§ 2671-80 (2012).

The parties' performance of their obligations under this Agreement is subject to the availability of funds appropriated for the purposes of this Agreement by the Albuquerque City Council and the United States Congress. Nothing in this Agreement should be construed as obligating the City or the NPS to expend in any one fiscal year any sum of money in excess of appropriations made by the Albuquerque City Council or the United States Congress for the purposes of this Agreement or as involving either party in any contract or other obligation for the expenditure of money in excess of such appropriations.

The Agreement does not authorize the transfer of funds from one party to the other. A separate written instrument executed by the parties would be required to authorize any transfer of funds.

The City, the NPS superintendent, and appropriate members of their staffs shall meet at least once a year to evaluate the Monument's administration and management and to review this Agreement.

Nothing in this Agreement confers liability to the NPS arising from any unreasonable, unsafe, or negligent condition existing on City-owned or state-owned property within the boundaries of the Monument.

General Provisions

If any part of the Agreement is held to be illegal, invalid or unenforceable, such holding will not affect the legality, validity, or enforceability of any other part of the Agreement as long as the remainder of the Agreement is reasonably capable of performance.

This Agreement will be governed by, and will be construed and enforced in accordance with, the laws of the United States, the laws of the State of New Mexico, and the ordinances of the City.

Article IV. Term of Agreement

This Agreement will be effective for a period of ten (10) years from the date of final signature, unless one of the parties terminates the Agreement earlier under article IX below.

Article V. Key Officials and Notices

The parties' key officials are listed below. All notices required by this Agreement must be in writing and must be delivered in person or sent via registered or certified mail, postage prepaid, to the other party's key official(s) at the address(es) listed below. The effective date of service of any notice will be the date when the notice is delivered in person or, if mailed, the postmark date.

For the City:

Chief Administrative Officer
City of Albuquerque
P.O. Box 1293
Albuquerque, NM 87103
(505) 768-3000

Director
Parks and Recreation Department
P.O. Box 1293
Albuquerque, New Mexico 87103
(505)768-5300

With a copy to:

Superintendent
Open Space Division
P.O. Box 1293
City of Albuquerque, NM 87103
(505) 452-5214

For the NPS:

Superintendent
Petroglyph National Monument
6001 Unser Boulevard NW
Albuquerque, New Mexico 87120
(505) 899-0205

Regional Director
National Park Service
Department of the Interior, Regions 6,7,8
Lakewood, CO
(303) 969-2503

Article VI. Prior Approval

See Article II (Statement of Agreements) above.

Article VII. Reports and/or Deliverables

Not applicable.

Article VIII. Property Utilization

Unless otherwise agreed to in writing by the parties, any personal property furnished by one party to the other will remain the property of the furnishing party. Any personal property furnished by the NPS to the City during the performance of this Agreement will be used and disposed of as set forth in NPS Property Management Regulations.

Article IX. Modification and Termination

Only a written instrument executed by the parties may modify this Agreement.

Either party may terminate this Agreement by providing the other party ninety (90) days advance written notice of its intention to do so. If one party notifies the other party of its intention to terminate, then the parties shall meet promptly to discuss the reasons for the proposed termination and to try and resolve their differences amicably. Recognizing the importance of this Agreement, the parties commit to using every reasonable means available, including, if necessary, use of a neutral mediator, to try to avoid terminating this Agreement.

Article X. Standard Clauses

Civil Rights

During the performance of this agreement, the participants agree to abide by the terms of USDI-Civil Rights Assurance Certification, non-discrimination, and will not discriminate against any person because of race, color, religion, sex, gender identity, sexual orientation, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation, ancestry, age, physical or mental handicap or serious medical condition, or disability as defined in the Americans With Disabilities Act of 1990, as now

enacted or hereafter amended, or national origin. The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, religion, sex, gender identity, sexual orientation, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation, ancestry, age, physical or mental handicap or serious medical condition, or disability as defined in the Americans With Disabilities Act of 1990, as now enacted or hereafter amended, or national origin. The parties agree to comply and act in accordance with all provisions of the Albuquerque Human Rights Ordinance, the New Mexico Human Rights Act, Titles VI and VII of the U.S. Civil Rights Act of 1964, as amended, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, and all federal, New Mexico and City laws and rules related to the enforcement of civil rights.

Compliance with Laws

During the performance of this Agreement, the parties agree to comply with all applicable laws, ordinances, and codes of the federal, state and local governments. The commitment of the United States to comply with this and any other provision in this agreement is subject to applicable federal law and subject to Congressional appropriations.

Force Majeure

The parties shall not be liable for failure to perform their obligations under this Agreement, for any loss or damage of any kind, or for any consequences resulting from delay or inability to perform, due to causes beyond the reasonable control and without the fault or negligence of the City. Such causes ("Force Majeure Events") include but are not restricted to: acts of God or the public enemy; acts of State, Federal or local governments; shortage or inability to obtain materials; breakdowns or delays of carriers, manufacturers, or suppliers; freight embargoes; theft; fire; flood; epidemics or pandemics; quarantine restrictions; strikes; lockouts; unusually severe weather; and defaults of subcontractors due to any of the above. If a Force Majeure Event causes any failure to perform, the nonperforming party shall promptly inform the other party in writing of such event, indicating the expected duration thereof and the period for which suspension in performance is requested. The parties shall consult with each other in good faith with respect to modification of this Agreement to reflect such suspension or other changes (if any) desired by the party as a result thereof. The rights and remedies provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this Agreement.

Official Not to Benefit

No member of or delegate to Congress or resident Commissioner shall be admitted to any share of part of this agreement or to any benefit that may arise there from, but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

Article XI. Authorizing Signatures

In witness hereof, the parties' authorized representatives have signed this Agreement on the dates indicated, thereby executing it.

Authenticated electronic signatures are legally acceptable pursuant to Section 14-16-7 NMSA 1978. The parties agree that this Agreement may be electronically signed and that the electronic signatures appearing on this Agreement are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

This Agreement shall not become binding upon the City until approved by the highest approval authority of the City required under this Agreement.

For the City of Albuquerque:

Approved by:



3/21/23
Date

LK
3/20/23

Lawrence Rael
Chief Administrative Officer
City of Albuquerque

Recommended by:

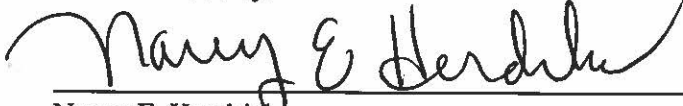


3/20/23
Date

David J. Simon
Director
Parks and Recreation Department
City of Albuquerque

For the National Park Service:

Recommended by:



3/22/23
Date

Nancy E. Hendricks
Superintendent
Petroglyph National Monument

Approved by:



3-22-23
Date

Lisa Carrico
Acting Regional Director
Interior Regions 6, 7, 8

