

**Draft Term Sheet By and Between  
The United States Department of the Interior,  
National Park Service, and  
The Constitutional Foundation, Inc.**

July 31, 2003

The following is a draft of a proposed Term Sheet, for discussion purposes, to outline a Cooperative Agreement to be entered into between the United States Department of the Interior, National Park Service, on behalf of Independence National Historical Park (the "Service") and The Constitutional Foundation (the "Foundation"), a Pennsylvania 501(c)(3) non-profit corporation.

1. Cooperative Agreement. The Service, in furtherance of national policy to preserve and protect historic sites, structures and properties ("historic sites") it maintains in the vicinity of Independence National Historical Park, is willing to negotiate a Cooperative Agreement with the Foundation for a five year term, to assist the Foundation in its efforts to preserve, mark, interpret, exhibit, guide and promote such historic sites along The Constitutional Walking Tour of Philadelphia (the "Tour"). The parties intend to negotiate and execute the Cooperative Agreement within sixty (60) days of the date of this Term Sheet.

2. Foundation Mission. The Foundation is an independent, non-partisan and non-profit corporation which created and administers the Tour. The Constitutional Foundation is dedicated to increasing understanding of, appreciation for, interpretation of, promotion of, visitations to, and exhibitions of, Philadelphia's historically significant sites, along a suggested marked sequence, in the Independence Mall ecosystem. The Foundation intends to engage in fundraising from both the private and public sectors for the purpose of providing support and assistance to Independence National Historical Park and Tour sites, to enhance preservation and interpretation of these important historic sites. In addition to negotiating the Cooperative Agreement with the Service, the Foundation will continue endeavoring to establish working relationships with various stakeholders, including, but not limited to, the City of Philadelphia, the Commonwealth of Pennsylvania, the Independence Visitor Center, the Greater Philadelphia Tourism Marketing Corporation, the Philadelphia Convention & Visitors Bureau, Philadelphia Multicultural Affairs Congress, the owners or operators of the historic sites, community leaders, merchants in the vicinity of the Independence National Historical Park, residential groups in the Independence National Historical Park area, and other key actors.

The Foundation and The Tour are modeled after The Freedom Trail Foundation and The Freedom Trail in Boston respectively. The Freedom Trail is located in Boston National Historic Park, which is administered by the Service. The Freedom Trail is physically marked throughout Boston with a red line composed of paint and contrasting bricks on the sidewalks, streets and walkways denoting The Freedom Trail's easy to follow path for visitors as well as signage identifying the historic sites. Examples of the promotion of The Freedom Trail are attached to this Term Sheet as Exhibit A. It is contemplated that similar materials and promotion will be used by the Tour.

3. Foundation Obligations. Under the proposed Cooperative Agreement, the Foundation will:

- a. cooperate with the Service in the development and promotion of the Tour, to protect and preserve the historical integrity and landscape, culturally and architecturally, of the sites

noted or featured in connection with The Tour, consistent with "Management Policies" of the Service; and

b. cooperate with the Service in the preparation of publications for the Tour. The Foundation also will distribute official materials concerning Independence National Historical Park; and

c. utilize training and guidance from the Service; and

d. cooperate with the Service in programs, special events, curatorial and visitor services activities, associated with the Tour, including cooperation in funding these activities, subject to availability of funds; and

e. maintain books and records in accordance with acceptable accounting practices, and budgets for operations, which may be inspected by the Service.

4. The Service's Obligations. Under the proposed Cooperative Agreement, the Service will:

a. assist the Foundation, when necessary, using reasonable best efforts, by providing funds for specific purposes, such as special exhibits, technical training, interpretive literature, public affairs programming, executive direction, and other special purposes, as mutually agreed to; and in marking the Tour with a publicly visible line (similar to that used in connection with the marking of The Freedom Trail in Boston), in cooperation with the City of Philadelphia; and

b. provide other technical assistance in a variety of fields associated with management of historical trails, such as maintenance, interpretation, curatorial management, general management and the like, as mutually agreed to; and

c. include the Foundation in pertinent Park literature and interpretive materials including maps relating to the Tour, produced by the Service or by others acting for or on behalf of the Service, and consult with the Foundation in regard thereto; and

d. review books, literature and other sales and promotional materials, and assist in locating same, and suggest merchandising techniques as the Foundation may, from time to time, request.

5. Invoices. Any commitment of funds shall be authorized by individual modification obligating funds, with the Foundation obligated to submit appropriate invoices and other supporting statements or certifications in connection with such funding, consistent with the Service's policies.

6. Performance and Financial Reports. The Foundation shall follow the Service's procedures and submit required annual performance reports and financial reports to the Chief of Administration.

7. Termination. While it is the intent of the parties that the activities contemplated continue uninterrupted, the agreement may be terminated or suspended in accordance with the provisions set forth with 43 C.F.R. Part 12.

8. Applicable OMB Circulars and Additional Provisions. The following circulars will apply to the Cooperative Agreement between the parties: OMB Circular A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations"; OMB Circular A-133, "Audits of States, Local Governments and Other Nonprofit Institutions"; OMB Circular A-21, and OMB Circular A-122, "Cost Principles for Nonprofit Organizations". Additional Provisions which apply include:

a. 43 CFR Part 12 including:

(1) Applicability of various OMB circulars

- (2) Administrative requirements
- (3) Government Debarment and Suspension
- (4) Drug-Free Workplace Requirements
- (5) Buy American Requirements for Assistance Programs

- b. 43 CFR Part 18, Restrictions on Lobbying Disclosure Requirements
- c. MBE/WBE Utilization Under Federal Grants, Cooperative Agreements, and Other Federal Assistance Agreements, 505 DM 3.1 - 3.5C(1)(A) or 5.1 - 5.6E(1), as appropriate.
- d. Limitations on Payments to Influence Certain Federal Transactions, FAR 52.203-12.
- e. Non-discrimination Requirements.

9. Availability of Funding. The obligations of the Service shall be subject to the availability of funding, and nothing herein contained shall be construed as binding the Service to expend in any one fiscal year any sum in excess of appropriations made by Congress or administratively allocated for the purpose of the Cooperative Agreement for the fiscal year, or to involve the Service in any contract or other obligation for the further expenditure of money in excess of such appropriations or allocations.

10. Public Information. The Foundation will not publicize, or otherwise circulate, any promotional material which states or implies Federal Governmental, Departmental, Service or Federal Government employee endorsement of a product, service, or position which the Foundation represents, or which states or implies that the Government endorses the Foundation products or services as superior to other products or services. The Foundation will ensure that all information submitted for publication or other public release regarding this project shall carry any disclaimers required by the Service.

The Foundation must obtain prior approval from the Superintendent, or authorized representative, of Independence National Historical Park for any public information releases which refer to the Department of the Interior, the Service, any sub-unit or employee thereof (by name or title), or the Cooperative Agreement between the Foundation and the Service.

11. Indemnification, Liability and Insurance. The Foundation will indemnify the United States, its agents and employees from all such liabilities, expenses and costs on account of or by reason of any injuries, deaths, liabilities, claims, suits or losses however occurring or damages arising out of the same, except for claims arising from the act or acts of any employee of the Service. The Foundation shall be responsible for the acts and omissions of its representatives, employees, contractors and subcontractors and shall maintain insurance in amounts and in a form satisfactory to the Contracting Officer and by an insurance company acceptable to the Contracting Officer naming the United States of America as an additional insured, shall specify that the primary insured shall have no right of subrogation against the United States for payments of any premiums or deductibles due thereunder, and shall specify that the insurance shall be assumed by, be for the account of, and be at the primary insurer's sole risk.

12. Term Sheet Not Binding. Nothing herein shall constitute a legally binding obligation of either party to enter into the Cooperative Agreement, and no party shall be legally bound to the other unless and until a definitive agreement shall have been duly authorized, executed and delivered by the parties.

**IN WITNESS WHEREOF**, the parties hereto have caused this Term Sheet to be executed by their respective duly authorized officers or representatives the day and year written below:

The Constitutional Foundation, Inc.

United States Department of the Interior,  
National Park Service

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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