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Parks 2.0: Operating State Parks Through Public-Private Partnerships

by Leonard Gilroy, Harris Kenny and Julian Morris



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Executive Summary

The fiscal challenges that state governments have faced in recent years have placed significant pressures on state park systems, which have to compete for increasingly stretched funds alongside education, healthcare, higher education and other—often higher—spending priorities. In many states, this has led to declines in park funding, cutbacks in park services, and, in some cases, even the closure of parks themselves. Oftentimes, these funding pressures are occurring on top of—and exacerbating—a longer-term trend of inadequate or deferred maintenance in the parks, threatening the sustainability of these recreational assets. California’s state park system, for example, has accumulated over \$1 billion in deferred maintenance over the last few decades, and given funding pressures in recent years it is uncertain how the state will begin to close the maintenance gap.

Such crises have prompted policymakers to rethink traditional approaches to funding and operating state parks. Public-private partnerships (PPPs) are one promising solution that would invite the private sector to play a bigger role in keeping state parks open without imposing additional burdens on taxpayers. Many states already successfully use private concessionaires to provide discrete services within parks—such as food, retail, lodging, recreational activities and other commercial services—and they can build on that by seeking to expand the private sector’s role to the operation of whole parks via PPPs.

A park operation PPP would transfer the responsibility of maintaining a state park to a private operator, while enabling that operator to raise revenue through entrance and other fees. This is far from a new concept. Private, for-profit recreation management companies currently operate over half of the U.S. Forest Service’s (USFS) thousands of developed recreation areas (e.g., campgrounds, day use areas) nationwide under “whole-park” concession agreements. Colorado, California, Oregon and Washington each have over 100 USFS recreation areas and campgrounds operated by private concessionaires, with most other western states like Arizona, New Mexico and Nevada each having dozens under private operation as well.

In 2012, budget pressures prompted California to become the first state in the modern era to enter into park operation PPPs for five state parks threatened with closure. These PPPs were structured as whole-park concessions in which the state retains ownership and control over the parks while paying a private operator nothing to operate them. Instead, the concessionaires pay the state a minimum annual rent for each park using revenues derived from camping and other user fees. Concessionaires are generally responsible for handling (and covering the costs of) minor improvements and day-to-day repairs, and for larger maintenance jobs, all revenues paid to the state as concession rent in these parks are put into a park maintenance fund from which the concessionaire can seek state approval to spend.

Concessionaires are also required to maintain the premises, trails, roads, facilities, furnishings and equipment in good condition in accordance with agency standards and contract provisions. And concessionaires are required to implement an operations plan for each park unit—prepared by the concessionaire and approved by the state—outlining how services will be provided and facilities maintained over the life of the concession to ensure that the public interest is protected.

Park operation PPPs like these can help ensure that parks remain open to the public, are managed according to the long-term vision of elected and appointed officials, and remain financially sustainable. Though pioneered at the federal level by the USFS, they are a perfectly feasible option at the state level as well, as evidenced by California's experience. PPPs can offer a wide range of benefits in park operations, including financial sustainability, optimization of staffing and operations, enhanced risk management, accountability for outcomes, proper facility maintenance and much more.

State policymakers should carefully consider the long USFS history with park operation PPPs and California's recent initiatives as they contemplate ways to ensure the long-term fiscal sustainability of their own state parks. PPPs have proven to be an effective conservation tool, which can provide stability in the face of fiscal uncertainty and transform underfunded state parks into self-sustaining public environmental assets.

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Part 1

Introduction

The ongoing fiscal challenges facing state governments are creating an existential crisis for state parks. With budgets stretched thinner, state parks must compete for limited funds with other, often higher, policy priorities like education, health care, public pensions and public safety. These budget pressures have prompted policy makers in California, New York, Florida, Arizona, Georgia, Massachusetts and other states to close or significantly reduce services in hundreds of state parks nationwide, or at a minimum, to reduce parks budgets.¹ In other states, like Washington and South Carolina, governors and legislatures have recently launched efforts to require parks to become self-sufficient to wean them off state appropriations, anticipating that parks funding will increasingly be crowded out by other spending priorities.

As South Carolina Department of Recreation and Tourism Director Duane Parrish told *The Greenville News* in August 2012, “When the state park system stands up before the General Assembly up there with education, health care and public safety, guess who’s fourth on that list? . . . The less we have to rely on money from the General Assembly, the more we insulate ourselves from future economic downfalls.”²

Beyond the threat of closures, the ongoing economic malaise has exacerbated a widespread, pre-existing problem of inadequate and deferred maintenance in state parks, which only serves to accelerate their decline. A 2010 report by the National Park Service found that states had identified \$18.5 billion in unfunded needs for parks and recreation.³ The National Trust for Historic Preservation noted in 2010 that over half the state parks systems are “at-risk,” which means that state-owned and -managed parks and historic sites are facing major budget cuts.⁴ For example, the California State Parks System accumulated over \$1 billion in deferred repairs and maintenance, not including the significant hurdles covering operational costs across the system.⁵

The parks crisis is not confined to states; it is evident at all levels of government. The most recent national infrastructure report card prepared by the American Society of Civil Engineers (ASCE) in 2009 gave the “Public Parks and Infrastructure” category a grade of C-, citing inconsistent funding sources and widespread neglect in many parts of the country. The ASCE estimated a \$48.2 billion funding shortfall for parks and recreation nationally over the next five years, representing the gap between \$36.8 billion in estimated spending over that time and \$85 billion in total funding needs. In other words, there is real infrastructure deterioration in America’s parks.⁶

Deficient parks maintenance has a cumulative negative effect that can ultimately lead to park closures and discontinuation of open public spaces. According to a 2006 study by the National Parks Conservation Association, the combination of underfunding and insufficient maintenance leads to “park infrastructure decays, natural ecosystems overrun with exotic species, historical treasures inadequately preserved and public safety jeopardized.”⁷

Yet state parks remain popular while their maintenance needs continue to worsen. According to America’s State Parks Foundation, state parks received 725 million visitors at over 6,000 sites around the country in 2010 alone.⁸ Can this popularity be turned from a cost into a benefit? One way to keep state parks open without imposing additional burdens on the taxpayer is to use public-private partnerships (PPPs). Many states already successfully use private concessionaires to provide piecemeal services within parks—including food, retail, lodging, marinas and other commercial activities—so a shift to more extensive involvement can build on that framework. Such a whole park operation via PPP would transfer the responsibility of maintaining the park to a private operator, while enabling that operator to raise revenue through entrance and other fees. This paper describes such a model and explains how it can best be applied.

We begin with an outline of the basic park operation PPP model, then explain how the model was developed in the context of U.S. Forest Service (USFS) recreation areas. We then offer insights into how to set contract terms in a park operation PPP and describe an application of the park operation PPP model to California. We then provide an overview of the status of park operation PPPs in various other states and offer some concluding remarks regarding the future application of the park operation PPP model.

Part 2

Rethinking the Private Sector's Role in State Parks

At the state level, the public sector is currently responsible for the majority of the operations at state parks. Non-governmental entities operate some food, retail and other services as private concessions. And some states partner with nonprofits to deliver interpretive (environmental education) programs and other activities. But overall, most state park operations and management are run on a top-down, public sector delivery model.

By contrast, over the past 25 years states have embraced the use of PPPs in the fields of transportation, education and numerous other sectors. More than 30 states have passed explicit statutory authority to use PPPs to deliver transportation infrastructure, and several others—including Virginia, Texas and Puerto Rico—have expanded that authority to include the use of PPPs to deliver social infrastructure assets such as government buildings, schools, higher education facilities, information technology systems and more. As a result, billions of private sector dollars are financing road and bridge operation or construction, thousands of charter schools educating K–12 students, and many other creative partnerships in which governments team with private organizations in order to more cost-effectively and efficiently deliver public services and infrastructure.

However, the top-down approach currently taken by states is not ubiquitous across the entire U.S. recreation public lands system. The private sector has long played a role in the operation of public recreation areas and parks. For example:

- Private, for-profit recreation management companies currently operate over half of the USFS's thousands of developed recreation areas (e.g., campgrounds, day use areas) nationwide under “whole-park” concession agreements. For example, Colorado, California, Oregon and Washington each have over 100 USFS recreation areas and campgrounds operated by private concessionaires, with most other western states like Arizona, New Mexico and Nevada each having dozens under private operation as well. This USFS program has been in place for over 25 years, prompted originally by fiscal pressures on the agency in the 1980s during the Reagan administration, which led it to embrace user fees and PPPs to keep its numerous recreation areas open and self-sustaining.

- For decades, Central Park and Bryant Park in New York City have been operated by nonprofit organizations that handle day-to-day operations, invest in capital projects and provide the majority of operating funds, minimizing public subsidies. Similarly, almost three-quarters of national zoos accredited by the Association of Zoos and Aquariums—including most of the major urban zoos nationwide—are currently operated using a similar nonprofit PPP model.⁹
- The Grand Canyon, Yosemite, Yellowstone and many other crown jewels of the National Park System make extensive use of the private sector to operate lodging, food, retail and other commercial services within their park boundaries.
- Many local governments contract out operations and maintenance that include landscaping, tree-trimming, waste removal and other activities.

Part 3

The Proposed Model: PPPs for State Park Operations

What would a whole park operation public-private partnership (PPP) look like? Let's start with the basic PPP model. Put simply, a PPP is an agreement formed between a public agency and a private entity that facilitates greater private-sector participation in the provision of a public service. The examples in the previous section illustrate a wide variety of PPPs already in use in the parks and outdoor recreation sector. These may take relatively simple forms, such as contracting for landscaping or waste removal. But the most powerful versions involve “whole-park” concessions: long-term partnerships used for comprehensive park operations and implemented via performance-based contracts between the government agencies responsible for overseeing parks and recreation management companies—along the lines of the USFS example cited above. For clarity, we will use the term *park operation PPPs* to designate this form of partnership.

Figure 1 outlines the key responsibilities associated with public park management and illustrates those areas most appropriate for a park operation PPP and those functions most appropriately retained by the state. Under a PPP, the state would maintain public ownership of parks and retain its traditional role overseeing strategy, planning, character and facilities for each park. Further, the state would maintain its control over policy decisions on environmental initiatives, user fee rates, and facility and capital investment planning.

With the state's policy-setting and oversight in place, the private-sector concessionaire would then assume typical day-to-day park operations and maintenance functions, such as visitor services, routine maintenance (e.g., bathroom cleaning), landscaping, waste services, routine repairs and utility payments. “While these operational tasks by no means constitute all the work required to keep parks open, they account for the vast majority of the money spent by the state parks organization in the field,” according to one concessionaire.¹⁰ There may even be opportunities to tap private-sector capital up front to deploy to capital investment projects, depending on the scope of the PPP contract (longer contracts generally facilitate more private-capital investment). With ownership and oversight of state parks remaining with the state and operational responsibilities delegated to concessionaires through rigorous PPP contracts, the state can ensure the park is operated and maintained in a manner consistent with the long-term vision for the park as defined by elected officials and their agents. Through specific operating commitments and performance expectations, which can be hundreds of pages long for a single park, the state can prescribe the exact goals and level of performance it demands from the private sector.

Figure 1: Delegation of Responsibilities in Park Operation PPPs

Note: In a park operation PPP, the full scope of capital maintenance and investment responsibilities would depend on the length and structure of the contract negotiated with the park's authority.

Source: Adapted from Warren Meyer, Recreation Resource Management, Presentation to Arizona State University Symposium on the Private Management of Public Parks in Arizona, November 9, 2010. Also available at <http://parkprivatization.com/2011/05/press-release-a-successful-model-for-keeping-arizona-state-parks-open-exists-right-here-in-arizona/>.

At the state level, a park operation PPP—or “whole-park” concession, to distinguish this model from more traditional food/retail-style concessions in place in many parks today—would typically be structured as a 5–10 year commercial lease in which the concessionaire collects the gate fees to fund its operations and maintenance costs, including labor. If capital investment is required, contract length typically increases to 15–20 years. However, public subsidies to supplement gate fees are not required—in fact, the concessionaire usually pays a competitively bid percentage of the gate revenues to the public agency as an annual lease payment.

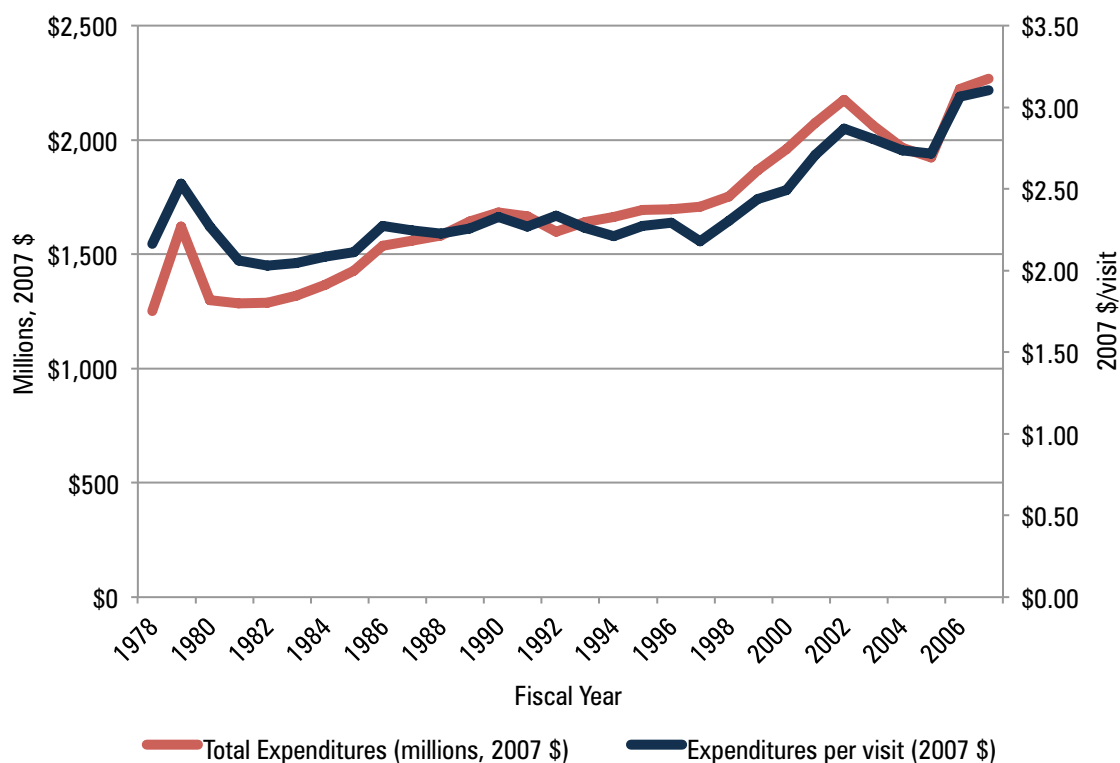
This offers the opportunity to minimize or potentially eliminate public subsidies that currently help cover the operating costs of the parks, while keeping the parks open for public enjoyment. Concessionaires can simultaneously increase the net revenue to the government and realize their own profits, given that they can tap a lower cost, more flexible labor force and realize other operational efficiencies, as described in the benefits section below.

Sources of Parks Funding

In 2008, Resources for the Future conducted a comprehensive survey of state park directors in 46 states (excluding Hawaii, Michigan, New Mexico and Washington). This survey found that, at the time, the average percentage of state operating budgets covered by user fees was 42%. Further, almost every state parks system relies on support from its state's general fund, receiving an average of 41% of its funding through the general fund.

Between 1975 and 1995, user fees increased from 36% to 43% of the 46 state operating budgets surveyed, with nearly 20% (depending on the state) of the operating budget coming from a combination of different fees, grants and alternate sources of revenue dedicated to parks and 41% coming from the state's general fund. States have also experienced a gradual increase in park operating expenditures—both on a total and per-visit basis—as seen in Figure 2.

Figure 2: State Park Operating Expenditures (2007 Dollars)



Source: Margaret Walls. January 2009. *Parks and Recreation in the United States: State Park Systems*. Washington, D.C.: Resources for the Future, p. 6.

Part 4

Benefits of Park Operation PPPs

The U.S. Forest Service (USFS) realized more than 25 years ago that while ecology and land preservation were core competencies, running recreation and commercial enterprises was not. So the USFS began rapidly expanding its use of whole-park concessions, and the agency estimates that over half of its recreation sites nationally are now run under park operation PPPs. The USFS experience allows us to make the following inferences about the benefits of park operation PPPs.

Financial Self-Sufficiency in Park Operations

Public subsidies are typically not required for park operation PPPs—in fact, the concessionaire usually pays a set percentage of the annual park revenues back to the public agency as rent. State parks operating under a concession would no longer bear the appropriation risk facing many parks authorities across the country, as amenities like parks are increasingly forced to yield to education, Medicaid and other core funding priorities in the state budget process.

In any discussion of park subsidies and park operation PPPs, it is important to distinguish between public subsidies for the operation of specific state parks and legislative appropriations to the state parks agency. It is the former that can be minimized or eliminated in a park operations PPP, as the concessionaire will absorb most or all of the direct, day-to-day operating costs of parks (e.g., staff, maintenance, utilities, etc.) and pay rent back to the state. Absent a PPP, it is common for state parks to require public subsidies (over and above user fees collected) to cover the full costs of operation. By contrast, this report does not intend to suggest that park operation PPPs offer a means of eliminating all legislative appropriations to parks agencies. As suggested in the breakdown of responsibilities in Figure 1, state agencies will still face costs not directly related to the actual operation of parks—for example, the costs of owning land and maintaining title, contract oversight and management, conservation programs and activities, the operations of non-fee assets (historical parks, preservation lands, etc.), agency technology and more—which may require the continued appropriation of tax dollars. While park operation PPPs can be used to remove the *operating costs of specific parks* from the state’s books and thus help reduce the number of tax dollars appropriated to the parks agency, these are not the only costs incurred in running a state parks agency. (See the text box “*PPPs vs. Government Operation: A Tale of Two Arizona Parks*” on the next page for an example.)

PPPs vs. Government Operation: A Tale of Two Arizona Parks

In 2011, parks concessionaire Recreation Resource Management (RRM) prepared a case study of two publicly owned parks near Sedona, Arizona, that illustrates the dramatic differences between traditional agency park operation and the PPP concession model. The case study compared Red Rock State Park, operated by Arizona State Parks (a public agency) and Crescent Moon/Red Rock Crossing Recreation area, a USFS property operated under a concession by RRM.

Aside from the fact that one park is run by a public agency and the other is run by a private concessionaire, these two parks are similar in many respects. Both have public bathrooms, picnic and group shelters, parking facilities and trails. They are adjacent to each other, with similarly sized visitor areas and staffed gatehouses to collect fees and provide visitor information. Both charge similar entry fees (\$10 per vehicle at Red Rock, \$9 per vehicle at the privately operated Crescent Moon). More important, the parks are also very similar in revenue and number of visitors. In 2009, revenues totaled \$281,000 at Red Rock and \$304,854 at Crescent Moon.

The dramatic difference comes in the parks' financial picture, which illustrates the transformative power of park operation PPPs. In 2009, Red Rock had direct costs of \$370,943, plus an estimated \$24,062 share of regional agency operations office costs and an additional \$120,000 in operations support costs at the state park headquarters level (e.g., IT, human resources, etc.). Hence, Red Rock cost the state \$515,005 to operate but generated only \$281,000 in revenue, a loss of \$234,000 for Arizona taxpayers that year.

By contrast, the USFS generated revenue at Crescent Moon that year under a park operation PPP. The concessionaire paid all park operating expenses from the fees it collected, taking those off the USFS balance sheet. The USFS received \$54,873 in revenue from the concessionaire (18% of gate revenue) and only paid for contract oversight (an estimated \$10,000), yielding USFS a \$44,873 operating profit. The USFS often reapplies net revenue generated under concessions back to improvements and new park facilities, keeping them properly maintained and preventing the chronic deferred maintenance seen in struggling public sector park systems.

While the two parks are otherwise very similar, the park operated under a PPP generated revenue, while the publicly operated park lost taxpayer money. This simple example illustrates how parks can be financially sustainable under a PPP but financially unsustainable under public operation. Highlighting this point, Red Rock was ultimately included on the list of proposed state park closures in 2010 amid severe state budget pressures in Arizona.

Source: A Tale of Two Parks: Keeping Public Parks Open Using Private Operations Management. Recreation Resource Management. Accessed August 8, 2012, at <http://goo.gl/HjqGT>.

Some states are looking to “traditional” concessions—for example, new or expanded stand-alone concessions for food, retail, etc.—to try to generate more revenue for the park authority. While this approach may have a positive effect on revenues at the margin, it is unlikely to generate major new revenues, as a fractional share of new revenues from traditional concessions will only represent a fraction of the operating deficits state park agencies face.

By contrast, park operation PPPs don’t just add a few more dollars in concession fees; they change the entire cost structure of operating the park, taking the vast majority of its operating costs off the state’s books and making them the responsibility of a concessionaire. In return, the concessionaire pays back to the state an annual rent set as a percentage of total net revenues for each park under management. For those parks in which expenditures exceed revenue collection today under in-house operation—a common situation for many parks in states that use traditional concession and user fees—the PPP model offers a means to transform revenue-losing state parks into self-funding assets.

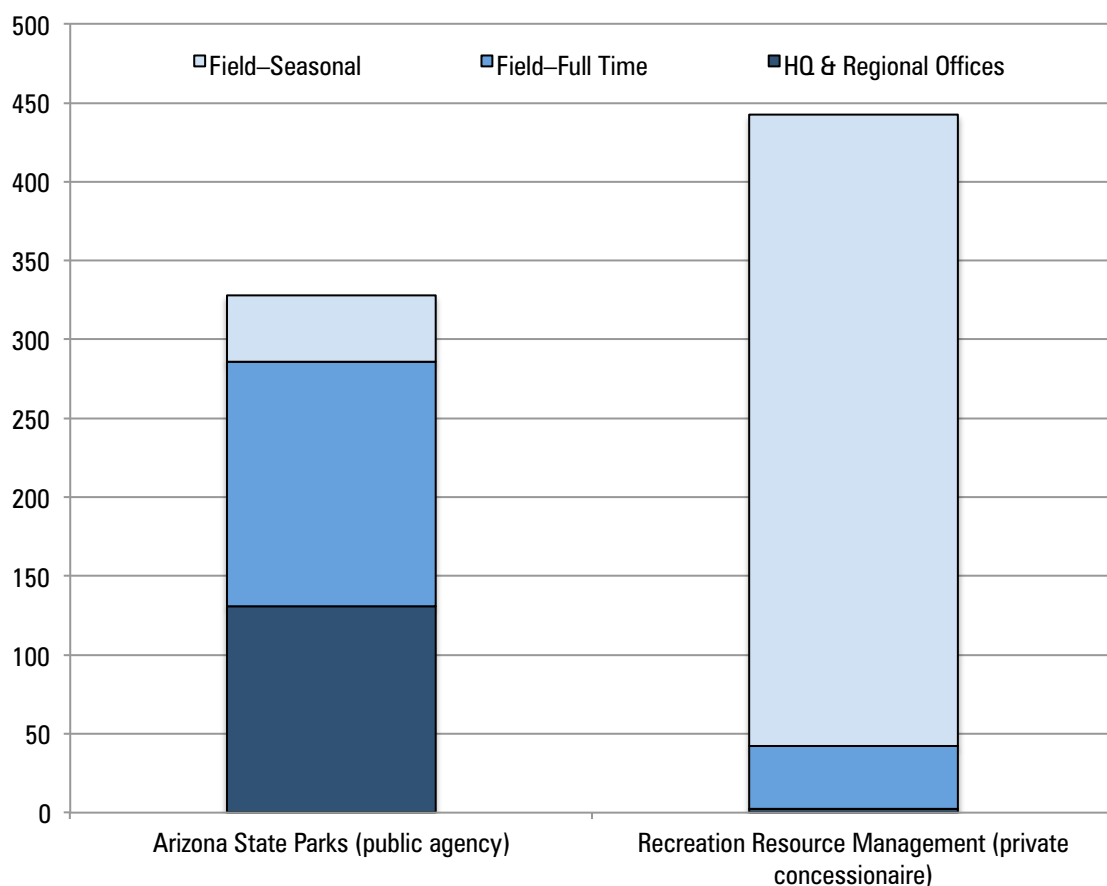
As discussed below, PPPs have undoubtedly enabled the USFS to keep open recreation areas that otherwise would have been closed in order to cut costs. In part they have done this by bundling into a single PPP contract recreation areas that were losing money with those that were breaking even or generating net revenue. One reason concessionaires are willing to take on these parks is that their operating costs are much lower than the public sector’s.

Optimizing Staffing and Operations

Financial self-sufficiency directly results from the opportunity to optimize operations through whole park operation PPPs. The key lies in the ability of concessionaires to dramatically lower operating costs, primarily through a more efficient staffing model. The traditional public operational model relies on high cost, inflexible labor that is ill-suited to meet the needs of parks. State park agencies typically hire full-time employees for year-round jobs, with credentials that over-qualify them for the job at hand. These employees also require costly public pensions and other post-employment benefits. However, this top-heavy staffing model is inconsistent with the seasonal nature of parks visitation, which requires seasonal labor to conduct straightforward tasks such as cleaning bathrooms and maintaining campsites.

By contrast, concessionaires in park operation PPPs rely primarily on seasonal labor that can be hired at a fraction of the cost at competitive market rates and in exchange for things like a recreational vehicle hookup for the summer. The Property & Environment Research Center (PERC) published a case study comparing the staffing models of a state parks agency (Arizona State Parks) and a private concessionaire that starkly demonstrates this difference between traditional operations and optimized operations, in terms of full-time versus part-time labor (see Figure 3).

Figure 3. Comparative Staffing Models: Arizona State Parks vs. Recreation Resource Management



Source: Holly L. Fretwell. 2011. *Funding Parks: Political versus Private Choices*. Bozeman: Property & Environment Research Center, p. 6. Available at www.perc.org/files/Funding%20Parks%20final.pdf.

The staffing model is not the only barrier to efficiency in public park agencies. In a 2012 report, the Washington State Parks and Recreation Commission cited some additional factors—including collective bargaining and state procurement rules—that tend to drive up the costs of public park operation relative to those seen in the private sector:

*State Parks needs to follow all the procurement rules, which meet a set of appropriate social objectives, equity concerns and ensure responsible use of public funds. Such governmental procedures come at a higher cost. [. . .] State Parks is subject to merit system rules, collective bargaining agreements, statutory restrictions on replacement of state employees with volunteers, wage and benefit standards, and other employment practices which meet statutory requirements and increase staff costs relative to those of private sector competitors.*¹²

The situation is much different in the private sector, where concessionaires tend to have much lower overhead expenses and lean headquarters staff, and they are not saddled with government procurement and personnel rules, allowing them to be nimble and use streamlined processes with a focus on operations.

Quality Guarantees

The government can set quality and maintenance standards at its own discretion and hold the private company accountable to meet them through a performance-based PPP contract. Well-written PPP concession contracts enable the private sector to provide unprecedented quality in park service delivery, while maintaining (and often expanding) public sector oversight. Later in this report we detail a range of ways that performance-based contracts can protect the public interest in park operation PPPs.

Beyond the contract itself, the PPP structure inherently provides powerful business incentives for maintaining quality. For example, concessionaires are incentivized to keep bathrooms and other user facilities clean for the same reason hotels and restaurants do: they want to attract repeat customers by providing quality facilities. Given the popularity of Yelp, Trip Advisor and other online customer review sites, underperformance and poor quality are open secrets in the Internet age.

Accountability

PPPs improve accountability over the status quo. State-run parks typically suffer from a conflict of interest because the state is responsible for both service delivery and oversight. By separating these functions, the private sector can specialize in innovating service delivery improvements, while the public sector can provide more effective regulation through structuring and overseeing compliance with the PPP contract.

Enhanced Risk Management

One of the most powerful and least recognized benefits of PPPs lies in the ability to use them to transfer major (and often hidden) financial and operational risks from the public sector—and thus, taxpayers—to the private sector. With regard to state park systems, PPPs would offer an opportunity to better handle risks that include:

- Revenue risk/demand risk: Under a park operation PPP, the concessionaire bears 100% of the revenue risk, meaning that the concessionaire—not taxpayers—takes on the risk that enough user-fee-paying customers visit the parks to cover the costs. This naturally incentivizes the concessionaire to provide high-quality facilities that *attract* users by

improving service quality and through better prioritization of resources. The concessionaire bears the risk of declining attendance for the parks it operates, having to absorb revenue losses since there would be no backstop by state tax dollars. There is naturally some risk to the state in that the concessionaire might go bankrupt at some point during the contract term. But this is a risk borne in almost *any* public-private contract and is one that is typically mitigated by having the state conduct due diligence during the procurement process to ensure that bidding companies are financially healthy. Conversely, the specter of bankruptcy does have merit in that it motivates companies to consider fiscal sustainability. (If the concessionaire knows that the government will bail it out, it has less incentive to innovate in service delivery or to keep costs down.)

- **Operational risks:** Operational risks transferred to the concessionaire in a PPP generally involve system and facility maintenance, regulatory compliance, liabilities and more. Since concessionaires are taking over the whole operation, they—not the state—bear the costs for most, if not all, operations and maintenance, depending on how the state chose to craft the contract. Procuring authorities also need to consider in advance important issues such as how to handle deferred maintenance, meaning the degree to which the concessionaire is asked to address a maintenance backlog that may have accumulated under government operation (since policymakers generally tend to skimp on things like asset maintenance in favor of funding other visitor-serving programs). States may choose to address deferred maintenance through a concession, or they may not—this is a policy decision to make on a case-by-case basis.
- **Legal risk/liability:** Parks concessionaires are required to have insurance to cover a range of potential liabilities including lawsuits and various other risks. Parks under state management tend to self-insure but do not account for that cost in park budgets, which means that it is effectively an off-balance-sheet liability that is imposed on taxpayers.
- **Project delivery risk:** To the extent that there might be some capital expenditure involved in a given concession—such as a new visitors center or the construction of facilities in a new state park—the concessionaire effectively takes on the project delivery risks that the state would have otherwise taken if it were doing the same project. Examples of these include construction cost risk (i.e., cost overruns, which are ubiquitous in the public sector) and schedule/delivery risk (e.g., schedule slips, etc.) on any potential capital projects that policymakers may desire. Transferring the risk of cost overruns and delays from the public sector to a concessionaire is a major benefit to governments. And concessionaires tend to be much more nimble in project delivery than governments, as they do not have to navigate the complexities of public sector procurement rules, wage mandates and the like.

Tapping Outside Capital for Park Improvements

PPPs can also potentially offer a means for parks authorities to tap private financing to upgrade or modernize facilities at a time when public funding continues to be constrained by state fiscal

challenges. As one example of this approach, in recent years California State Parks partnered with the concessionaire Recreation Resource Management to finance, develop and operate a new 24-cabin camping loop and other improvements totaling over \$1 million at McArthur-Burney Falls Memorial State Park, all at no cost to the state. The state lacked the funds to complete this project—it ran out of funding in the middle of a park redevelopment project—so the parks agency modified an existing “traditional” concession with the company to extend the term of the contract (out to 20 years) and expand the scope to include the project, allowing the company to get financing to develop the new loop, purchase and install the cabins, and deliver a project that otherwise would not have been completed by the state on its own. The benefits even extend past the initial project delivery. Over the life of the concession, Recreation Resource Management will operate the cabins and share revenues with the state.

An Overall “Win-Win”

One parks concessionaire, Recreation Resource Management, estimates that of every dollar of recreation revenue it receives, approximately 92 cents directly benefits the public, either being returned to government through concession fees and taxes (29 cents) or spent directly in the recreation area itself on wages, maintenance, utilities, waste collection and the like (63 cents).¹³ The remaining 8 cents covers the concessionaire’s legal, accounting and other overhead costs, as well as after-tax profit. Hence, the vast majority of money paid to private concessionaires in park operation PPPs is put to work toward the public benefit, illustrating the “win-win” nature of the PPP model for both partners.

In many ways, the situation for state parks today is analogous to the early days of the U.S. market for privately financed toll roads and other transportation infrastructure in the late 1980s. The completion of pioneering private road projects such as the Dulles Greenway and the Pocahontas Parkway in Richmond began to chip away at the antiquated paradigm that only governments should finance and operate highways. This cleared the way for over 30 states to enact laws advancing the expanded use of transportation PPPs. By 2012, Texas, Florida and Virginia alone had highway PPP projects in development representing over \$10 billion of private capital investment, and these and other states have begun to use PPPs for the private operation of other public assets in social infrastructure, higher education, K–12 education, corrections, mental health and numerous other fields.

There is no inherent reason to treat state parks any differently. Though these state land assets serve a variety of purposes (ecological, preservation, etc.), perhaps the most visible and fundamental—and the one that generates the bulk of individual park revenues in states that charge user/entry fees—is the recreation enterprise. Users pay to enter parks and use camping and other facilities.

After over 25 years of successful use in federally owned recreation areas under the aegis of the USFS, states are realizing they could follow a similar path with PPPs. For example, the California Legislative Analyst’s Office issued a report in March 2012 proposing that the state adopt a range of

reforms, including allowing private companies to operate some state parks, increasing park user fees and shifting toward entrance fees, and expanding the use of concessionaire agreements.¹⁴ This innovative approach was also endorsed by the American Society of Civil Engineers, which recommended in a 2009 report that public authorities “create partnerships between public agencies and private recreation and conservation groups to provide benefits to the public at a lower cost” as a way to improve parks.¹⁵

Part 5

Park Operation PPPs in the U.S. Forest Service

The U.S. Forest Service (USFS) has used whole park concessions extensively for over 25 years. In fact, major budget cuts prompted the agency to pioneer this PPP concession model in the 1980s as a means of keeping its vast recreation areas open, and according to the agency, “concession management will continue to be a vital means of accommodating visitor demands into the twenty-first century.”¹⁶ Although the USFS does not maintain a comprehensive database of all its concession operations, agency officials estimate that today over half of the agency’s hundreds of recreation units nationally are operated by private recreation management companies operating under park operation PPPs; one concessionaire has estimated that the number of USFS park operation PPPs totals over 1,000.¹⁷

The adoption of the park operation PPP model has meant that despite 20 years of falling recreation budgets and routine sweeps of the recreation budget into firefighting, the USFS has never had to consider the wholesale park closures now on the table in many states. In fact, during the federal government shutdown in the late 1990s, the only federal recreation areas that remained open were those under private concession management. Furthermore, unlike state parks, USFS concession-operated campgrounds and recreation areas are not accumulating large amounts of deferred maintenance. The private sector is held to maintenance standards under PPPs to ensure proper park upkeep—a significant contrast with in-house governmental parks management, where maintenance is routinely deferred amid budget pressures and meaningful accountability mechanisms to ensure proper maintenance are lacking.

USFS procurement has unique federal rules that won’t apply to most other public authorities across the country. However, the agency has found ways to craft PPPs with the private sector through special use permits, which are essentially commercial lease contracts for the operation of recreation areas. The owner (a public park agency) sets the rules and regulations, and maintains strict oversight. The leaseholder (a private park operator) operates within those confines to optimize park operations, with rewards coming from increased use.

In January 2011 the Utah legislative auditor general succinctly summarized the USFS model, writing:

Of all federal landowners in Utah, the best example of full operational privatization is the USFS. Officials from the USFS report it is a common practice in federal forests to allow private businesses to manage forest campgrounds and marinas, as well as offer additional concession services through the issuance of permits. Yet officials also report that the operations of private area managers are highly regulated through agreement terms and oversight by a reduced federal staff. The USFS typically issues five-year concession permits with a possible five-year extension based on performance; however, they also consider a longer-term permit if concessioners will utilize their own capital goods on forestry land. Typically, the USFS retains responsibility for capital projects unless special terms are negotiated, and retains the right to revoke a concession permit at any time. The local county sheriff typically provides law enforcement.¹⁸

The operating structure of these agreements is complex, especially when it comes to revenue generation. This complexity stems from the flexibility that public authorities need to conduct successful procurement. For example, priced and non-priced parks are commonly grouped together, which protects revenue-losing parks that are not independently self-sufficient, but that add value to the parks system.

Experience with the USFS and other agencies using park operation PPPs shows a broadly positive correlation between the amount of information that public authorities share about park operations, finances and conditions during procurement and the likelihood of a successful partnership with a given concessionaire. Revenue expectations are most accurately set by total gate revenue, while other use figures, like visitation numbers, provide additional insight into park operations. Further considerations include historical cost expenses such as electricity, water, sewer, solid waste collection and more.

Generally speaking, the primary details about park amenities, facilities and operations that form the basis of a PPP procurement—and which should be clearly communicated to potential private operators to ensure an open and competitive process—include:

- Operating season and hours;
- Current user fee structure;
- Historic revenue and expenditure data by park;
- The number of bathrooms by type;
- The number of camping sites by type;
- The number of picnic tables;
- The number of host sites and their amenities;
- Stay limits and other rules, limits and restrictions; and
- Any other amenities central to park operations.

The next step is to consider the assets and liabilities of a given facility. The public sector can choose whether it wants to continue to own all fixed assets, heavy equipment, property, consumable supplies and specialty equipment, or if it wants to transfer a mix of these assets to a

concessionaire or reassign them internally to other parts of the parks system. Major assets like buildings will generally remain in public hands, while most other assets are typically transferred to the private sector.

Various maintenance and law enforcement issues are also addressed during procurement. Regarding the latter, law enforcement is typically the only responsibility not taken on by concessionaires. While concessionaires enforce park rules and try to prevent dangerous behaviors, they will contact law enforcement authorities for assistance if necessary, just as would hotels and restaurants in similar situations. In fact, concessionaires often report a customer experience benefit to separating the facility host and law enforcement functions, in that having park rangers with guns patrolling a campground, selling firewood and cleaning bathrooms (common in state-run parks) can be perceived as intimidating to guests and less conducive to a friendly, customer-oriented experience.

Maintenance duties are almost always shared between both parties. Concessionaires often handle minor maintenance, cleaning and landscaping. Major projects are often, but not exclusively, undertaken by the public agency. Under the Granger-Thye Fee Offset, the USFS may permit concessionaires to complete major maintenance projects for the public agency, receiving a credit against fees for the cost of the work.

Overall, maintenance tasks can be divided in many ways, and responsibility for major maintenance is generally tied to the length of contract. In short contracts with up to five-year terms, like those typically used in the USFS, the landlord agency retains major maintenance, as described above. However, longer contracts (over 10 years in length, for example) would generally transfer major maintenance responsibilities to the concessionaire, since the longer contract term gives them the ability to finance larger projects and the time to recoup these costs over the life of the contract.

Finally, details about utility and tax information must be settled. Private companies operating on public lands usually collect sales and lodging taxes, even though a public agency previously provided that good/service. Additional considerations include excise taxes or other fees in jurisdictions where they have been substituted for property taxes if a tenant is not paying property taxes.

USFS campgrounds require that all reservations be made through the National Recreation Reservations System, operated by Reserve America, and every concessionaire is required to ensure interoperability with this system. This system serves as the central portal for facility reservations on federal public lands, with 60,000 reservable facilities at over 2,500 locations held by the USFS, the Army Corps of Engineers, the National Park Service, the Bureau of Land Management and the Bureau of Reclamation.

Similarly, discount programs (e.g., an annual parks pass) must also be considered during procurement. There are several ways to address this issue, ranging from exempting concession-run facilities or allowing visitors with passes a discount, to allowing the concessionaire to create its own pass or having the agency reimburse the concessionaire:

- *Exempting concession-run facilities from pass programs:* The federal government currently makes available an \$80 dollar America the Beautiful annual pass that grants pass holders entry to 2,000 federal recreation sites that include national parks, wildlife refuges, forests and grasslands, and other lands managed by the USFS, the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management and the Bureau of Reclamation. However, this pass program specifically exempts facilities and activities on federal recreation lands managed by private concessionaires, as Congress has not created a legislative mechanism to facilitate the flow of funds across the various land management agencies involved (though agencies have been trying to develop administrative formulas to allow such transfers). Nor is there currently statutory authority that would allow agencies to compensate concessionaires for the revenues lost to pass program participation.
- *Voluntary discounts:* Even if exempted from mandatory participation in park agency pass programs, concessionaires often will voluntarily provide some type of a discount to pass holders, mostly for public relations, marketing and customer service reasons. For example, the concessionaire Recreation Resource Management currently offers federal pass holders a discount on entry fees for three popular day use areas in Sedona, Arizona, operated on behalf of the USFS. As a matter of business practice, concessionaires often find that offering voluntary discounts to pass holders engenders goodwill and can create repeat customers in the future, as opposed to alienating pass holders at park entry gates who are unfamiliar with the nuances of park pass rules and restrictions.
- *Required concessionaire participation (without compensation):* In addition to the America the Beautiful pass discussed above, the federal government also offers a \$10 annual Senior Pass that waives entry fees on federal lands and also provides a 50% discount on amenity fees, like camping, swimming and interpretive services. In contrast with the America the Beautiful exemption, the USFS often requires concessionaires to provide a 50% camping discount to Senior Pass holders, and the agency does not provide offsetting compensation for it—again because there is no legal mechanism in federal law—so each Senior Pass holder represents lost concessionaire revenue (and less ultimately paid back to the parks authority via annual rent payments). While the added costs of Senior Pass program participation are not so onerous that they prevent concessionaires from bidding on contracts, in effect, the industry has come to factor these costs into their bids and, as a result, they will lower the annual rent payments made to the USFS. In some cases, the effects of mandatory Senior Pass participation have prompted concessionaires to seek increases in user fee levels, effectively forcing everyone to pay higher fees at the gate to subsidize senior citizens, a perverse outcome that disproportionately benefits a politically powerful interest group.
- *Required concessionaire participation (with compensation):* Forcing concessionaires to take on costs that significantly reduce their overall revenue profile is ill-advised, unless there are agency funds available to create some form of concessionaire compensation mechanism, or unless annual rent payments can be lowered to account for the new costs. However, finding spare funds to compensate concessionaires for park pass program discounts is going to be challenging in a difficult fiscal environment. Still, there is

precedent; in the Coconino National Forest in the Sedona area, the USFS temporarily allowed concessionaires to bill USFS (at a discounted rate) for the costs of park entrants having a regional USFS Red Rock Pass that allowed free access to Sedona-region day use areas.

- *Concessionaire-run pass program:* Concessionaires in park operation PPPs routinely offer their own annual passes for day use areas, mostly for locals who frequent the parks. These programs are usually limited to a small set of facilities, but they also tend to be cheaper than federal or state park pass programs and offer a good value to regular park visitors, who get an annual pass for the price of a handful of days of admission. In addition to creating community goodwill, this also allows concessionaires to customize pass programs to best meet the needs of their customers. Recreation Resource Management currently offers specialized passes for local USFS facility users in the Sedona, Arizona, area; the Flagstaff, Arizona, area; and several additional regions throughout Arizona and California.

In the end, park pass programs impose costs on parks without providing offsetting revenue to concessionaires, so public agencies and their private partners should take care to craft sensible arrangements that achieve agency goals while not unduly harming a concessionaire's revenue profile.

Revenue reporting is vital and often depends on the operations aspect of the park. Since most concessionaires pay rent as a percentage of revenue, concessionaire reporting rules must be clear to both parties. Some figures that USFS requires include:

- The total number of units occupied based on daily counts;
- The total number of people based on daily counts;
- The percentage of occupancy by month;
- Total recreation fee revenue;
- Total taxes, gross and net revenue, and much more.

The USFS allows flexibility in parks operations. For example, when agency rules aren't defined, the concessionaire is asked what rules it proposes to enforce and how it proposes to enforce them. Certain parks require special rules, capacity limits and stay limits. Overall, because it is built on a negotiated contract, the PPP process is highly customizable and flexible, allowing unique agreements with unique standards that apply to unique parks.

After receiving concession bids, the USFS assigns a cross-functional team to evaluate them and recommend a winner. The USFS generally evaluates bids according to the following criteria (in order of priority):

- Proposed operating plan (staffing, rules, services, etc.);
- Company experience and references;
- Company financial ability;

- Proposed user fees (with lower fees seen as most advantageous); and
- Proposed annual rent paid back to the USFS (usually set as a percentage of total park revenue).

Procurement generally yields concessions with rental fees based on a percentage of revenues, which generally pay public agencies 5–18%. Public agencies also have the opportunity to select fixed price bids. There are tradeoffs between these options, and neither is inherently better or worse than the other.

This section has provided a distilled glimpse at the USFS's robust procurement process, in which concessionaire submissions are often hundreds of pages long. What is important for states to understand is that the USFS has set a thorough precedent for other public agencies. Its model can be emulated to protect and conserve valuable public spaces.

Part 6

Setting the Contract Terms in Park Operation PPPs

Parks are highly valued by the public. They serve several important roles, including the provision of outdoor recreation space, the conservation of habitat for species and the creation of an enabling environment for research. It is important, therefore, to ensure that parks are able most effectively to continue to perform these roles, regardless of who is responsible for maintaining and operating them.

As noted above, a well-structured park operation PPP is better able to ensure that a park remains open for recreation purposes than state management. We also noted that when the owner of a park contracts out the management to a separate private company, it suffers fewer conflicts of interest in the enforcement of rules and regulations. Performance-based contracts spell out the operating standards demanded by the parks agency. These contracts should be—and are, in practice—designed to hold concessionaires accountable for meeting those standards through positive and negative incentives, including, ultimately, the threat of losing the concession.

Though PPP contracts may address a wide range of operational issues, public agencies like USFS commonly incorporate the following five elements into park operation PPP contracts:

1. *Fee/rate setting:* The public authority often determines the user fees (park entry fees, camping fees, RV fees, etc.) that may be charged. If such a condition is included, however, it is important that there be provisions to enable revisions through a clearly defined and simple process. For example, a sound PPP contract should include language that says the agency should not unreasonably deny the concessionaire a fee change if it is supported by well-documented operating cost increases and local market analysis.
2. *Specification of services and facilities:* The contract must specify the services to be provided by the public authority and may specify some or all of the services to be provided by the concessionaire. The contract may also specify the facilities to be operated by the concessionaire, as well as any maintenance requirements and conditions or restrictions on the use of those facilities. Like fee/rate setting, it is important to include provisions enabling revision of these aspects of the contract.
3. *Restrictions on facility modifications:* The contract may specify what modifications may be undertaken on facilities operated by the concessionaire (ranging from a requirement to

upgrade everything to a total prohibition on any modification) and typically will require prior approval from the public authority for any modification not expressly specified.

4. *Season and hours of operation:* The contract may specify the expected dates and hours of operation. Typically this is done by facility, as parks may differ in terms of seasonal use and hours of operation.
5. *Customer service:* The public authority may include in the contract particular expectations and goals sought from the concessionaire in terms of interacting with and delivering services to park users. These may include such provisions as issuing customer surveys, rules for accepting reservations, refund policies and standards of cleaning and maintenance, for instance. Since concessionaires function as public entities, they are responsible for conforming to guidelines and policies related to civil rights and disabilities, and these should be included in the contract.

These are obviously just illustrations of the sorts of contract provisions that can be included. Actual terms will depend very much on the long-term vision of the elected officials and agents who oversee the park. Given the widespread use of the above provisions, however, it is worth reviewing their implications:

1. The fee-setting argument contends that since the park is owned by taxpayers, fees should be set at a rate that ensures access to the widest group of people. But rate setting may not be necessary to achieve that goal. The argument for rate setting has traditionally been made in the context of public utilities that are “natural” monopolies and thus able to charge monopoly prices, but parks are not monopolies. People have a wide variety of parks from which to choose. Even a park’s remoteness does not give it market power, since parks may advertise their rates online, effectively competing prior to a visit. So the concessionaire has an incentive to price competitively in order to attract customers. Also, imposing restrictions on fees, or requiring approval of changes, may discourage experimentation in the supply of services and may effectively prohibit the provision of higher-end services. It may also limit the funds available for investments in conservation and other improvements to habitat quality.
2. While it is important for concessionaires to know what services the public authority will be providing, it is not necessary for the public authority to determine fully what services the park operator will provide. As with fee-setting, the specification of what services and facilities are to be provided by the concessionaire appears to ignore economic reality and go beyond the logical division of responsibilities between the owner and the operator of the park (as discussed above). Operators clearly have an interest in ensuring that the facilities offered are consistent with the expectations of customers. Nonetheless, it may be necessary for the public authority to state restrictions on the types of services that may be provided by the concessionaire in order to ensure that facility densities and extent and types of park use do not exceed those deemed necessary to achieve the conservation role of the site.

3. Facility modification provisions effectively prevent any unanticipated or discretionary development within parks by the concessionaire and are one way to establish park quality standards. Rigid provisions make sense for short-term leases, but not for longer-term leases. In a longer-term lease, they would discourage operators from investing in innovative improvements to the facilities that might increase their attractiveness to paying customers. For longer leases, it may make sense to set broad parameters regarding what developments are permissible without seeking park agency approval in advance.
4. The public authority and the concessionaire should agree on the length of the season and hours of operation, since these affect both parties.
5. Concessionaries should be required to comply with service obligations dictated by law and legislation. In addition, per point 3 above, there may be a need to introduce restrictions on certain activities in order to achieve conservation objectives. However, it is also important to recognize the existence of trade-offs: if a certain activity, such as use of snowmobiles or motocross bikes, has a negative conservation impact but generates significant revenue, it may nonetheless be worth permitting, perhaps to some limited extent, in order to ensure that the park is able to remain self-financing.

In general, it seems unlikely that the public authority will have a better view than the concessionaire of the kinds of services that should be provided to the public. One of the primary benefits of a PPP is that private sector service providers have stronger incentives to draw from experience to and identify and provide services to customers in order to create a memorable and enjoyable experience.

Parks authorities can incorporate a wide range of additional performance or service delivery expectations into park operation PPPs, and these can be tailored for each individual contract. For example, contract provisions routinely cover such areas as:

- Division of maintenance responsibilities;
- Coordination with the agency's various pass programs;
- Existing deferred maintenance the concessionaire may inherit;
- Emergency plans (e.g., fire or hurricane evacuation plans);
- Coordination with law enforcement;
- Financial capability and cash on hand in case of unexpected costs;
- Operating procedures;
- Conditions (including odor) of toilets and trash receptacles;
- Vegetation around road and parking barriers;
- Educational/interpretive programs;
- Signage and branding;
- Marketing plans;

- Internet and social media presence;
- Multilingual programs and materials;
- Bear-resistant trash receptacles;
- Functional gravel sumps;
- Floats and lines designating swimming areas;
- Removal of hazardous trees, including stump removal;
- Entrance signage featuring contact information;
- Recycling programs;
- Provision of fire rings and grills;
- Healthy foods initiatives; and
- Special events and public programs (e.g., National Public Lands Day).

Contracting presents a spectrum of trade-offs that ultimately lie in policymakers' hands. Park facilities in designated wilderness areas, for example, are subject to The Wilderness Act of 1964, which defines wilderness in part as “an area of undeveloped Federal land retaining its primeval character and influence without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions.”¹⁹ This has resulted in public authorities imposing what might seem to be quite extreme requirements, amounting to a directive essentially to disturb nothing, build nothing and just run clean facilities. At one privately operated concession in Florida in a designated wilderness area, the contract bans the concessionaire's use of motorized vehicles. Instead, their employees have to canoe into the recreation sites. Moreover, the concessionaire is required to use hand tools to conduct tree pruning and other maintenance, precluding the use of power tools.

Notwithstanding the need to ensure that concessionaires comply with existing laws, onerous contract mandates may lead to adverse consequences, including but not limited to reducing the number of eligible/interested concessionaires; decreasing revenue returned to the public from concessionaires; increasing contract monitoring costs; and redistributing capital from meeting the public interest to meeting the whims of public officials. To the extent that these onerous contract mandates are driven by federal and/or state legislation, there may be a case for revisiting that legislation in order to enable parks to become more sustainable.

PPPs offer a powerful way to ensure that the long-run vision for a park is implemented effectively and efficiently. These provisions can offer dramatic improvements over the status quo.

Part 7

Applying the Park Operation PPP Model: California

No state illustrates the parks crisis better than California. Even though its parks charge entry fees, only 5% of them (13 of 279) covered operating costs in 2009, according to the *Los Angeles Times*.²⁰ The rest relied on public subsidies.

In response to budget pressures in 2010, California officials cut the parks budget by \$11 million and planned a further \$22 million of cuts for future years. As a result, 150 state parks were shut down part-time or suffered deep service reductions. Moreover, state parks had already deteriorated significantly under the state's stewardship, accumulating over \$1 billion in deferred repairs and maintenance.²¹

A November 2010 California ballot initiative, Proposition 21, proposed to increase vehicle license fees in the state by \$18 a year, with the revenues (estimated at \$500 million) going to a dedicated fund for California's state parks. When this initiative was voted down 57.3% to 42.7%, the stage was set for the permanent closure of dozens of state parks.

As a preliminary step, Governor Jerry Brown signed a bill (AB 95) into law in March 2011 that would absolve the state from liability for injuries, crimes and damage incurred in closed state parks. In May 2011, the California administration followed that with an announcement that 70 state parks (a quarter of California's total) would be closed.

California State Parks Seeks an Alternative

In response to this announcement, the state parks division of the California Department of Parks and Recreation, California State Parks (CSP), began seeking partnerships with cities, counties, nonprofit organizations and private entities that would allow it to keep as many of these parks open as possible. It pursued various arrangements, ranging from donor agreements and nonprofit partnerships to the groundbreaking use of private concessions to operate state parks.

This newfound courage soon paid dividends for CSP. In July 2012, it was able to announce that 69 of the 70 parks previously targeted for closure would remain open to the public in the short term,

thanks to a recently signed state budget that authorized funding to keep the parks open while partnership agreements were pursued.²²

At the time of that announcement, partnership agreements had already been signed for 41 state parks. Of these:

- 20 will be operated by CSP under agreements with outside donors;
- 11 will be operated by municipal governments under intergovernmental operating agreements;
- 5 will be operated under park operation PPPs using private concession management;
- 3 will remain open, but with significant service reductions; and
- 2 will be operated by nonprofit organizations.

Negotiations were in progress for 24 additional state parks. Of these:

- 11 would be operated by CSP under agreements with outside donors;
- 7 would be operated by nonprofit organizations;
- 2 would be operated under park operation PPPs using private concession management;
- 2 would be operated by municipal governments under intergovernmental operating agreements;
- 1 would remain open through an interagency funding agreement; meanwhile
- Options are still being sought for the remaining park.

Five other parks still had no partnership, donor or concession agreement in place at the time of the announcement. Four were to remain open in the short term while CSP continued to pursue such agreements; the other had to close.

PPPs for California State Parks

Although successful arrangements were reached (or were still being pursued at the time of writing) for 69 out of the 70 threatened state parks, it is worth noting that intergovernmental agreements and nonprofit partnerships may not prove a sustainable operating option in many cases. Indeed, many of these arrangements are of a relatively short (one- to two-year) duration. Local governments are still facing strong fiscal headwinds in the wake of the 2008 recession and are in a poor position to take on new parks and recreation funding responsibilities. Nonprofit organizations may not have the capital or operational expertise to keep individual state parks open for the long term. Similarly, outside donor interest in supplementing parks funding is likely to be highly variable in a difficult economy.

CSP is aware of this. Indeed, these limitations prompted CSP to solicit park operation PPPs for several of the threatened parks referred to above—the first such state-level initiative in recent times. The state embraced the PPP model in earnest in March 2012, when CSP issued a new request for proposals (RFPs) seeking a five-year concession contract (or contracts) to operate campground and day use state recreational areas (SRAs) at five park units in the Central Valley:

- Turlock Lake SRA;
- Woodson Bridge SRA;
- Brannan Island SRA;
- McConnell SRA; and
- George J. Hatfield SRA.

Two of these—the McConnell and Hatfield SRAs—were subsequently removed from the procurement after the state struck agreements with outside donors to keep them open. For the remaining three parks, the procurement structured the PPPs as whole-park concessions in which the state would retain ownership and control over the parks while paying a private operator nothing to operate them. The department set a minimum annual rent level for each park that bidders had to exceed in their proposals—based either on percentage of gross revenue returned to the state or specific minimum rent payment amounts set by the state, whichever was greater—and it allowed would-be concessionaires to bid for any combination of one or more parks. The parks in question represented a mix of revenue-generating and revenue-losing parks, allowing a win-win for bidders and for the state by bundling each of the parks into one PPP vehicle. (For an explanation of how to address revenue-losing parks, see the section above on U.S. Forest Service park operation PPPs.) The Brannan Island SRA alone had cost the state \$740,000 to operate in 2011, over twice the amount it raised through user fees and traditional concession revenue, according to *The Wall Street Journal*.²³

According to the agency’s RFP (see Appendix A), the objectives of the PPP were to:

1. Maintain campground, day use, and recreational facilities, as well as signage;
2. Ensure adequate staffing to maximize use and protection of facilities, including roads and trails;
3. Collect campground and day use entrance fees;
4. Ensure the safety and convenience of park visitors; and
5. Protect the state’s natural and cultural resources.

In June 2012 the department selected a winning bidder—Utah-based American Land & Leisure, which operates 492 campgrounds across 12 states—for the three-park package. Some noteworthy aspects of the PPP include:

- The contract term lasts five years.

- The state set forth clearly delineated maintenance requirements for both itself and the concessionaire. The concessionaire is generally responsible for handling (and covering the costs of) minor improvements and day-to-day repairs. For larger maintenance jobs, all revenues paid back to the state as concession rent in these three parks will be put into a park maintenance fund from which the concessionaire can seek state approval to spend. Regardless, the state has removed the maintenance costs for these parks from its books and transferred them to the concessionaire.
- To protect itself against lower-than-expected concessionaire rent payments over the life of the concession, the state required American Land & Leisure to obtain a performance bond covering 100% of the anticipated rent payments over the next five years. This is a risk-transfer mechanism to ensure that the state receives 100% of the rent payments originally envisioned in the procurement, regardless of whether the anticipated revenues are actually generated by the park.
- Workers at the affected parks who do not stay on with American Land & Leisure will be transferred to other parks in the system and will not lose their jobs.
- The concessionaire will provide on-site, live-in staff to operate the parks, while either the California Highway Patrol or local sheriffs' offices will handle law enforcement responsibilities.
- The concessionaire is required to provide commercial general liability, automobile, and worker's compensation insurance under the contract, at levels greater than the state had previously insured itself.
- The concessionaire is required to maintain the premises, trails, roads, facilities, furnishings and equipment in good condition in accordance with agency standards and contract provisions. In fact, the concessionaire is required to implement an operations plan for each park unit (prepared by the concessionaire and approved by the state) that outlines how services will be provided and facilities maintained over the life of the concession.

Each of these parameters of the PPP structure ultimately lies in policymakers' hands. For example, CSP's decision to retain all former employees not retained by the concessionaire was a policy decision that may or may not be desirable—or even feasible, given ongoing budget pressures—in either California or other states.

Additionally, CSP signed separate park operation PPPs with the Bodie Foundation to operate Mono Lake Tufa State Natural Resource Area and with Parks Management Company to operate Limekiln State Park on the Central Coast, bringing the total number of California state parks operated under park operation PPPs to five. At the time of writing, the state was continuing to pursue park operation PPPs for two additional parks: Point Cabrillo Light Station State Historic Park and the Benbow Lake SRA.

Given the extraordinary budget pressures on California's state parks system in recent years, it is encouraging to see the state take proactive steps toward leveraging the power of PPPs to keep parks open and thriving. Perhaps more importantly for the nation as a whole, California's status as having one of the premier state parks systems makes it likely that other states will start to explore how similar PPPs could be used to enhance the fiscal sustainability of their own parks.

Part 8

Prospects for State Adoption of Park Operation PPPs

Given the potential benefits outlined in this report, it is unsurprising that policymakers in several cash-strapped states have begun to explore the use of PPPs as a means to keep parks open and thriving amid strained budgets and heightened competition for limited state funds. We have already discussed the application of the model in California. Other states exploring the concept include Arizona, Utah, Hawaii, New Jersey and New York. Here we offer a quick overview of the status of the application of the model in those states.

Arizona

In the Grand Canyon State, severe state budget deficits and threatened park closures have brought the parks funding crisis to a head, prompting policymakers to explore alternate management options designed to lower costs and create a self-sufficient parks system. While Arizona State Parks (ASP) has, in recent years, entered into a range of partnerships with local governments and Indian tribes to keep several parks open, these partnerships are short term and do not ensure the long-term viability of the parks. This has led to calls to explore the potential for park operation PPPs.

The policy discussion began in 2009 when one of the largest national recreation concessionaires, Phoenix-based Recreation Resource Management, offered to lease six Arizona state parks targeted for closure amid state budget cuts. The concessionaire proposed to collect the same visitor fees the state charged at the time, while taking the operations and maintenance costs of these parks off the state's books entirely. Further, the concessionaire would pay the state an annual lease payment based on a percentage of the fees collected. The state would retain full ownership of the land and the company would be subject to strict state controls on operations, visitor fees, maintenance and other key issues. Policymakers failed to act on this proposal, though it did serve to increase awareness that PPPs could be a viable option for Arizona.

In September 2010, the Arizona Commission on Privatization and Efficiency—a gubernatorial advisory body—issued a report recommending the expanded use of park operation PPPs to ensure that parks remain open and properly maintained.²⁴ Two months later, the Arizona State Parks

Foundation issued its own report evaluating ways in which the state could pursue more partnerships with private entities and introduce systemic efficiencies that would lead the state parks system toward financial sustainability. The report found that “[t]here are certain functions of the Arizona State Park System, as well as potential new opportunities that are better suited for the private sector or other public providers to either manage or pursue, or to share the responsibilities with state parks.”²⁵ Services identified as most ripe for privatization within the state park system included asset management and maintenance, accommodations, food, hospitality, retail and recreational services.

The foundation report assessed each of the state’s 28 parks on the potential for partnerships with either for-profit or nonprofit organizations, identifying 10 parks with high partnership potential, 12 parks with moderate partnership potential and six parks with low partnership potential.

Distinguishing qualities of parks with a high potential for partnerships included:

- Large or reliable visitation;
- Significant revenue generation capacity;
- Moderate to few land restrictions;
- Moderate to few legal or land use encumbrances;
- Moderate to few resource management challenges; and
- New revenue development potential.

Additionally, the report recommended transitioning ASP to a quasi-governmental entity that could operate in a more business-like manner and be more nimble in pursuing financially beneficial partnerships with public and private entities. The report also identified a series of constraints and challenges to privatization that included:

- The costs of effective contract management;
- The need for measureable performance criteria that can be incorporated into all PPP agreements;
- Potential legal restrictions arising from agreements that established state parks on land leased from federal land management agencies (or owned by the State Land Department);
- Compliance with federal rules on privatization related to ASP’s use of federal conservation dollars; and
- Suboptimal infrastructure and the need for capital investment at many parks.

On the heels of the two privatization reports, ASP issued a request for information (RFI) to private vendors in December 2010 to “solicit feedback and recommendations regarding the feasibility of transitioning or enhancing various operations at ASP with the private sector.” The RFI was open-ended in terms of scope, offering vendors the opportunity to present creative ideas and concepts for the agency to consider for further procurements. ASP received responses from several interested

recreation management companies, but at the time of writing, the agency had neither announced the results of the solicitation nor moved forward with specific procurements.

Utah

Utah officials have been examining the potential for park operation PPPs in recent years. The subject came to the forefront in 2011 in the wake of a performance audit of the state parks system issued by Utah’s legislative auditor general in January of that year. The audit was prepared at the request of a legislative subcommittee to identify ways the parks system can be more self-sufficient and less reliant on general fund dollars. It recommended that the state’s Division of Parks and Recreation adopt a more business-like operation to improve park system efficiency and suggested the adoption of a pilot program to evaluate the effectiveness of park operation PPPs. Noting that park operation PPPs have been seldom used to date at the state level, the audit found that privatization “is a feasible operational model,” pointing to the USFS as an example. (For more on the Utah audit, see the section above on U.S. Forest Service Park Operation PPPs.)

The audit found that Utah could contract for camping and/or marina services (and potentially some visitor centers) to essentially privatize the operations of 33 state parks, but as an initial step it suggested that the legislature consider implementing a pilot program covering the operations of only a few state parks. Further, the audit reviewed the operating costs and revenues at five state parks that provide camping and/or marina services and found that three of the five parks operating at a deficit in FY2010 would have had surpluses if run under a PPP model similar to that used by the USFS. (Revenue-losing parks are addressed in the section on U.S. Forest Service Park Operation PPPs.)

In May 2011, the Utah Privatization Policy Board—an advisory body to the legislature on privatization and PPPs—issued a set of recommendations to Gov. Gary Herbert. It echoed the call for establishing park operation PPPs for at least a portion of the state parks, and it proposed the sale and/or lease of Utah’s four state-owned golf courses. While the board rejected any outright sales of state parks, it found that “private contracting of the operations of state parks or a portion of them will be in the best interest of the taxpayers and that it can be done without harming environmental amenities or the recreation experience.” The board also encouraged Utah’s Division of State Parks to develop comprehensive and easily monitored PPP contracts.

Hawaii

In May 2011, state policymakers enacted a new law—Act 55 (Senate Bill 1555)—that transferred state-owned lands to a new Public Land Development Corporation, a development arm of the state’s Department of Land and Natural Resources authorized to form PPPs to develop state land, renovate public recreation and leisure assets, and generate revenues to offset major departmental

budget cuts in recent years. The corporation can also issue revenue bonds for land acquisition and the construction or renovation of state facilities.

New Jersey

The final report of the New Jersey Privatization Task Force—an advisory commission appointed by Gov. Chris Christie shortly after entering office in 2010—recommended that the state should enter into long-term concession agreements with private recreation firms for the operation and management of state parks.²⁶ Department of Environmental Protection Commissioner Bob Martin told *The Star-Ledger* in May 2010 that “[New Jersey is] barely getting by this year with enough funding to run the parks, so [the state is] looking for ways to ensure that [its] parks stay open and all residents have an opportunity to be able to use parks and recreation sites.”²⁷ According to the Privatization Task Force’s estimates, using PPPs for the operation of some of the 58 state parks could save the state \$6 million to \$8 million annually.

New York

In July 2011, the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) issued a request for expressions of interest from private entities interested in partnering with the state for the adaptive reuse of unused structures and facilities at Knox Farm State Park. The request aims to solicit ideas for projects to enhance and improve the park, with a particular focus on proposed improvements to a 14,400-square-foot estate house and an 11,200-square-foot stable complex located on the site.

Part 9

Conclusion

Early preservationists such as John Muir hoped that transferring the ownership, operation and maintenance of land to the government would ensure that the land was cared for in perpetuity. State parks are an example of the attempt to put that hope into practice. Recent events, ranging from poor internal administration to external economic conditions, show some of the drawbacks to this approach. The ongoing threat of fiscal uncertainty has left state parks in a precarious position.

Many people continue to want to experience the wonders of the great outdoors. The public also has certain expectations about the conservation of nature and the preservation of wilderness. Policymakers and government officials should focus on meeting these expectations in the most cost-effective way possible. This paper shows that in many cases that means using park operation PPPs.

Park operation PPPs can help ensure that parks remain open to the public, are managed according to the long-term vision of our elected and appointed officials, and remain financially sustainable. Pioneered at the federal level by the U.S. Forest Service, they are a perfectly feasible option at the state level, as evidenced by California, which is using park operation PPPs to rescue five parks from closure.

PPPs offer a wide range of benefits in park operations, including financial sustainability, optimization of staffing and operations, enhanced risk management, accountability for outcomes, proper facility maintenance and much more.

Policymakers in other states should carefully consider the long USFS history with park operation PPPs and California's recent initiatives as they contemplate ways to ensure the long-term fiscal sustainability of their own state parks. PPPs have proven to be an effective tool for conservation, which can provide stability in the face of fiscal uncertainty and transform underfunded state parks into self-sustaining public environmental assets.

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A p p e n d i x A

California State Parks Whole-Park Concession Request for Proposals

<http://www.parks.ca.gov/pages/22374/files/Valley%20RFP%20%20Final%203-9-12.pdf>

A p p e n d i x B

California State Parks Whole-Park Concession Sample Contract

<http://www.parks.ca.gov/pages/22374/files/valley%20contract%203-8-12.pdf>



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