

**Forest Service Handbook
National Headquarters - Washington Office
Washington, DC**

**Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements
Handbook
Chapter 70 - Partnership Agreements**

Amendment: 1509.11-2009-1

Effective date: October 20, 2009

Duration: This amendment is effective until superseded or removed.

Approved by: Charles L. Myers, Deputy Chief, OPS

Date approved: October 15, 2009

Responsible Staff:

Last Change: 1509.11-2001-1 to 1509.11_70

Superseded Document(s): 1509.11 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11,0 Code Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11,0 Code, Amendment 1509.11-95-1, April 21, 1995; 1509.11,10 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11_10-13, Amendment 1509.11-95-1, April 21, 1995; 1509.11_14-15, Amendment 1509.11-95-1, April 21, 1995; 1509.11,20 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11_20, Amendment 1509.11-95-1, April 21, 1995; 1509.11, 30 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11,30, Amendment 1509.11-95-1, April 21, 1995; 1509.11,40 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11,40, Amendment 1509.11-95-1, April 21, 1995; 1509.11,50 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11,50, Amendment 1509.11-95-1, April 21, 1995; 1509.11,60 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11,60, Amendment 1509.11-95-1, April 21, 1995; id_1509.11-2008-1, July 07, 2008; 1509.11,70 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11,70-73, Amendment 1509.11-95-1, April 21, 1995; 1509.11_72_ex. 01, Amendment 1509.11-2001-1, February 09, 2001; 1509.11,73,Ex. 01, Amendment 1509.11-95-1, April 21, 1995; 1509.11,73,Ex. 02-03, Amendment 1509.11-95-1, April 21, 1995; 1509.11,73,Ex. 04-17, Amendment 1509.11-96-1, April 15, 1996; 1509.11,73,Ex. 10, Amendment 1509.11-95-1, April 21, 1995; 1509.11,73,Ex. 11, Amendment 1509.11-95-1, April 21, 1195; 1509.11,73,Ex. 15, Amendment 1509.11-95-1, April 21, 1995; 1509.11,73,Ex. 16, Amendment 1509.11-95-1, April 21, 1995; 1509.11,75, Amendment 1509.11-96-2, April 15, 1996; id_1509.11-2008-2, July 07, 2008

Digest: Following is an explanation of the changes throughout the directive by section.

Zero Code: Removes chapter in its entirety.

03: Removes policy statements. Removes paragraph 1 and recodes to FSM 1580, section 1580.35. Removes paragraph 2 and 3 and recodes to chapter 10, section 13.71 and 13.72, respectively of this handbook. Removes paragraph 4 and recodes to chapter 10, section 13.83 of this handbook.

10: Removes chapter title and direction “Federal Financial Assistance” and recodes title and direction to chapter 20 of this handbook.

Establishes title “Grants & Agreements Administration” and recodes to this chapter relevant direction previously set out in chapters 10 through 60 of this handbook for the processes and procedures that are common to all FSM 1580 grants and agreements.

Removes preamble text. Reorganizes, revises, and sets forth new direction, and replaces the reference to “Grants and Agreements” with “G&A” throughout chapter.

Replaces all references to “Grants Coordinator” with “G&A specialist” and “Program Official” with “program manager.”

10.5: Adds new definitions for the following terms: “de-obligation,” “inherently governmental function,” and “vendor’s informed knowledge.”

11: Establishes code, caption, and sets forth new direction for “Ethics and FSM 1580 Instruments.”

12: Establishes code, caption, and sets forth new direction for “I-Web.”

13: Recodes to this section direction previously set out in FSH 1509.11, Zero Code.

Reorganizes and clarifies direction on Master and Supplemental Project Agreements and Regionwide Memorandum of Understanding.

Sets forth new direction on the Principle Purpose Test, Strawman prohibitions, Washington Office Master and Supplemental Participating or Challenge Cost-Share Agreements, and Master and Supplemental Agreement Formats.

14: Revises and clarifies direction for “Procedures for Initiating, Negotiating, Formatting, and Executing Instruments,” and sets forth new direction on the *Bona Fides* Needs Rule, agreement type alpha codes, agreement numeric codes for regions Budget Object Codes, and Grants and Agreements with Funding that Exceeds 1 Year.

Recodes to this direction previously set out in FSH 1509.11, Zero Code, on Federal Identifier Number.

15: Revises and clarifies direction for “Procedures for Administering Instruments,” such as project monitoring and ratifications.

16: Changes caption from “Procedures for Close-out of Domestic and International Grants or Cooperative Agreements” to “Procedures for De-obligation and/or Close-out of Instruments” And sets forth new direction for these procedures and instruments.

17: Recodes to this section direction previously set out in FSM 1580.7, “Grants & Agreements Certification.”

20: Removes chapter direction and title on “Exempted Agreements” and recodes title and direction to chapter 30 of this handbook. Recodes to this chapter direction which was previously set out in chapter 10 of this handbook. Changes chapter title from “Grants & Cooperative Agreements (Federal Financial Assistance)” to “Federal Financial Assistance (Grants and Cooperative Agreements).” Reorganizes and revises direction throughout the chapter. Refers to Grants and Agreements as G&A throughout chapter.

20.1: Adds cross-references to new authorities. Removes obsolete authorities including the “America the Beautiful Act of 1990;” “Youth Conservation Corps Act of 1970;” and the “National and Community Service Act of 1990.” Removes authorities that do not have a valid CFDA number, including: “National Agricultural Research, Extension, and Teaching Act of 1977;” “National Trails System Act;” “Wild and Scenic Rivers Act;” and the “Federal Noxious Weeds Act of 1974.”

Adds exhibit 01 which is a matrix on all current Forest Service authorities/programs with their respective CFDA numbers.

20.3: Establishes code and caption “Policy” and clarifies policy statements, including: uses of FFA, how to choose the appropriate instrument, better defining Grants and Cooperative Agreements (substantial involvement); principal investigators, Federal Assistance Award Data System (FAADS), Federal Funding Accountability and Transparency Act of 2006 (FFATA), Forest Service as recipient, information collections, yearend awards, Civil Rights requirements, and environmental assessments.

20.5: Establishes code and caption “Definitions” and adds definitions specific to Federal financial assistance.

21: Adds the authority “Appropriation through 2005 Omnibus Bill, Public Law 108-447; Public Law 108-148.”

22: Adds language on Catalog of Federal Domestic Assistance (CFDA) requirements for Federal financial assistance programs.

22.5: Adds guidance on the use of SF-424 Research and Related forms for research related Federal financial assistance.

29: Establishes code and caption “Samples.”

29.1 through 29.36: Establishes code and caption and sets forth exhibits for an International Grant Award Letter, a Cooperative Agreement Award Letter, Application Package, SF-424, SF-424a, SF-424b, AD-1047, AD-1052, and Project Narrative respectively.

30: Removes chapter direction and title on “Collections Agreements” and recodes title and direction to chapter 40 of this handbook.

Recodes to this chapter direction which was previously set out in chapter 20 of this handbook.

Changes chapter title from “Exempted Agreements” to “Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements.”

Reorganizes and revises direction throughout the chapter.

Removes direction on collection agreements and recodes direction to chapter 40 of this handbook.

Removes references to OMB exemptions.

Replaces the reference to “Grants and Agreements” with “G&A” throughout the chapter.

30.5: Establishes code and caption “Definitions” and adds definitions for “jurisdictional agency,” “OMB exempted agreements,” “protecting agency,” and “supporting agency.”

31: Establishes caption “Statutory Requirements and Formats” and sets forth new direction in this section for Cooperative Law Enforcement, Forest Road, and Cooperative Fire Agreements.

32: Establishes caption “Procedures for Initiating, Negotiating, Formatting, and Executing Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements” and sets forth in this section new direction for initiating, negotiating, formatting, and executing these agreements

33: Establishes caption “Procedures for Administering Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements” and sets forth in this section new direction for administering these agreements.

34: Establishes code and caption “Performance Reports and Monitoring for Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements” and sets forth in this section new direction for the reporting and monitoring these agreements.

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35: Establishes code and caption “Procedures for Evaluating, Negotiating, Formatting, and Executing Modifications for Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements” and sets forth in this section new direction for these agreement procedures.

36: Establishes code and caption “Terminations, Suspensions and Debarments, or Other Considerations for Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements” and sets forth in this section new direction for these agreement procedures.

37: Establishes code and caption “Procedures for Close-out for Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements” and sets forth in this section new direction for the close-out of these agreements.

38: Establishes code and caption “Audits and Site Visits for Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements” and sets forth in this section new direction for the audits and site visits of these agreements.

39: Establishes code and caption “Samples.”

39.1 through 39.5: Establishes codes and captions and sets forth in these sections exhibits for FS-1500-8, FS-1500-8a, FS-1500-9, FS-1500-9a, and FS-1500-7, respectively.

40: Removes chapter title and direction on “Interagency and Intra-Agency Agreement” and recodes title and direction to chapter 50 of this handbook.

Recodes to this chapter direction and title “Collection Agreements” previously set out in chapter 30 of this handbook. Reorganizes, revises, and clarifies direction throughout chapter.

Refers to “Grants and Agreement” as “G&A” throughout the chapter.

40.1: Removes obsolete cross-reference to The Acceptance of Gifts Act of October 10, 1978.

40.3: Establishes code and caption and sets forth in this section new policy statements.

40.4: Establishes code and caption “Responsibility” and sets forth in this section direction for responsibilities for collection agreements

41: Removes obsolete direction and caption “General Discussion” and sets forth new direction and caption “Statutory Requirements and Formats.”

42: Removes obsolete direction and caption “Endorsement, Conflicts of Interest, and Solicitation” and recodes ethics direction to FSH 1580.

Recodes to this section direction and caption “Procedures for Initiating, Negotiations, Formatting, and Executing Collection Agreements” previously set out in section 33 of this

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handbook. Removes obsolete direction, revises, clarifies, and sets forth new direction for collection agreements.

43: Removes direction and caption “Procedures for Initiating, Negotiations, Formatting, and Executing Collection Agreements” previously set out in section 33 and recodes to section 42 of this handbook.

Recodes to this section direction previously set out in section 34. Changes caption from “Procedures for Administering Collection Agreements and Acceptance of Gifts and Donations” to “Procedures for Administering Collection Agreements.” Removes obsolete reference to procedures for acceptance of gifts and donations.

44: Removes direction and caption “Procedures for Administering Collection Agreements and Acceptance of Gifts and Donations” previously set out in section 34 and recodes to section 43 of this handbook.

Establishes caption “Performance Reports” and adds cross-reference to chapter 10.

45: Removes direction and caption “Procedures for Close-out of Collection Agreements (Contributions)” previously set out in section 35. Establishes caption “Procedures for Evaluating, Negotiating, Formatting, and Executing Modifications to Exempted Agreements” and sets forth new cross-references to this section.

46: Establishes code and caption “Terminations, Suspensions and Debarments, or Other Considerations” and sets forth new cross-references to this section.

47: Establishes code and caption “Procedures for Close-out of Collection Agreements” and sets forth new cross-reference to this section.

49: Establishes code and caption “Samples.”

49.1, 49.2, and 49.3: Establish codes and captions and sets forth in these sections exhibits for FS-1500-11, FS-1500-11a, and FS-1500-11b, respectively.

50: Removes chapter title and direction on “Memorandum of Understanding and Letters of Intent” and recodes title and direction to chapter 60 of this handbook.

Recodes to this chapter direction previously set out in chapter 40 of this handbook. Changes chapter title from “Interagency and Intra-Agency Agreement” to “Interagency Agreements.” Reorganizes, revises, and clarifies direction throughout chapter.

Removes obsolete direction on Intra-agency agreements from this chapter.

Refers to “Grants and Agreements” as “G&A” throughout chapter.

50.1: Adds new authorities: Service First, P.L. 106-291, Section 330 as amended by P.L. 109-54, Title IV, Section 428 and 7 USC 6915. Removes reference to 7 USC 2204a(2).

50.3: Establishes code and caption “Policy” and adds new policy statements.

50.5: Establishes code and caption “definitions” and sets forth definitions for new terms “buyer,” “interagency agreement,” and “seller.”

51: Changes caption from “General Discussion” to “Statutory Requirements and Formats.” Sets forth new direction for this section. Recodes to this section direction previously set out in section 42 of this handbook.

52: Removes caption and direction for “Requirements.” Recodes direction on requirements to section 51 of this handbook.

Recodes to this section caption and direction for “Procedures for Initiating, Negotiating, Formatting, and Executing Interagency Agreements” previously set out in section 43 of this handbook.

53: Removes caption and direction for “Procedures for Initiating, Negotiating, Formatting, and Executing Interagency and Intra-Agency Agreements” and recodes to section 52.

Recodes to this section direction previously set out in section 44, and changes caption from “Procedures for Administering Interagency or Intra-Agency Agreements” to “Procedures for Executing and Administering Interagency Agreements.”

54: Removes caption and direction for “Procedures for Administering Interagency or Intra-Agency Agreements” and recode direction to section 53 of this handbook.

Recodes to this section direction previously set out in section 45 of this handbook, and changes caption from “Procedures for Closeout of Interagency or Intra-Agency Agreements” to “Procedures for De-obligation and/or Close-out of Interagency Agreements.”

55: Establishes code, caption, and sets forth new direction for “Ratification” requirements.

59: Establishes code and caption “Samples.”

59.1 and 59.2: Establishes code and captions and sets forth in these sections exhibits for AD-672 and FS-1500-6, respectively.

60: Removes chapter title and direction “Other Agreements” and recodes title and direction to chapter 70 of this handbook. Recodes to this chapter direction which was previously set out in chapter 50 of this handbook. Changes chapter title from “Memoranda of Understanding and

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Letters of Intent” to “Memorandum of Understanding.” Refers to “Grants and Agreements” as “G&A,” and reorganizes and revises direction throughout chapter.

69: Establishes code and caption “Sample MOU.”

69.1: Establishes code and caption and sets forth exhibit in this section for FS-1500-15.

70: Removes chapter title and direction and recodes direction to chapter 90 of this handbook. Recodes to this chapter direction which was previously set out in chapter 60 of this handbook. Changes chapter title from “Other Agreements” to “Partnership Agreements.” Recodes, reorganizes, and revises direction throughout chapter. Removes the preamble and replaces with chapter organizational information. Refers to grants and agreements as “G&A” throughout the chapter.

70.1: Adds cross-reference to the Wyden authority.

70.5: Establishes code and caption “Definitions” and sets forth definitions for new terms: “allocable cost,” “allowable cost,” “direct costs,” “indirect costs,” “in-kind contributions,” “mutual benefit,” “mutual interest,” “reasonable cost,” and “teaching and education.”

71: Removes obsolete direction and caption “General Discussion” and replaces with caption “Authorities by Agreement Type” and sets forth a list of all FSM 1580 Partnership Agreements with the applicable authorities.

72.4: Establishes code and caption “National Agricultural Research, Extension, and Teaching Policy Act of 1977” and sets forth new direction on International Joint Ventures. Revises and clarifies direction on Joint Ventures and Cost-Reimbursable Agreements.

78: Establishes code, caption, and sets forth new direction in this section on “Terminations, Suspensions and Debarments, or Other Considerations.”

79: Establishes code and caption “Samples.”

79.1 through 79.9: Establishes codes and captions and set forth in these sections exhibits for FS-1500-16, FS-1500-16c, FS-1500-16a, FS-1500-16b, FS-1500-10, FS-1500-10a, FS-1500-10b, FS-1500-14, FS-1500-14a, FS-1500-12, FS-1500-13, FS-1500-13a, FS-1500-13b, and FS-1500-13c, respectively.

80: Establishes chapter and title “Termination and Suspension and Debarment,” and sets forth new direction in this chapter for ending an agreement. Refers to grants and agreements as G&A throughout chapter.

90: Establishes chapter and recodes to this chapter direction previously set out in chapter 70 of this handbook. Changes chapter title from “Assurances and Standard and Discretionary Provisions” to “Standard and Discretionary Provisions and Assurances.” Revises entire chapter. Removes obsolete direction on provisions; revises and clarifies direction on international provisions; and sets forth new direction, form numbers, and examples for provisions. Refers to the term “grants and agreements” as “G&A” throughout the chapter.

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79.3 – Master Participating Agreement and Supplemental Project Agreement

A Master Participating Agreement may be entered into at the region, station, Area, or forest level. A Supplemental Project Agreement (SPA) may only be used in conjunction with a Master Agreement. An SPA may not serve as a stand along agreement because it does not contain all of the mandatory provisions. Because it is supplemental to the Master Agreement, the mandatory provisions are incorporated by reference. An SPA contains some additional mandatory provisions and may contain additional provisions specific to the project described in the SPA.

79.31 – FS-1500-16a Master Participating Agreement Sample

79.31 - Exhibit 01

FS-1500-16a Master Participating Agreement Sample



US Forest Service

OMB 0596-0217
FS-1500-16a

FS Agreement No.
TU Agreement No.

08-PA-11011600-001
2008 Master

**MASTER
PARTICIPATING AGREEMENT
Between
TROUT UNLIMITED INC.
And The
U.S. FOREST SERVICE, LOLO NATIONAL FOREST**

This MASTER PARTICIPATING AGREEMENT is hereby made and entered into by and between the Trout Unlimited Inc., hereinafter referred to as TU, and the U.S. Forest Service, Lolo National Forest hereinafter referred to as the Forest Service, under the authority of Section 323(a) of the Department of the Interior and Related Agencies Appropriations Act of 1999 (Public Law 105-277) as amended by Section 330 of Public Law 107-63, the Cooperative Funds and Deposits Act of December 12, 1975 (Public Law 94-148) as further authorized by the Consolidated Appropriations Act of 2008 (PL 110-161) and the Cooperative Funds Act of June 30, 1914 (16 U.S.C. 498) as amended by P.L. 104-127

Background: For the past several years the Forest Service, local chapters of TU, TU State Chapter, and national TU staff have worked cooperatively on multiple aquatic restoration projects throughout the Lolo National Forest and surrounding lands. These projects have included land acquisition (Cedar Cr.), stream restoration (Dunham & Eustache Creeks), habitat enhancements (Cedar Cr), fish barrier mitigation (Rattlesnake Fish Ladder & Cottonwood Creek Culvert Replacement), road decommissioning (Upper Lolo), and planning level documentation (Blackfoot Sub Basin Plan).

79.31 - Exhibit 01--Continued



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Title: Master Agreement for Cooperative Watershed Restoration Projects on the Lolo National Forest.

I. PURPOSE

The purpose of this agreement is to document a framework of cooperation between the parties to coordinate various aquatic restoration projects and planning efforts. Such projects will be mutually agreed upon and in accordance with the following provisions and any incorporated Supplemental Project Agreements.

II. STATEMENT OF MUTUAL BENEFITS AND INTERESTS:

The Forest Service is responsible for maintaining and improving fish habitat compatible with its Lolo National Forest Plan which has the goals of “Provide habitat for viable populations of all indigenous wildlife species; and for threatened and endangered species occurring on the Forest, manage to contribute to the recovery of each species to nonthreatened status.”

TU is a nonprofit corporation whose stated mission is to conserve, protect, and restore North America’s coldwater fisheries and their watersheds. TU and the USDA Forest Service entered into a Service Wide Master Challenge Cost-share Agreement #03-CS-11132422-079 for activities to maintain and enhance the productivity of cold water habitats on or affecting National Forest System (NFS) lands. It is therefore mutually beneficial for the parties to work together in accomplishing aquatic restoration and preparing planning level documentation in and around the Lolo National Forest.

In consideration of the above premises, the parties agree as follows:

79.31 - Exhibit 01--Continued



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III. TU SHALL:

- A. LEGAL AUTHORITY. TU shall have the legal authority to enter into this agreement, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.
- B. Perform in accordance with any approved Supplemental Project Agreements.

IV. THE FOREST SERVICE SHALL:

- A. Perform in accordance with any approved Supplemental Project Agreements.
- B. As agreed to in specific Supplemental Project Agreements, provide TU with the appropriate personnel, materials, supplies, tools, projects, and equipment for the project.

V. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

- A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this instrument.

Principal TU Contacts:

TU Program Contact	TU Administrative Contact
Name: Rob Roberts Address: 401 E Spruce City, State, Zip: Missoula, MT 59802 Telephone: 406-543-1192 FAX: 406-728-7159 Email: roberts@tu.org	Name: Hillary Coley Address: 1300 N 17 th St., Ste 500 City, State, Zip: Arlington, VA 22209 Telephone: 703-284-9400 FAX: 703-284-9402 Email: hcoley@tu.org

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Montana TU Program Contact	
Name: Bruce Farling Address: PO Box 7186 City, State, Zip: Missoula, MT 59807 Telephone: 406-543-0054 FAX: 406-728-7159 Email: bruce@montanatu.org	

Principal Forest Service Contacts:

Forest Service Program Contact	Forest Service Administrative Contact
Name: Scott Spaulding Address: 20325 Remount Rd City, State, Zip: Huson, MT 59846 Telephone: 406-626-5424 FAX: 406-626-5403 Email: sspaulding@fs.fed.us	Name: Matt Gordon Address: Building 24, Fort Missoula City, State, Zip: Missoula, MT 59804 Telephone: 406-329-1012 FAX: 406-329-3876 Email: mgordon@fs.fed.us

- B. **AVAILABILITY FOR CONSULTATION.** Both parties will make themselves available at mutually agreeable times for continuing consultation to discuss the conditions covered by this agreement and agree to actions essential to fulfill its purposes.
- C. **SUPPLEMENTAL PROJECT AGREEMENTS (SPA).** Nothing in this agreement obligates either party to offer or accept any project proposals under this agreement. Any projects added to this agreement must be by mutual consent of the parties through a specific SPA.
- D. **NON-LIABILITY.** The Forest Service does not assume liability for any third party claims for damages arising out of this instrument.
- E. **NOTICES.** Any communications affecting the operations covered by this agreement given by the Forest Service or TU are sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

79.31 - Exhibit 01--Continued



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To the Forest Service Program Manager, at the address specified in the agreement.

To TU, at TU's address shown in the agreement or such other address designated within the agreement.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- F. PARTICIPATION IN SIMILAR ACTIVITIES. This agreement in no way restricts the Forest Service or TU(s) from participating in similar activities with other public or private agencies, organizations, and individuals.
- G. ENDORSEMENT. Any TU contributions made under this agreement do not by direct reference or implication convey Forest Service endorsement of TU's products or activities.
- H. USE OF FOREST SERVICE INSIGNIA. In order for TU to use the Forest Service Insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the Forest Service's Office of Communications. A written request must be submitted and approval granted in writing by the Office of Communications prior to use of the insignia.
- I. NON-FEDERAL STATUS FOR COOPERATOR PARTICIPANT LIABILITY. TU agrees that any TU employees, volunteers, and program participants shall not be deemed to be Federal employees for any purposes including Chapter 171 of Title 28, United States Code (Federal Tort Claims Act) and Chapter 81 of Title 5, United States Code (OWCP), as TU has hereby willingly agreed to assume these responsibilities.

Further, TU shall provide any necessary training to TU employees, volunteers, and program participants to ensure that such personnel are capable of performing tasks to be completed. TU shall also supervise and direct the work of its employees, volunteers, and participants performing under this agreement.
- J. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no United States member of, or United States delegate to, Congress shall be admitted to any share or part of this instrument, or benefits that may arise therefrom, either directly or indirectly.

79.31 - Exhibit 01--Continued



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K. DRUG-FREE WORKPLACE.

a. TU agrees that it will publish a drug-free workplace statement and provide a copy to each employee who is engaged in the performance of any project/program that receives Federal funding. The statement must

(1) Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;

(2) Specify the actions TU will take against employees for violating that prohibition; and

(3) Let each employee know that, as a condition of employment under any instrument, the employee

(i) Must abide by the terms of the statement, and

(ii) Must notify TU in writing if they are convicted for a violation of a criminal drug statute occurring in the workplace, and must do so no more than 5 calendar days after the conviction.

b. TU agrees that it will establish an ongoing drug-free awareness program to inform employees about

(1) The dangers of drug abuse in the workplace;

(2) The established policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation and employee assistance programs; and

(4) The penalties that may be imposed upon the employee for drug abuse violations occurring in the workplace.

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c. Without the Program Manager's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this instrument, or the completion date of this instrument, whichever occurs first.

d. TU agrees to immediately notify the Program Manager if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the agreement number of each instrument on which the employee worked. The notification must be sent to the Program Manager within 10 calendar days after TU learns of the conviction.

e. Within 30 calendar days of learning about an employee's conviction, TU must either

(1) Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or

(2) Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

L. NONDISCRIMINATION. TU shall comply with all Federal statutes relating to nondiscrimination and all applicable requirements of all other Federal laws, Executive orders, regulations, and policies. These include, but are not limited to Sections 119 and 504 of the Rehabilitations Act of 1973 as amended, which prohibits discrimination on the basis of race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, participation in any public assistance program, or disability.

M. ELIGIBLE WORKERS. TU shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). TU shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract or SPA awarded under this instrument.

79.31 - Exhibit 01--Continued



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N. STANDARDS FOR FINANCIAL MANAGEMENT.

1. Financial Reporting

TU shall provide complete, accurate, and current financial disclosures of the project or program in accordance with any financial reporting requirements, as set forth in the financial provisions.

2. Accounting Records

TU shall continuously maintain and update records identifying the source and use of funds. The records shall contain information pertaining to the agreement, authorizations, obligations, unobligated balances, assets, outlays, and income.

3. Internal Control

TU shall maintain effective control over and accountability for all Forest Service funds, real property, and personal property assets. TU shall keep effective internal controls to ensure that all United States Federal funds received are separately and properly allocated to the activities described in the agreement. TU shall adequately safeguard all such property and shall ensure that it is used solely for authorized purposes.

4. Source Documentation

TU shall support all accounting records with source documentation. These documentations include, but are not limited to, cancelled checks, paid bills, payrolls, contract and subgrant/contract documents, and so forth.

O. OVERPAYMENT. Any funds paid to TU in excess of the amount entitled under the terms and conditions of this agreement constitute a debt to the Federal Government. The following must also be considered as a debt or debts owed by TU to the Forest Service:

- Any interest or other investment income earned on advances of agreement funds; or
- Any royalties or other special classes of program income which, under the provisions of the agreement, are required to be returned;

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If this debt is not paid according to the terms of the bill for collection issued for the overpayment, the Forest Service may reduce the debt by:

1. Making an administrative offset against other requests for reimbursement.
2. Withholding advance payments otherwise due to TU.
3. Taking other action permitted by statute (31 U.S.C. 3716 and 7 CFR, Part 3, Subpart B).

Except as otherwise provided by law, the Forest Service may charge interest on an overdue debt.

- P. INSTRUMENT CLOSE-OUT. TU shall close out the instrument within 90 days after expiration or notice of termination.

Any unobligated balance of cash advanced to TU must be immediately refunded to the Forest Service, including any interest earned.

Within a maximum of 90 days following the date of expiration or termination of this instrument, all financial performance and related reports required by the terms of the instrument must be submitted to the Forest Service by TU.

If this instrument is closed out without audit, the Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

- Q. PROGRAM PERFORMANCE REPORTS. TU shall monitor the performance of the agreement activities to ensure that performance goals are being achieved.

Performance reports must contain information on the following:

- A comparison of actual accomplishments to the goals established for the period. Where the output of the project can be readily expressed in numbers, a computation of the cost per unit of output may be required if that information is useful.
- Reason(s) for delay if established goals were not met.
- Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

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TU shall coordinate preparation of annual reports with the Forest Service Program Manager. These reports are due 30 days after the reporting period. The final performance report must be submitted either with TU's final payment request, or separately, but not later than 90 days from the expiration date of the agreement.

- R. RETENTION AND ACCESS REQUIREMENTS FOR RECORDS. TU shall retain all records pertinent to this instrument for a period of no less than 3 years from the expiration or termination date. As used in this provision, "records" includes books, documents, accounting procedures and practice, and other data, regardless of the type or format. TU shall provide access and the right to examine all records related to this instrument to the Forest Service Inspector General, or Comptroller General or their authorized representative.

If any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the 3-year period, the records must be kept until all issues are resolved, or until the end of the regular 3-year period, whichever is later.

Records for nonexpendable property acquired in whole or in part, with Federal funds must be retained for 3 years after its final disposition.

TU shall provide access to any project site(s) to the Forest Service or any of their authorized representatives. The rights of access in this section shall not be limited to the required retention period but shall last as long as the records are kept.

- S. FREEDOM OF INFORMATION ACT (FOIA). Public access to agreement records must not be limited, except when such records must be kept confidential and would have been excepted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).
- T. FUNDING EQUIPMENT. Federal funding under this instrument is not available for reimbursement of TU's purchase of equipment. Equipment is defined as having a fair market value of over \$5,000 per unit and a useful life of over one year. Supplies are those items that are not equipment.

79.31 - Exhibit 01--Continued



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- U. IMPROVEMENTS. Improvements placed by TU on National Forest System land at the direction or with the approval of the Forest Service become the property of the United States. These improvements are subject to the same regulations and administration of the Forest Service as other National Forest improvements. No part of this instrument entitles TU to any interest in the improvements, other than the right to use them under applicable Forest Service regulations.
- V. CONTRACT REQUIREMENTS. Any contract under this agreement must be awarded following established TU procurement procedures, to ensure free and open competition, and avoid any conflict of interest (or appearance of a conflict). TU must maintain cost and price analysis documentation for potential U.S Forest Service review. TU is encouraged to utilize small businesses, minority-owned firms, and women's business enterprises.

Additionally, federal wage provisions (Davis-Bacon or Service Contract Act) are applicable to any contract developed and awarded under this instrument where all or part of the funding is provided with Forest Service funds. Davis-Bacon wage rates apply on all public works contracts in excess of \$2,000 and Service Contract Act wage provisions apply to service contracts in excess of \$2,500.

- W. GOVERNMENT-FURNISHED PROPERTY. TU may only use Forest Service property furnished under this agreement for performing tasks assigned in this agreement. TU shall not modify, cannibalize, or make alterations to Forest Service property. A separate document, Form AD-107, must be completed to document the loan of Forest Service property. The Forest Service shall retain title to all Forest Service-furnished property. Title to Forest Service property must not be affected by its incorporation into or attachment to any property not owned by the Forest Service, nor must the property become a fixture or lose its identity as personal property by being attached to any real property.

TU Liability for Government Property.

(1) Unless otherwise provided for in the agreement, TU shall not be liable for loss, damage, destruction, or theft to the Government property furnished or acquired under this contract, except when any one of the following applies—

- (i) The risk is covered by insurance or TU is otherwise reimbursed (to the extent of such insurance or reimbursement).

79.31 - Exhibit 01--Continued



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(ii) The loss, damage, destruction, or theft is the result of willful misconduct or lack of good faith on the part of TU's managerial personnel. TU's managerial personnel, in this clause, means TU's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of TU's business; all or substantially all of TU's operation at any one plant or separate location; or a separate and complete major industrial operation.

(2) TU shall take all reasonable actions necessary to protect the Government property from further loss, damage, destruction, or theft. TU shall separate the damaged and undamaged Government property, place all the affected Government property in the best possible order, and take such other action as the Property Administrator directs.

(3) TU shall do nothing to prejudice the Government's rights to recover against third parties for any loss, damage, destruction, or theft of Government property.

(4) Upon the request of the Grants & Agreements Specialist, TU shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation, including the prosecution of suit and the execution of instruments of assignment in favor of the Government in obtaining recovery.

X. REMEDIES FOR COMPLIANCE RELATED ISSUES. If TU materially fails to comply with any term of the instrument, whether stated in a Federal statute or regulation, an assurance, the agreement, or elsewhere, the Forest Service may take one or more of the following actions:

- (1) Temporarily withhold cash payments pending correction of the deficiency by TU or more severe enforcement action by the Forest Service;
- (2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;
- (3) Wholly or partly suspend or terminate the current instrument for TU's program;
- (4) Withhold further awards for the program, or
- (5) Take other remedies that may be legally available, including debarment procedures under 7 CFR part 3017.

79.31 - Exhibit 01--Continued



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Y. TERMINATION BY MUTUAL AGREEMENT. This instrument may be terminated, in whole or part, as follows:

1. When the Forest Service and TU agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
2. By 30 days written notification by TU to the Forest Service setting forth the reasons for termination, effective date, and in the case of partial termination, the portion to be terminated.

If, in the case of a partial termination, the Forest Services determines that the remaining portion of the instrument will not accomplish the purposes for which the instrument was made, the Forest Service may terminate the instrument in its entirety.

Upon termination of an instrument, TU shall not incur any new obligations for the terminated portion of the instrument after the effective date, and shall cancel as many outstanding obligations as possible. The Forest Service shall allow full credit to TU for the United States Federal share of the non-cancelable obligations properly incurred by TU up to the effective date of the termination. Excess funds must be refunded within 60 days after the effective date of termination.

Z. ALTERNATE DISPUTE RESOLUTION – PARTNERSHIP AGREEMENT. In the event of any issue of controversy under this agreement, the parties may pursue Alternate Dispute Resolution procedures to voluntarily resolve those issues. These procedures may include, but are not limited to conciliation, facilitation, mediation, and fact finding.

AA. DEBARMENT AND SUSPENSION. TU shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should TU or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.

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Amendment: 1509.11-2009-1
Effective date: October 20, 2009

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BB. MODIFICATIONS. Modifications within the scope of this instrument must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change. The Forest Service is not obligated to fund any changes not properly approved in advance.

CC. COMMENCEMENT/EXPIRATION DATE. This instrument is executed as of the date of the last signature and is effective through **December 31, 2012** at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.

DD. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this instrument. In witness whereof, the parties hereto have executed this instrument as of the last date written below.

ROB ROBERTS, Mine Restoration Coordinator Trout Unlimited Inc.	Date
BRUCE FARLING, Executive Director Montana Trout Unlimited	Date
DEBORAH L.R. AUSTIN, Forest Supervisor U.S. Forest Service, Lolo National Forest	Date

The authority and format of this instrument has been reviewed and approved for signature.

MATT GORDON
U.S. Forest Service Grants & Agreements Specialist

Date

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook

Chapter 70 - Partnership Agreements

Amendment: 1509.11-2009-1

Effective date: October 20, 2009

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Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-New. The time required to complete this information collection is estimated to average XX minutes/hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

79.32 – FS-1500-16b Participating Agreement Supplemental Project Agreement Sample

79.32 - Exhibit 01

FS-1500-16a Master Participating Agreement Sample



USDA Forest Service

OMB 0596-0217
FS-1500-16b

SUPPLEMENTAL PROJECT AGREEMENT # 08-PA-11011600-033

To

MASTER PARTICIPATING AGREEMENT # 08-PA-11011600-001

BETWEEN

TROUT UNLIMITED INC.

AND THE

U.S. FOREST SERVICE, LOLO NATIONAL FOREST

This Supplemental Project Agreement (SPA) is hereby made and entered into by and between the Trout Unlimited Inc., hereinafter referred to as TU, and the U.S. Forest Service, Lolo National Forest, hereinafter referred to as the Forest Service, as specified under the provisions of Master Participating Agreement #08-PA-11011600-001.

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USDA Forest Service

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I. GENERAL PROJECT DESCRIPTION:

Trout Unlimited has provided critical reconnaissance, funding, survey, design, monitoring, and project implementation efforts on various streams on the Lolo National Forest (LNF). This exemplary work at all project phases has enabled substantive stream rehabilitation work on the LNF that would not have otherwise occurred, or would have occurred over a much expanded time-frame. Little McCormick Creek is one of several projects (including Eustache, St. Louis, Mattie V, and Sawpit creeks) in which TU is assisting water and fisheries resources on the LNF to design, implement, fund, and monitor. This project is currently at the survey and pre-design phase.

Mine site disturbances and their attendant long lasting effects on the aquatic resource are substantial throughout the Ninemile watershed. Direct affects lie primarily in the realm of extensive physical alteration that eliminates floodplains and associated riparian, increases channel aggradation and loss of surface flow, reduces in-channel diversity through loss of large wood and pool habitat. These physical changes in turn can have negative effects on native fish production. The Little McCormick abandoned mine site at the lower end of this tributary, T16N R23W, sw1/4 of section 10 and the nwnw1/4 Section 15 is one such disturbance in need of reclamation.

Historic placer mining is the primary human-caused source of sediment in the McCormick Creek watershed. Approximately 2.2 miles of the stream has been heavily impacted by mining, resulting in an over widened channel characterized by unstable banks, a lack of habitat diversity, and reduced riparian vegetation. Historic mining on Little McCormick included dragline and dryland dredge, hydraulicking and sluicing. The Ninemile Water Quality Restoration Plan (WQRP) states that "Currently, sediment sources in the McCormick Creek watershed are dominated by mining, which account for nearly 91 percent of the sediment load."

Little McCormick Creek is listed as an impaired stream segment of the Ninemile watershed per the 1996 303(d) list for recreation, aquatic life, and coldwater species from historic mining. As a result of the mining legacy, lower Little McCormick Creek goes dry in the summer of most years and appears to result from disturbances caused by placer mining, not from dewatering [Montana Department of Environmental Quality (DEQ) 2005 Total Maximum Daily Load (TMDL) final]. Flow alteration will have to be reduced by restoration of the stream channel. The stream channel also has very little in-channel diversity including pools and large wood, and in many areas the riparian community is non-existent or greatly altered. As a result of these

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impacts the streams TMDL listing status, it has received considerable attention for reclamation in the Montana DEQ's WQRP and TMDL. This document directs the Implementation Team to pursue funding to restore the mined reaches of McCormick Creek (Montana DEQ 2005 TMDL final).

The ultimate objective of this project is to re-establish a functional stream channel including more surface flow seasonally, diverse and quality in-stream habitat, and a reclaimed floodplain in portions of this site. Currently the only fish that have been documented just above the seasonally dewatered section of stream is native westslope cutthroat trout in moderate numbers. Efforts to improve the stream channel and floodplain habitat is intended to benefit westslope cutthroat trout production in this section of stream and overall for the Ninemile watershed. The first step of this reclamation effort is to survey the entire area and development alternatives for reclamation. Reclamation will emphasize re-establishing a stream channel, in-stream habitat, and floodplain and riparian area that mimics less disturbed stream channel functions in this area. TU and the Ninemile Ranger district spent some time in the field during the summer of 2007 to do a longitudinal channel profile and cross section surveys that will be used to inform the reclamation design process (Phase I). TU is also currently working with university personnel to look at additional underground survey techniques to help better assess shallow ground water flow patterns in the dewatered portion of stream to also further help advance design strategies and assess feasibility.

The purpose of this agreement is to document the cooperation between the parties to conduct a variety of specified work listed herein and related to survey, design, and ultimately, rehabilitation of the specified section of Little McCormick Creek, in accordance with the Financial Plan in section VI. Currently, this agreement covers the next survey and design steps (Phase II) of the project anticipating that this will lead to funding proposals and contracts for project implementation (Phase III). For this project, it is envisioned that TU personal will take the lead on developing a preliminary design for the project. This will be done under the close coordination with the LNF's hydrologist and design engineer. Construction contracts and efforts will be informed by Phase II efforts identified here and amended into this agreement through formal modification as a subsequent phase or phases.

In consideration of the above premises, the parties agree as follows:

II. RESPONSIBILITIES:

A. TU shall:

1. Perform in accordance with the Financial Plan, Exhibit A.

79.32 - Exhibit 01--Continued



USDA Forest Service

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2. Involve the Forest Service with initial reconnaissance efforts.
3. Coordinate efforts with Montana Tech (staff and students) to perform studies of groundwater and bedrock dynamics. This information will be critical to development of restoration alternatives and feasibility.
4. Coordinate with the Forest Service on developing channel planform and profile designs and/or other design parameters, or on contracting this work out to a third party.
5. Work with Forest Service on developing funding proposals for either next design or implementation phases.

B. The Forest Service shall:

1. Perform in accordance with the Financial Plan, Exhibit A.
2. Coordinate and conduct investigations with TU on initial reconnaissance efforts.
3. Seek funds as available both within and outside the Forest Service for additional design and implementation phases of the project.

III. CONTACTS & TIME LIMITS:

- A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this instrument.

Principal TU Contacts:

TU Program Contact	TU Administrative Contact
Name: Rob Roberts Address: 401 E Pine St City, State, Zip: Missoula, MT 59802 Telephone: 406-547-1129 FAX: 506-547-0893 Email: rroberts@tu.org	Name: Rob Roberts Address: 401 E Pine St City, State, Zip: Missoula, MT 59802 Telephone: 406-547-1129 FAX: 506-547-0893 Email: rroberts@tu.org

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Principal Forest Service Contacts:

Forest Service Program Contact	Forest Service Administrative Contact
Name: Scott Spaulding Address: 20325 Remount Rd City, State, Zip: Huson, MT 59846 Telephone: 406-626-5201 FAX: 406-626-5403 Email: sspaulding@fs.fed.us	Name: Matt Gordon Address: Building 24, Fort Missoula City, State, Zip: Missoula, MT 59804 Telephone: 406-329-1012 FAX: 406-329-3876 Email: mgordon@fs.fed.us

- B. COMMENCEMENT/EXPIRATION DATE. This instrument is executed as of the date of the last signature and is effective through December 31, 2012 at which time it will expire.
- C. AVAILABILITY FOR CONSULTATION. Both parties will make themselves available at mutually agreeable times, for continuing consultation to discuss the conditions covered by this agreement and agree to actions essential to fulfill its purposes.

IV. APPROVAL

AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this instrument. In witness whereof, the parties hereto have executed this instrument as of the last date written below.

ROB ROBERTS, Mine Restoration Coordinator Trout Unlimited Inc.	Date
DEBORAH L.R. AUSTIN, Forest Supervisor U.S. Forest Service, Lolo National Forest	Date

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The authority and format of this instrument has been reviewed and approved for signature.

MATT GORDON

Date

U.S. Forest Service Grants & Agreements Specialist

Burden Statement

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79.32 - Exhibit 02

FS-1500-17c - Agreements Financial Plan Medium Form Sample

Exhibit A

USFS Agreement No.: **08-PA-11011600-033**
 Cooperator Agreement No.:

Mod. No.

FS-1500-17c Agreements Financial Plan (Medium Form) without Program Income

1. Financial Plan Matrix:

Note: All columns may not be used. Use depends on source and type of contribution(s).

COST ELEMENTS (Direct Costs)	FOREST SERVICE CONTRIBUTIONS			COOPERATOR CONTRIBUTIONS				(h) TOTAL
	(a) Noncash	(b) Volunteer Labor (In-Kind)	(c) Cash to Cooperator	(d) Noncash	(e) Third Party In-Kind	(f) Cash to FS	(g) Third Party Other Federal	
Salaries/Labor	\$5,000.00			\$5,000.00				\$10,000.00
Travel								\$0.00
Equipment								\$0.00
Supplies				\$2,500.00				\$2,500.00
Materials								\$0.00
Printing								\$0.00
Seismic Survey					\$10,000.00			\$10,000.00
Other								\$0.00
Subtotal	\$5,000.00	\$0.00	\$0.00	\$7,500.00	\$10,000.00	\$0.00	\$0.00	\$22,500.00
Cooperator Indirect Costs								\$0.00
FS Overhead Assessment								\$0.00
Gross Total	\$5,000.00	\$0.00	\$0.00	\$7,500.00	\$10,000.00	\$0.00	\$0.00	\$22,500.00

Matching Costs Determination	
Total Forest Service Share = (a+b+c)/(h) = (i)	(i) 22.22%
Other Federal Contribution = (g)/(h) = (j)	(j) 0.00%
Total Federal Share = (i+j) = (k)	(k) 22.22%
Total Cooperator Share (d+e+f+g) / (h) = (l)	(l) 77.78%
Total (k+l) = (m)	(m) 100.00%

This Financial Plan may not be used to collect funds AND disburse funds on the same agreement. Separate agreements must be used in this situation.

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Reimbursement Calculation	
Forest Service reimbursement percent (as % of expenses directly incurred by the Cooperator-- i.e., Cooperator's non-cash and cash contributions only that are subject to Forest Service reimbursement)	
(c)/(c+d+f) = (n)	(n) 0.00%
Reimbursable Amount = Total actual cost incurred to date (sum of cost elements from the Cooperator's invoice as prescribed in agreement provisions _____ and _____ multiplied by 0.00% (v) minus any previous Forest Service payments, not to exceed the subtotal amount listed in column (c).	

2. Cost Analysis:

Use the following section to show additional information that supports the lump sum figures provided above. The following Cost Analysis boxes, (a)-(l), should provide a cost analysis of the corresponding matrix columns, (a)-(g), above, e.g. matrix column (a) *FS Noncash Contribution* should be analyzed under block (a), below, and matrix column (b) *FS In-Kind Contribution* should be analyzed under block (b), below, etc. Furthermore, each cost analysis box, below, should have clear labels indicating which cost element, above, is being analyzed, e.g. Salary/Labor = hrs or days x rate; Travel = miles x rate, or months x FOR rate (that is, days x per diem rate); Equipment Use = hrs or days x rate; Supplies & Materials--list of items and estimated cost; Printing = estimated cost per item; Indirect Cost = Direct cost x current indirect rate.

If necessary, add additional sheets for cost analysis. To compress any unwanted portion(s) of this section, highlight the section to be hidden, then select "Format", "Row", and "Hide" from the toolbar.

Column (a) FS Noncash Contribution	Forest Service salary 20 days @ \$250/day
Column (d) Cooperator Noncash Contribution	Salary for TU employee (20 days @ \$250/day) to work in coordination with Montana Tech and supplies for geophysical survey (based on estimate from Mtech advisor)
Column (e) Cooperator Third Party In-Kind Contribution	Seismic surveys by Montana Tech geophysics students (value provided by Montana Tech)

3. Instructions: Use this form in conjunction with FSH 1509.11, Ch. 70, Financial Planning Requirements. Use Cost Elements that apply to the particular project by inserting the amount of contribution in the appropriate box based on contributor and type of contribution. The Cost Elements listed are those commonly used. The two "Other" Cost Elements can be replaced with a Cost Element unique to your agreement, for example 'sub-contracts'.

After inserting all contributions in Section 1, complete Section 2 by providing a cost analysis of the figures entered into Section 1.

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(a) **Forest Service Noncash Contribution:** Forest Service noncash contributions may consist of employee salaries, overhead (indirect), travel provided, and/or equipment and supplies purchased and provided to the Cooperator for use in the project. These costs are an expense to the Forest Service, but do not include funding for reimbursement of Cooperator expenses.

(b) **Forest Service Volunteer Labor (In-Kind) Contribution:** This is the value of volunteer labor donated for completion of the project by the Forest Service for which the Forest Service has incurred no expense. Forest Service volunteer agreements (either sponsored or individual) should be used to document the donated services. The value of volunteer labor should be commensurate with local labor rates for similar work.

(c) **Forest Service Cash to the Cooperator:** This is the maximum amount of funding that will be reimbursed or advanced to the Cooperator. This is an expense to the Forest Service.

(d) **Cooperator Noncash Contribution:** These are expenses the Cooperator incurs that are contributed to the project in lieu of cash, but for which costs are incurred, such as employee salaries, overhead (indirect costs), travel, equipment, supplies, and so forth. These do not include in-kind contributions from third parties, such as donations from other entities or volunteer labor.

(e) **Cooperator, Third Party In-Kind Contribution:** In-kind contribution provided to the Cooperator from a third party organization(s) for use in the project for which the Cooperator has incurred no expense. Value assessed for volunteer labor and donated materials, equipment and supplies should be valued based on FSH 1509.11, Ch. 70. These values are not reimbursable and can only be used to satisfy the Cooperator's matching requirement. Display these contributions by Cost Element Expenditures.

(f) **Cooperator Cash to the Forest Service:** These are Cooperator cash contributions actually transferred to the Forest Service for use in completing the project. This is an expense to the Cooperator and does not include in-kind contributions made to the Cooperator from other organizations. Display by Cost Element where these funds will be expended. Be sure to cite a collection authority in the Agreement if this column is used.

Include cash the Cooperator is transferring to the Forest Service for the project, that has been received as a grant(s) from a non-Federal entity(ies).

(g) **Cooperator, Third Party Other Federal Contribution:** Contribution provided to the Cooperator from Federal agency(ies) for use in the project. Display these contributions by Cost Element Expenditures.

(h) **Total Project Value:** The sum of all the values provided toward the project. This figure reflects the true estimated cost of the project.

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-New. The time required to complete this information collection is estimated to average XX minutes/hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotope, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

79.4 – FS-1500-10 Challenge Cost-share Agreement Sample

79.4 - Exhibit 01

FS-1500-10 - Challenge Cost-share Agreement Sample



USDA Forest Service

OMB 0596-0217
FS-1500-10

FS Agreement No.
Cooperator Agreement No.

08-CS-11040304-041
CBS-2009-79

CHALLENGE COST-SHARE AGREEMENT

Between
CRAIGHEAD BERINGIA SOUTH
And The
U.S. FOREST SERVICE
BRIDGER-TETON NATIONAL FOREST

This CHALLENGE COST-SHARE AGREEMENT is hereby made and entered into by and between the Craighead Beringia South, hereinafter referred to as CBS, and the U.S. Forest Service, Bridger-Teton National Forest, hereinafter referred to as the Forest Service, under the provisions of the Department of Interior and Related Agencies Appropriation Act of 1992, Pub. L. 102-154.

Background: Two small, isolated populations of sage grouse persist in the fragmented sagebrush-grassland communities in the Jackson Hole area. One group of grouse resides year-round in the valley and another smaller population occupies sage habitat in the Gros Ventre River drainage. The draft "Upper Snake River Basis Sage-Grouse Conservation Plan" (Bohne et al. 2007) considers these two isolated populations to be at some risk of extirpation. A first step toward population recovery is to gather needed information through a field investigation on grouse productivity, mortality factors, distribution, movement and seasonal habitat use.

Title: Sage Grouse Surveys in the Gros Ventre and Jackson Hole valleys.

I. PURPOSE:

The purpose of this agreement is to document the cooperation between the parties to continue a 3-year field project to examine the movements, habitat use, and demographics of sage-grouse in the Gros Ventre and Jackson Hole valleys in accordance with the following provisions and the hereby incorporated Operating and Financial Plan, attached as Exhibit A.

79.4 - Exhibit 01--Continued



USDA Forest Service

OMB 0596-0217

FS-1500-10

II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

Knowledge of factors limiting population growth of sage-grouse will help federal, state, and county entities and private landowners plan and implement habitat management actions to protect, restore, and enhance seasonally important sagebrush-grassland communities frequented by these two populations of sage-grouse to maintain their presence on the landscape and their place in the Greater Yellowstone Ecosystem.

In consideration of the above premises, the parties agree as follows:

III. CBS SHALL:

- a. LEGAL AUTHORITY. CBS shall have the legal authority to enter into this agreement, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.
- b. Perform in accordance with the Operating and Financial Plan, attached as Exhibit A.

IV. THE FOREST SERVICE SHALL:

- A. PAYMENT/REIMBURSEMENT. The Forest Service shall reimburse CBS for the Forest Service's share of actual expenses incurred, not to exceed \$12,000, as shown in the Financial Plan. The Forest Service shall make payment upon receipt of CBS's quarterly invoice. Each invoice from CBS must display the total project costs for the billing period, separated by Forest Service and CBS share. In-kind contributions must be displayed as a separate line item and must not be included in the total project costs available for reimbursement. The final invoice must display CBS's full match towards the project, as shown in the financial plan, and be submitted no later than 90 days from the expiration date.

Each invoice must include, at a minimum:

- 1) Cooperator name, address, and telephone number
- 2) Forest Service agreement number
- 3) Invoice date
- 4) Performance dates of the work completed (start & end)

79.4 - Exhibit 01--Continued



USDA Forest Service

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- 5) Total invoice amount for the billing period
- 6) Statement that the invoice is a request for payment by 'reimbursement'
- 7) If using SF-270, a signature is required.
- 8) Invoice Number, if applicable

The invoice must be forwarded to:

USDA Forest Service
Albuquerque Service Center
Payments – Grants & Agreements
101B Sun Ave NE
Albuquerque, NM 87109

FAX: 877-687-4894

A copy must be sent to:

Terry Hershey
Jackson Ranger District
PO Box 1689
Jackson, WY 83001

B. Perform in accordance with the Operating and Financial Plan, attached as Exhibit A.

V. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

- A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this instrument.

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Name: Howard Quigley Address: PO Box 147 City, State, Zip: Kelly, WY 83001 Telephone: 307-734-0189 FAX: 307-734-0188 Email: hquigly@aol.com	Name: Howard Quigley Address: PO Box 147 City, State, Zip: Kelly, WY 83001 Telephone: 307-734-0189 FAX: 307-734-0188 Email: hquigly@aol.com

79.4 - Exhibit 01--Continued



USDA Forest Service

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Principal Forest Service Contacts:

Forest Service Program Contact	Forest Service Administrative Contact
Name: Terry Hershey Address: PO Box 1689 City, State, Zip: Jackson, WY 83001 Telephone: 307-739-5411 FAX: 307-739-5450 Email: thershey@fs.fed.us	Name: Judy Shields Address: PO Box 1888 City, State, Zip: Jackson, WY 83001 Telephone: 307-739-5546 FAX: 307-739-5010 Email: jshields@fs.fed.us

- B. **NON-LIABILITY.** The Forest Service does not assume liability for any third party claims for damages arising out of this instrument.

- C. **NOTICES.** Any communications affecting the operations covered by this agreement given by the Forest Service or the Cooperator are sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the Forest Service Program Manager, at the address specified in the agreement.

To Cooperator, at the Cooperator's address shown in the agreement or such other address designated within the agreement.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- D. **PARTICIPATION IN SIMILAR ACTIVITIES.** This agreement in no way restricts the Forest Service or CBS from participating in similar activities with other public or private agencies, organizations, and individuals.
- E. **ENDORSEMENT.** Any CBS contributions made under this agreement do not by direct reference or implication convey Forest Service endorsement of CBS's products or activities.

79.4 - Exhibit 01--Continued



USDA Forest Service

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- F. NON-FEDERAL STATUS FOR COOPERATOR PARTICIPANT LIABILITY. CBS agrees that any CBS employees, volunteers, and program participants shall not be deemed to be Federal employees for any purposes including Chapter 171 of Title 28, United States Code (Federal Tort Claims Act) and Chapter 81 of Title 5, United States Code (OWCP), as CBS has hereby willingly agreed to assume these responsibilities.

Further, CBS shall provide any necessary training to their employees, volunteers, and program participants to ensure that such personnel are capable of performing tasks to be completed. CBS shall also supervise and direct the work of its employees, volunteers, and participants performing under this agreement.

- G. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no United States member of, or United States delegate to, Congress shall be admitted to any share or part of this instrument, or benefits that may arise therefrom, either directly or indirectly.

- H. DRUG-FREE WORKPLACE.

a. CBS agrees that it will publish a drug-free workplace statement and provide a copy to each employee who is engaged in the performance of any project/program that receives Federal funding. The statement must:

(1) Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;

(2) Specify the actions CBS will take against employees for violating that prohibition; and

(3) Let each employee know that, as a condition of employment under any instrument, the employee;

(i) Must abide by the terms of the statement, and

(ii) Must notify you in writing if they are convicted for a violation of a criminal drug statute occurring in the workplace, and must do so no more than five calendar days after the conviction.

79.4 - Exhibit 01--Continued



USDA Forest Service

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b. CBS agrees that it will establish an ongoing drug-free awareness program to inform employees about:

- (i) The dangers of drug abuse in the workplace;
- (ii) The established policy of maintaining a drug-free workplace;
- (iii) Any available drug counseling, rehabilitation and employee assistance programs; and
- (iv) The penalties that may be imposed upon the employee for drug abuse violations occurring in the workplace.

c. Without the Program Manager's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this instrument, or the completion date of this instrument, whichever occurs first.

d. CBS agrees to immediately notify the Program Manager if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the agreement number of each instrument on which the employee worked. The notification must be sent to the Program Manager within 10 calendar days after CBS learns of the conviction.

e. Within 30 calendar days of learning about an employee's conviction, the Cooperator must either;

(1) Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or

(2) Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

- J. **NONDISCRIMINATION.** CBS shall comply with all Federal statutes relating to nondiscrimination and all applicable requirements of all other Federal laws, Executive orders, regulations, and policies. These include, but are not limited to Sections 119 and 504 of the Rehabilitation Act of 1973 as amended, which prohibits discrimination on the basis of race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, participation in any public assistance program, or disability.

79.4 - Exhibit 01--Continued



USDA Forest Service

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K. ELIGIBLE WORKERS. CBS shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). CBS shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract awarded under this instrument.

L. STANDARDS FOR FINANCIAL MANAGEMENT.

1. Financial Reporting

The Cooperator shall provide complete, accurate, and current financial disclosures of the project or program in accordance with any financial reporting requirements, as set forth in the financial provisions.

2. Accounting Records

The Cooperator shall continuously maintain and update records identifying the source and use of funds. The records shall contain information pertaining to the agreement, authorizations, obligations, unobligated balances, assets, outlays, and income.

3. Internal Control

The Cooperator shall maintain effective control over and accountability for all Forest Service funds, real property, and personal property assets. The Cooperator shall keep effective internal controls to ensure that all United States Federal funds received are separately and properly allocated to the activities described in the agreement. The Cooperator shall adequately safeguard all such property and shall ensure that it is used solely for authorized purposes.

4. Source Documentation

The Cooperator shall support all accounting records with source documentation. These documentations include, but are not limited to, cancelled checks, paid bills, payrolls, contract and subgrant/contract documents, and so forth.

M. OVERPAYMENT. Any funds paid to the Cooperator in excess of the amount entitled under the terms and conditions of this agreement constitute a debt to the Federal Government. The following must also be considered as a debt or debts owed by the Cooperator to the Forest Service:

79.4 - Exhibit 01--Continued



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- Any interest or other investment income earned on advances of agreement funds; or

- Any royalties or other special classes of program income which, under the provisions of the agreement, are required to be returned.

If this debt is not paid according to the terms of the bill for collection issued for the overpayment, the Forest Service may reduce the debt by:

1. Making an administrative offset against other requests for reimbursement.
2. Withholding advance payments otherwise due to the Cooperator.
3. Taking other action permitted by statute (31 U.S.C. 3716 and 7 CFR, Part 3, Subpart B).

Except as otherwise provided by law, the Forest Service may charge interest on an overdue debt.

- N. INSTRUMENT CLOSE-OUT. The Cooperator shall close out the instrument within 90 days after expiration or notice of termination.

Any unobligated balance of cash advanced to the Cooperator must be immediately refunded to the Forest Service, including any interest earned.

Within a maximum of 90 days following the date of expiration or termination of this instrument, all financial performance and related reports required by the terms of the instrument must be submitted to the Forest Service by the Cooperator.

If this instrument is closed out without audit, the Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

- O. PROGRAM PERFORMANCE REPORTS. CBS shall monitor the performance of the agreement activities to ensure that performance goals are being achieved.

Performance reports must contain information on the following:

79.4 - Exhibit 01--Continued



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- A comparison of actual accomplishments to the goals established for the period. Where the output of the project can be readily expressed in numbers, a computation of the cost per unit of output may be required if that information is useful.

- Reason(s) for delay if established goals were not met.

- Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

The Cooperator shall submit annual performance reports to the Forest Service Program Manager. These reports are due 30 days after the reporting period. The final performance report shall be submitted either with the Cooperator's final payment request, or separately, but not later than 90 days from the expiration date of the agreement.

- P. RETENTION AND ACCESS REQUIREMENTS FOR RECORDS. CBS shall retain all records pertinent to this instrument for a period of no less than 3 years from the expiration or termination date. As used in this provision, "records" includes books, documents, accounting procedures and practice, and other data, regardless of the type or format. CBS shall provide access and the right to examine all records related to this instrument to the Forest Service Inspector General, or Comptroller General or their authorized representative.

If any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the 3-year period, the records must be kept until all issues are resolved, or until the end of the regular 3-year period, whichever is later.

Records for nonexpendable property acquired in whole or in part, with Federal funds must be retained for 3 years after its final disposition.

CBS shall provide access to any project site(s) to the Forest Service or any of their authorized representatives. The rights of access in this section shall not be limited to the required retention period but shall last as long as the records are kept.

- Q. FREEDOM OF INFORMATION ACT (FOIA). Public access to agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).

79.4 - Exhibit 01--Continued



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R. FUNDING EQUIPMENT Federal funding under this instrument is not available for reimbursement of the Cooperator's purchase of equipment. Equipment is defined as having a fair market value of over \$5,000 per unit and a useful life of over one year. Supplies are those items that are not equipment.

S. CONTRACT REQUIREMENTS. Any contract under this agreement must be awarded following established Cooperator procurement procedures, to ensure free and open competition, and avoid any conflict of interest (or appearance of a conflict). The Cooperator must maintain cost and price analysis documentation for potential Forest Service review. The Cooperator is encouraged to utilize small businesses, minority-owned firms, and women's business enterprises.

Additionally, federal wage provisions (Davis-Bacon or Service Contract Act) are applicable to any contract developed and awarded under this instrument where all or part of the funding is provided with Forest Service funds. Davis-Bacon wage rates apply on all public works contracts in excess of \$2,000 and Service Contract Act wage provisions apply to service contracts in excess of \$2,500.

T. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS AND ELECTRONIC MEDIA. The Cooperator shall acknowledge Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this instrument.

U. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. The Cooperator shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

***"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs..)
To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer."***

79.4 - Exhibit 01--Continued



USDA Forest Service

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If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text:

"This institution is an equal opportunity provider."

- V. REMEDIES FOR COMPLIANCE RELATED ISSUES. If the Cooperator materially fails to comply with any term of the instrument, whether stated in a Federal statute or regulation, an assurance, the agreement, or elsewhere, the Forest Service may take one or more of the following actions:
1. Temporarily withhold cash payments pending correction of the deficiency by the Cooperator or more severe enforcement action by the Forest Service;
 2. Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;
 3. Wholly or partly suspend or terminate the current instrument for the Cooperator's program;
 4. Withhold further awards for the program, or
 5. Take other remedies that may be legally available, including debarment procedures under 7 CFR part 3017.
- W. TERMINATION BY MUTUAL AGREEMENT. This instrument may be terminated, in whole or part, as follows:
1. When the Forest Service and Cooperator agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
 2. By 30 days written notification by the Cooperator to the Forest Service setting forth the reasons for termination, effective date, and in the case of partial termination, the portion to be terminated.

If, in the case of a partial termination, the Forest Services determines that the remaining portion of the instrument will not accomplish the purposes for which the instrument was made, the Forest Service may terminate the instrument in its entirety.

79.4 - Exhibit 01--Continued



USDA Forest Service

OMB 0596-0217

FS-1500-10

Upon termination of an instrument, the Cooperator shall not incur any new obligations for the terminated portion of the instrument after the effective date, and shall cancel as many outstanding obligations as possible. The Forest Service shall allow full credit to the Cooperator for the United States Federal share of the non-cancelable obligations properly incurred by the Cooperator up to the effective date of the termination. Excess funds must be refunded within 60 days after the effective date of termination.

- X. ALTERNATE DISPUTE RESOLUTION – PARTNERSHIP AGREEMENT. In the event of any issue of controversy under this agreement, the parties may pursue Alternate Dispute Resolution procedures to voluntarily resolve those issues. These procedures may include, but are not limited to conciliation, facilitation, mediation, and fact finding.
- Y. DEBARMENT AND SUSPENSION. The Cooperator shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the Federal Government according to the terms of 2 CFR Part 180. Additionally, should the Cooperator or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.
- Z. MODIFICATIONS. Modifications within the scope of this instrument must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change. The Forest Service is not obligated to fund any changes not properly approved in advance.
- AA. COMMENCEMENT/EXPIRATION DATE. This instrument is executed as of the date of the last signature and is effective through **December 31, 2010** at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook
Chapter 70 - Partnership Agreements
Amendment: 1509.11-2009-1
Effective date: October 20, 2009

79.4 - Exhibit 01--Continued



USDA Forest Service

OMB 0596-0217

FS-1500-10

BB. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this instrument. In witness whereof, the parties hereto have executed this instrument as of the last date written below.

HOWARD QUIGLEY, Executive Director Craighead Beringia South	Date
CAROLE 'KNIFFY' HAMILTON, Forest Supervisor U.S. Forest Service, Bridger-Teton National Forest	Date

The authority and format of this instrument has been reviewed and approved for signature.

JUDY A. SHIELDS

Date

U.S. Forest Service Grants & Agreements Specialist

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-New. The time required to complete this information collection is estimated to average XX minutes/hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

79.4 - Exhibit 01--Continued



USDA Forest Service

OMB 0596-0217

FS-1500-10

**EXHIBIT A
OPERATING PLAN**

I. CBS Shall:

Perform all activities related to the collection of field data to meet the goals of the project, including:

- Capture, marking (with radio-telemetry and leg bands), and release back in the wild of sage grouse for monitoring in Jackson Hole and the Gros Ventre drainage east of Jackson Hole.
- Monitoring all of the marked birds at least three times per week to document mortalities, determine movements, and obtain locations of all study animals.
- Describe all mortalities, when possible, including cause of death.
- Document nests when females are localized.
- Determine habitat characteristics through field measurements during winter months and through GID analysis for non-winter months.
- Assist in lek counts during May and June, and conduct a winter census.
- Perform preliminary analysis and provide an annual report in May.

II. The Forest Service Shall:

Provide assistance and oversight for survey activities on National Forest System lands.

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook
Chapter 70 - Partnership Agreements
Amendment: 1509.11-2009-1
Effective date: October 20, 2009

79.4 - Exhibit 02

FS-1500-17a Agreements Financial Plan Long Form Sample

USFS Agreement No.: 08-CS-11040304-041 Mod. No. ONE
 Cooperator Agreement No.:

Agreements Financial Plan (Long Form)

1. Financial Plan Matrix: Note: All columns may not be used. Use depends on source and type of contribution(s).

COOPERATOR CONTRIBUTIONS																							
FOREST SERVICE CONTRIBUTIONS				THIRD PARTY																			
(a)		(b)		(c)		(d)		(e)		(f)		(g)		(h)		(i)		(j)		(k)		(l)	
Non-Cash		In-Kind		Reimb. Coop. Expenses		Non-Cash		In-Kind		Cash		Non-Fed		Cash		Non-Fed		Federal		Non-Fed		Federal	
Direct Costs																							
Salaries/Labor	\$5,500.00			\$5,900.00		\$10,000.00		\$64,900.00							\$7,500.00								(m) Total
Travel	\$300.00			\$850.00				\$8,500.00							\$2,500.00								\$93,800.00
Equipment Use								\$750.00															\$12,150.00
Supplies						\$12,500.00		\$2,750.00															\$750.00
Materials																							\$15,250.00
Printing								\$500.00															\$0.00
Other	\$100.00			\$2,250.00																			\$500.00
Other																							\$2,350.00
Subtotal	\$5,900.00	\$0.00	\$9,000.00	\$0.00	\$22,500.00	\$0.00	\$77,400.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$10,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$124,800.00
Indirect Costs	\$472.00						\$6,000																\$6,472.00
Total	\$6,372.00	\$0.00	\$9,000.00	\$0.00	\$22,500.00	\$0.00	\$83,400.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$10,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$131,272.00
(n) Estimated Program Income (subtract from total of column (m)):																							
(o) Net Total Project Value:																							\$131,272.00

Matching Costs Determination	

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook
Chapter 70 - Partnership Agreements
Amendment: 1509.11-2009-1
Effective date: October 20, 2009

79.4 - Exhibit 02--Continued

Third Party Contribution-- Federal =	(q)
$(h+j+l)/(o) = (q)$	0.00%
Total Federal Share =	(r)
$(p+q) = (r)$	11.71%
Total Cooperator Share	(s)
$[(d+e+f+g+i+k) - (n)] / (o) = (s)$	80.67%
	(t)
Total $(r+s) = (t)$	92.38%

Reimbursement Calculation	
Forest Service reimbursement percent (as % of expenses directly incurred by the Cooperator-- i.e., Cooperator's non-cash and cash contributions only-- that are subject to Forest Service reimbursement)	(u)
$(c)/[(c+d+f) - (n)] = (u)$	100.00%
Reimbursable Amount = Total actual cost incurred to date (sum of cost elements from the Cooperator's invoice as prescribed in agreement provisions E. 18 and multiplied by 100% (u) minus any previous Forest Service payments, not to exceed the subtotal amount listed in column (c) minus any estimated program income.)	

2. Cost Analysis:

- Salaries for one GS-6 (20 days) and one GS-11 (5 days). One month of FOR for one vehicle and 300 miles of use. Quarters for one seasonal employee for one month.
- (a) Salaries & Labor - CBS Lead Biologist 1 month @ \$3,500; CBS Biologist 1 month @ \$2,400; Travel - 1,000 miles @ \$.50 per mile = \$500.00; Flight costs for J. Johnson (Geneticist from University of N. Texas) to Jackson Hole = \$350; other = University of North Texas lab costs for genetic analysis.
- (b) Salaries & Labor - CBS E.D./Co-PI 2 mo @ \$5,000/mo; Supplies - 2 net launchers @ \$4000/each, telemetry equipment @ \$4,500
- (c) Salaries & Labor - CBS Lead Biologist 11 mo @ \$3500/mo = \$38,500 CBS Biologist 11 mo @ \$2400/mo = \$26,400; Travel - vehicle rental & gas @ 0.50/mile = \$8,500.00 ; Equipment Use - Misc. Field Supplies = \$750; Supplies = GPS Download costs for 5 transmitters @ \$46/trans/month = \$2750; Grants Awarded from WYG&F = \$50,000, JH Airport = \$30,000, Private Donors = \$3,400
- (d) GTNP Biologist Salary 3mo @ \$3,333/mo = \$7,500; Vehicle Use and Gas = \$2,500
- (e) **Forest Service Non-Cash Contribution:** Forest Service employee salaries, travel, equipment, supplies, etc., provided toward completion of the project. Total Forest Service indirect cost (overhead) is also included in this column. All the costs listed here are an expense to the Forest Service.
- (f) **Value of Forest Service In-Kind Contribution:** Forest Service contributions toward completion of the project for which the Forest Service has incurred no expense. These contributions include such items as volunteer labor, donated materials, equipment, supplies, etc., contributed by third parties directly to the Forest Service. Forest Service volunteer and/or equipment rental agreements should be used to document the donated services.
- (g) **Reimbursable Cooperator Expenses:** The figure(s) listed are both the maximum Forest Service funds to be obligated for reimbursement and Cooperator expenses that are not included anywhere else on this form. This is an expense to the Forest Service.
- (h) **Cooperator Non-Cash Contribution:** Cooperator employee salaries, travel, equipment, supplies, etc., provided toward completion of the project. Total Cooperator indirect cost (overhead) is also included in this column. All the costs listed here are an expense to the Cooperator.
- (i) **Value of Cooperator In-Kind Contribution:** Cooperator non-cash contributions provided toward completion of the project for which the Cooperator has incurred no expense. These contributions can be made from the Cooperator or through the Cooperator by other entities and include such items as volunteer labor, donated materials, equipment, supplies, etc. These values are not reimbursable and can only be used to satisfy the Cooperator's matching requirement.
- (j) **Cash Contribution to the Forest Service:** Cooperator cash contribution provided to the Forest Service for use in completing the project. This is an expense to the Cooperator. Display by Cost Element where these funds will be expended. Be sure to cite a collection authority in the Agreement if this column is used.
- (k) **Third Party Cash Contribution Non-Federal:** Cash contribution provided to the Cooperator from Non-Federal organization(s) for use in the project. Display these contributions by Cost Element expenditures.

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook
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Effective date: October 20, 2009

79.4 - Exhibit 02--Continued

- (h) **Third Party Cash Contribution Federal:** Cash contributions provided to the Cooperator from Federal agency(ies) for use in the project. Display these contributions by Cost Element expenditures.
- (i) **Third Party Non-Cash Contribution Non-Federal:** Non-cash contribution provided to the Cooperator from Non-Federal organization(s) for use in the project. Display these contributions by Cost Element Expenditures.
- (j) **Third Party Non-Cash Contribution Federal:** Non-cash contribution provided to the Cooperator from Federal agency(ies) for use in the project. Display these contributions by Cost Element Expenditures.
- (k) **Third Party In-Kind Contribution Non-Federal:** In-kind contribution provided to the Cooperator from Non-Federal organization(s) for use in the project. Display these contributions by Cost Element Expenditures.
- (l) **Third Party In-Kind Contribution Federal:** In-kind contribution provided to the Cooperator from Federal agency(ies) for use in the project. Display these contributions by Cost Element Expenditures.
- (m) **Gross Total Project Value:** The sum of all the values provided toward the project. This figure reflects the true estimated cost of the project.
- (n) **Estimated Program Income:** The gross income estimated to be generated under the project between the effective date of award and completion of the project, such as conference or workshop fees received, rental fees earned from renting real property or equipment acquired with agreement funds, or the sale of commodities or items developed under the project.
- (o) **Net Total Project Value:** The sum of all the values provided toward the project with Estimated Project Income taken into consideration. This figure reflects the true estimated cost of the project.

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-New. The time required to complete this information collection is estimated to average XX minutes/hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

79.5 – Master Challenge Cost-share Agreement and Supplemental Project Agreement

A Master Challenge Cost-share Agreement may be entered into at the region, station, Area, or forest level. A Supplemental Project Agreement (SPA) may only be used in conjunction with a Master Agreement. An SPA may not serve as a stand along agreement because it does not contain all of the mandatory provisions. Because it is supplemental to the Master Agreement, the mandatory provisions are incorporated by reference. An SPA contains some additional mandatory provisions and may contain additional provisions specific to the project described in the SPA.

79.51– FS-1500-10a Master Challenge Cost-share Agreement Sample

79.51 - Exhibit 01

FS-1500-10a - Master Challenge Cost-share Agreement Sample



USDA Forest Service

OMB 0596-0217
FS-1500-10a

FS Agreement No.
Cooperator Agreement No.

09-CS-11015600-009
SBF-09-011

**MASTER
CHALLENGE COST-SHARE AGREEMENT
Between The
SELWAY-BITTERROOT FOUNDATION
And The
U.S. FOREST SERVICE, NORTHERN REGION
CLEARWATER, LOLO, NEZ PERCE, and BITTERROOT NATIONAL FORESTS**

This MASTER CHALLENGE COST-SHARE AGREEMENT is hereby made and entered into by and between the Selway-Bitterroot Foundation, hereinafter referred to as the Foundation, and the U.S. Forest Service, Northern Region, and the Clearwater, Lolo, Nez Perce, and Bitterroot National Forests hereinafter referred to as the Forest Service, under the provisions of the Department of Interior and Related Agencies Appropriation Act of 1992, Pub. L. 102-154.

Title: **Master Agreement for Wilderness and Wildland Stewardship in the Selway-Bitterroot Wilderness.**

I. PURPOSE

The purpose of this agreement is to document the cooperation between the parties to complete projects that enhance the wilderness attributes in the Selway-Bitterroot Wilderness and meet the mission of the Foundation and the Forest Service in accordance with the following provisions and any incorporated project supplements.

79.51 - Exhibit 01--Continued



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II. STATEMENT OF MUTUAL BENEFITS AND INTERESTS:

It is mutually beneficial to enter into this agreement to establish a framework for the development of individual Supplemental Project Agreements (SPAs) for the parties to work together on projects to accomplish their mutual goals.

The Forest Service is a multiple-use resource agency charged with providing the best combination of resources for the use, enjoyment and education of the American people. Within this mandated responsibility, the Forest Service is also tasked with managing designated National Wilderness. The Forest Supervisors of the Clearwater, Lolo, Nez Perce and Bitterroot National Forests are responsible for management, protection, development and administration of the wilderness areas which lie within their respective forests. Lands designated as Wilderness are to be administered to preserve their wilderness character and are devoted to the public purposes of recreational, scenic, scientific, educational, conservation and historical uses.

The Foundation is a nonprofit organization dedicated to the wilderness and wildland values in the Selway-Bitterroot Wilderness (SBW) and surrounding lands through coordination of volunteer labor and the establishment of public and private partnerships.

Their goals are to:

1. Work in support of the SBW on the Bitterroot, Clearwater, Lolo and Nez Perce National Forests and surrounding wildlands in an effort to promote stewardship.
2. Build citizen and community support for wilderness and wildland programs and projects.
3. Create opportunities for volunteer participation in wilderness and wildland programs and projects.
4. Foster awareness of wilderness and wildland values and promote understanding of wilderness and wildland ethics, history and ecology.

79.51 - Exhibit 01--Continued



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5. Form long-term relationships with individuals, communities, tribes, organizations, businesses and other agencies to achieve these goals.

The Foundation is undertaking the task of creating a collaborative effort among the Forest Service, local communities, organizations, and others with interest to the area in the stewardship of the natural and cultural resources across the SBW and surrounding wildlands. The Foundation and the Forest Service are both committed to the protection of wilderness and wildland values in the SBW and surrounding lands and recognize the need to support volunteers and other partners to accomplish projects.

In consideration of the above premises, the parties agree as follows:

III. THE FOUNDATION SHALL:

- A. LEGAL AUTHORITY. The Foundation shall have the legal authority to enter into this agreement, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.
- B. USE OF GOVERNMENT OWNED VEHICLES. Forest Service vehicles may be used for official Forest Service business only accordance with FSH 7109.19, ch. 60, the requirements established by the region in which performance of this agreement takes place, and the terms of this agreement.
- C. BUILDING AND COMPUTER ACCESS BY NON-FOREST SERVICE PERSONNEL. The Foundation may be granted access to Forest Service facilities and/or computer systems to accomplish work described in the Operating Plan or Statement of Work. All non-government employees with unescorted access to Forest Service facilities and computer systems must have background checks following the procedures established by USDA Directives 3800 series. Those granted computer access must fulfill all Forest Service requirements for mandatory security awareness and role-based advanced security training, and sign all applicable Forest Service statements of responsibilities.
- D. Work cooperatively with the Forest Service to develop specific project plans and schedules to complete work described in separately approved Supplemental Project Agreements added to this agreement. *See related provision V-B and V-C.*

79.51 - Exhibit 01--Continued



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IV. THE FOREST SERVICE SHALL:

- A. Work cooperatively with the Foundation to develop specific plans and schedules to complete work described in separately approved Supplemental Project Agreements added to this agreement. *See related provisions V-B and B-C.*
- B. Provide project oversight as specified in mutually approved Supplemental Project Agreements.

V. IT IS MUTUALLY AGREED AND UNDERSTOOD BY AND BETWEEN THE PARTIES THAT:

- A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this instrument.

Principal Foundation Contacts:

Foundation Program Contact	Foundation Administrative Contact
Name: Rob Mason, Executive Director Address: PO Box 8103 City, State, Zip: Missoula, MT 59807 Telephone: 406-468-9982 FAX: 406-468-4487 Email: selwaybitterroot@gmail.com	Name: Rob Mason, Executive Director Address: PO Box 8103 City, State, Zip: Missoula, MT 59807 Telephone: 406-468-9982 FAX: 406-468-4487 Email: selwaybitterroot@gmail.com

Principal Forest Service Contacts:

Forest Service Program Contact	Forest Service Administrative Contact
Name: Carol Hennessey Address: 903 3 rd St City, State, Zip: Kamiah, ID 83536 Telephone: 208-935-4270 FAX: 208-935-4275 Email: cahennessey@fs.fed.us	Name: Elaine Hilliard Address: PO Box 7669 City, State, Zip: Missoula, MT 9807 Telephone: 406-329-3649 FAX: 406-329-3682 Email: ehilliard@fs.fed.us

79.51 - Exhibit 01--Continued



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- B. AVAILABILITY FOR CONSULTATION. Both parties will make themselves available at mutually agreeable times, for continuing consultation to discuss the conditions covered by this agreement and agree to actions essential to fulfill its purposes.
- C. SUPPLEMENTAL PROJECT AGREEMENTS (SPA). Nothing in this agreement obligates either party to offer or accept any project proposals under this agreement. Any projects added to this agreement must be by mutual consent of the parties through a specific SPA.
- E. NON-LIABILITY. The Forest Service does not assume liability for any third party claims for damages arising out of this instrument.
- F. NOTICES. Any communications affecting the operations covered by this agreement given by the Forest Service or the Foundation is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the Forest Service Program Manager, at the address specified in the agreement.

To Foundation, at the Foundation's address shown in the agreement or such other address designated within the agreement.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- G. PARTICIPATION IN SIMILAR ACTIVITIES. This agreement in no way restricts the Forest Service or the Foundation from participating in similar activities with other public or private agencies, organizations, and individuals.
- H. ENDORSEMENT. Any Foundation contributions made under this agreement do not by direct reference or implication convey Forest Service endorsement of the Foundation's products or activities, and does not by direct reference or implication convey the Foundation's endorsement of the Forest Service's products or activities.

79.51 - Exhibit 01--Continued



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- I. NON-FEDERAL STATUS FOR COOPERATOR PARTICIPANT LIABILITY. The Foundation agrees that any Foundation employees, volunteers, and program participants shall not be deemed to be Federal employees for any purposes including Chapter 171 of Title 28, United States Code (Federal Tort Claims Act) and Chapter 81 of Title 5, United States Code (OWCP), as the Foundation has hereby willingly agreed to assume these responsibilities.

Further, the Foundation shall provide any necessary training to Foundation employees, volunteers, and program participants to ensure that such personnel are capable of performing tasks to be completed. The Foundation shall also supervise and direct the work of its employees, volunteers, and participants performing under this agreement.

- J. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no United States member of, or United States delegate to, Congress shall be admitted to any share or part of this instrument, or benefits that may arise therefrom, either directly or indirectly.

- K. DRUG-FREE WORKPLACE.

a. The Foundation agrees that it will publish a drug-free workplace statement and provide a copy to each employee who is engaged in the performance of any project/program that receives Federal funding. The statement must

(1) Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;

(2) Specify the actions the Foundation will take against employees for violating that prohibition; and

(3) Let each employee know that, as a condition of employment under any instrument, the employee;

(i) Must abide by the terms of the statement, and

(ii) Must notify the Foundation in writing if they are convicted for a violation of a criminal drug statute occurring in the workplace, and must do so no more than five calendar days after the conviction.

79.51 - Exhibit 01--Continued



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b. The Foundation agrees that it will establish an ongoing drug-free awareness program to inform employees about:

- (i) The dangers of drug abuse in the workplace;
- (ii) The established policy of maintaining a drug-free workplace;
- (iii) Any available drug counseling, rehabilitation and employee assistance programs; and
- (iv) The penalties that may be imposed upon the employee for drug abuse violations occurring in the workplace.

c. Without the Program Manager's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this instrument, or the completion date of this instrument, whichever occurs first.

d. The Foundation agrees to immediately notify the Program Manager if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the agreement number of each instrument on which the employee worked. The notification must be sent to the Program Manager within 10 calendar days after the Foundation learns of the conviction.

e. Within 30 calendar days of learning about an employee's conviction, the Foundation must either:

- (1) Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or
- (2) Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

- L. **NONDISCRIMINATION.** The Foundation shall comply with all Federal statutes relating to nondiscrimination and all applicable requirements of all other Federal laws, Executive orders, regulations, and policies. These include, but are not limited to Sections 119 and 504 of the Rehabilitations Act of 1973 as amended, which prohibits discrimination on the basis of race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, participation in any public assistance program, or disability.

79.51 - Exhibit 01--Continued



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M. ELIGIBLE WORKERS. The Foundation shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). The Foundation shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract or SPA awarded under this instrument.

N. STANDARDS FOR FINANCIAL MANAGEMENT.

1. Financial Reporting

The Foundation shall provide complete, accurate, and current financial disclosures of the project or program in accordance with any financial reporting requirements, as set forth in the financial provisions.

2. Accounting Records

The Foundation shall continuously maintain and update records identifying the source and use of funds. The records shall contain information pertaining to the agreement, authorizations, obligations, unobligated balances, assets, outlays, and income.

3. Internal Control

The Foundation shall maintain effective control over and accountability for all Forest Service funds, real property, and personal property assets. The Foundation shall keep effective internal controls to ensure that all United States Federal funds received are separately and properly allocated to the activities described in the agreement. The Foundation shall adequately safeguard all such property and shall ensure that it is used solely for authorized purposes.

4. Source Documentation

The Foundation shall support all accounting records with source documentation. These documentations include, but are not limited to, cancelled checks, paid bills, payrolls, contract and subgrant/contract documents, and so forth.

79.51 - Exhibit 01--Continued



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- O. OVERPAYMENT. Any funds paid to the Foundation in excess of the amount entitled under the terms and conditions of this agreement constitute a debt to the Federal Government. The following must also be considered as a debt or debts owed by the Foundation to the Forest Service:

- Any interest or other investment income earned on advances of agreement funds; or
- Any royalties or other special classes of program income which, under the provisions of the agreement, are required to be returned.

If this debt is not paid according to the terms of the bill for collection issued for the overpayment, the Forest Service may reduce the debt by:

1. Making an administrative offset against other requests for reimbursement.
2. Withholding advance payments otherwise due to the Foundation.
3. Taking other action permitted by statute (31 U.S.C. 3716 and 7 CFR, Part 3, Subpart B).

Except as otherwise provided by law, the Forest Service may charge interest on an overdue debt.

- P. INSTRUMENT CLOSE-OUT. The Foundation shall close out the instrument within 90 days after expiration or notice of termination.

Any unobligated balance of cash advanced to the Foundation must be immediately refunded to the Forest Service, including any interest earned.

Within a maximum of 90 days following the date of expiration or termination of this instrument, all financial performance and related reports required by the terms of the instrument must be submitted to the Forest Service by the Foundation.

If this instrument is closed out without audit, the Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

79.51 - Exhibit 01--Continued



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- Q. PROGRAM PERFORMANCE REPORTS. The Foundation shall monitor the performance of the agreement activities to ensure that performance goals are being achieved.

Performance reports must contain information on the following:

- A comparison of actual accomplishments to the goals established for the period. Where the output of the project can be readily expressed in numbers, a computation of the cost per unit of output may be required if that information is useful.
- Reason(s) for delay if established goals were not met.
- Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

The Foundation shall submit annual performance reports to the Forest Service Program Manager. These reports are due 30 days after the reporting period. The final performance report must be submitted either with the Foundation's final payment request, or separately, but not later than 90 days from the expiration date of the agreement.

- R. RETENTION AND ACCESS REQUIREMENTS FOR RECORDS. The Foundation shall retain all records pertinent to this instrument for a period of no less than 3 years from the expiration or termination date. As used in this provision, "records" includes books, documents, accounting procedures and practice, and other data, regardless of the type or format. The Foundation shall provide access and the right to examine all records related to this instrument to the Forest Service Inspector General, or Comptroller General or their authorized representative.

If any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the 3-year period, the records must be kept until all issues are resolved, or until the end of the regular 3-year period, whichever is later.

Records for nonexpendable property acquired in whole or in part, with Federal funds must be retained for 3 years after its final disposition.

79.51 - Exhibit 01--Continued



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The Foundation shall provide access to any project site(s) to the Forest Service or any of their authorized representatives. The rights of access in this section shall not be limited to the required retention period but shall last as long as the records are kept.

- S. FREEDOM OF INFORMATION ACT (FOIA). Public access to agreement records must not be limited, except when such records must be kept confidential and would have been excepted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).
- T. FUNDING EQUIPMENT. Federal funding under this instrument is not available for reimbursement of the Foundation's purchase of equipment. Equipment is defined as having a fair market value of over \$5,000 per unit and a useful life of over one year. Supplies are those items that are not equipment.
- U. IMPROVEMENTS. Improvements placed on National Forest System land at the direction or with the approval of the Forest Service become property of the United States. These improvements are subject to the same regulations and administration of the Forest Service as would other National Forest improvements. No part of this instrument entitles the Foundation to any interest in the improvements, other than the right to use them under applicable Forest Service Regulations.
- V. CONTRACT REQUIREMENTS. Any contract under this agreement must be awarded following established Foundation procurement procedures, to ensure free and open competition, and avoid any conflict of interest (or appearance of a conflict). The Foundation must maintain cost and price analysis documentation for potential U.S. Forest Service review. The Foundation is encouraged to utilize small businesses, minority-owned firms, and women's business enterprises.

Additionally, federal wage provisions (Davis-Bacon or Service Contract Act) are applicable to any contract developed and awarded under this instrument where all or part of the funding is provided with Forest Service funds. Davis-Bacon wage rates apply on all public works contracts in excess of \$2,000 and Service Contract Act wage provisions apply to service contracts in excess of \$2,500.

- W. GOVERNMENT-FURNISHED PROPERTY. The Foundation may only use Forest Service property furnished under this agreement for performing tasks assigned in this agreement. The Foundation shall not modify, cannibalize, or make alterations to

79.51 - Exhibit 01--Continued



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Forest Service property. A separate document, Form AD-107, must be completed to document the loan of Forest Service property. The Forest Service shall retain title to all Forest Service-furnished property. Title to Forest Service property must not be affected by its incorporation into or attachment to any property not owned by the Forest Service, nor must the property become a fixture or lose its identity as personal property by being attached to any real property.

Cooperator Liability for Government Property.

(1) Unless otherwise provided for in the agreement, the Foundation shall not be liable for loss, damage, destruction, or theft to the Government property furnished or acquired under this contract, except when any one of the following applies—

(i) The risk is covered by insurance or the Foundation is otherwise reimbursed (to the extent of such insurance or reimbursement).

(ii) The loss, damage, destruction, or theft is the result of willful misconduct or lack of good faith on the part of the Foundation's managerial personnel. Foundation's managerial personnel, in this clause, means the Foundation's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of the Foundation's business; all or substantially all of the Foundation's operation at any one plant or separate location; or a separate and complete major industrial operation.

(2) The Foundation shall take all reasonable actions necessary to protect the Government property from further loss, damage, destruction, or theft. The Foundation shall separate the damaged and undamaged Government property, place all the affected Government property in the best possible order, and take such other action as the Property Administrator directs.

(3) The Foundation shall do nothing to prejudice the Government's rights to recover against third parties for any loss, damage, destruction, or theft of Government property.

(4) Upon the request of the Grants & Agreements Specialist, the Foundation shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation, including the prosecution of suit and the execution of instruments of assignment in favor of the Government in obtaining recovery.

79.51 - Exhibit 01--Continued



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- X. REMEDIES FOR COMPLIANCE RELATED ISSUES. If the Foundation materially fails to comply with any term of the instrument, whether stated in a Federal statute or regulation, an assurance, the agreement, or elsewhere, the Forest Service may take one or more of the following actions:
- (1) Temporarily withhold cash payments pending correction of the deficiency by the Foundation or more severe enforcement action by the Forest Service;
 - (2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;
 - (3) Wholly or partly suspend or terminate the current instrument for the Foundation's program;
 - (4) Withhold further awards for the program, or
 - (5) Take other remedies that may be legally available, including debarment procedures under 7 CFR part 3017.
- Y. TERMINATION BY MUTUAL AGREEMENT. This instrument may be terminated, in whole or part, as follows:
1. When the Forest Service and Foundation agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
 2. By 30 days written notification by the Foundation to the Forest Service setting forth the reasons for termination, effective date, and in the case of partial termination, the portion to be terminated.
- If, in the case of a partial termination, the Forest Services determines that the remaining portion of the instrument will not accomplish the purposes for which the instrument was made, the Forest Service may terminate the instrument in its entirety.

79.51 - Exhibit 01--Continued



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Upon termination of an instrument, the Foundation shall not incur any new obligations for the terminated portion of the instrument after the effective date, and shall cancel as many outstanding obligations as possible. The Forest Service shall allow full credit to the Foundation for the United States Federal share of the non-cancelable obligations properly incurred by the Foundation up to the effective date of the termination. Excess funds must be refunded within 60 days after the effective date of termination.

- Z. ALTERNATE DISPUTE RESOLUTION – PARTNERSHIP AGREEMENT. In the event of any issue of controversy under this agreement, the parties may pursue Alternate Dispute Resolution procedures to voluntarily resolve those issues. These procedures may include, but are not limited to conciliation, facilitation, mediation, and fact finding.
- AA. DEBARMENT AND SUSPENSION. The Foundation shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should the Foundation or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.
- BB. MODIFICATIONS. Modifications within the scope of this instrument must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change. The Forest Service is not obligated to fund any changes not properly approved in advance.
- CC. COMMENCEMENT/EXPIRATION DATE. This instrument is executed as of the date of the last signature and is effective through **December 31, 2011** at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.

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Chapter 70 - Partnership Agreements
Amendment: 1509.11-2009-1
Effective date: October 20, 2009

79.51 - Exhibit 01--Continued



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FS-1500-10a

DD. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this instrument. In witness whereof, the parties hereto have executed this instrument as of the last date written below.

ROB MASON, Executive Director Selway-Bitterroot Foundation	Date
THOMAS L. TIDWELL, Regional Forester U.S. Forest Service, Northern Region	Date

The authority and format of this instrument has been reviewed and approved for signature.

ELAINE HILLIARD
U.S. Forest Service Grants & Agreements Specialist

Date

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-New. The time required to complete this information collection is estimated to average XX minutes/hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

79.52 – FS-1500-10b Challenge Cost-share Supplemental Project Agreement Sample

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FS-1500-10b - Challenge Cost-share Supplemental Project Agreement Sample



USDA Forest Service

OMB 0596-0217
FS-1500-10b

SUPPLEMENTAL PROJECT AGREEMENT 09-CS-11015600-010
To
MASTER CHALLENGE COST-SHARE AGREEMENT 09-CS-11015600-009
Between
SELWAY-BITTERROOT FOUNDATION
And The
U.S. FOREST SERVICE, NORTHERN REGION
For The
CLEARWATER, LOLO, NEZ PERCE, AND BITTERROOT NATIONAL FORESTS

This Supplemental Project Agreement (SPA) is hereby made and entered into by and between the Selway-Bitterroot Foundation, hereinafter referred to as the Foundation, and the U.S. Forest Service, Northern Region hereinafter referred to as the Forest Service, as specified under the provisions of Master Agreement 09-CS-11015600-009.

I. GENERAL PROJECT DESCRIPTION: The purpose of this agreement is to document the cooperation between the parties to provide **Foundation Executive Director and Lead Steward position support**, in accordance with the following provisions.

II. RESPONSIBILITIES:

A. The Cooperator shall:

1. Employ an Executive Director who will primarily aid in promoting joint stewardship goals and recruitment of volunteers and partners in support of the Forest Service mission to manage the Selway-Bitterroot Wilderness and surrounding wildlands located on National Forest System Lands;
2. Employ an Executive Director who will secondarily:

79.52 - Exhibit 01--Continued



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- a. Identify existing wilderness stewardship or advocacy groups in the Forest Service Northern Region and provide to Forest Service regional personnel basic information on that group: mission statement, area of interest, number of members, and so forth;
 - b. Initiate dialogue with the group leadership to determine level of interest in expanding stewardship roles;
 - c. Develop a presentation on how to start-up a stewardship supporting organization to be given at various meetings, including the Montana Wilderness Association annual convention and Montana Backcountry Horsemen meeting.
- B. The Forest Service shall:
1. PAYMENT/REIMBURSEMENT. The Forest Service shall reimburse the Cooperator for the Forest Service's share of actual expenses incurred, not to exceed \$25,000, as shown in the Financial Plan. The Forest Service shall make payment upon receipt of the Cooperator's monthly invoice. Each invoice from the Cooperator must display the total project costs for the billing period, separated by Forest Service and Cooperator share. In-kind contributions must be displayed as a separate line item and must not be included in the total project costs available for reimbursement. The final invoice must display the Cooperator's full match towards the project, as shown in the financial plan, and be submitted no later than 90 days from the expiration date.

Each invoice must include, at a minimum:

- 1) Cooperator name, address, and telephone number
- 2) Forest Service agreement number
- 3) Invoice date
- 4) Performance dates of the work completed (start & end)
- 5) Total invoice amount for the billing period
- 6) Statement that the invoice is a request for payment by 'reimbursement'
- 7) If using SF-270, a signature is required.
- 8) Invoice Number, if applicable

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook
Chapter 70 - Partnership Agreements
Amendment: 1509.11-2009-1
Effective date: October 20, 2009

79.52 - Exhibit 01--Continued



USDA Forest Service

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The invoice must be forwarded to:

USDA Forest Service
Albuquerque Service Center
Payments – Grants & Agreements
101B Sun Ave NE
Albuquerque, NM 87109

FAX: 877-687-4894

2. Provide in-kind services that include:

- a. Executive Director office space and office services (these office services may include but are not limited to: telephone, computer, FAX and televideo services) in the Northern Region Forest Service office in Missoula, Montana.
- b. Lead Steward office space and office services (these office services may include but are not limited to: telephone, computer, FAX and televideo services) on the Clearwater National Forest, Kamiah office in Kamiah, Idaho.

III. CONTACTS & TIME LIMITS:

- A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this instrument.

Principal Foundation Contacts:

Foundation Program Contact	Foundation Administrative Contact
Name: Rob Mason Address: PO Box 8103 City, State, Zip: Missoula, MT 59807 Telephone: 406-684-9908 FAX: 406-684-9909 Email: selwaybitterroot@gmail.com	Name: Rob Mason Address: PO Box 8103 City, State, Zip: Missoula, MT 59807 Telephone: 406-684-9908 FAX: 406-684-9909 Email: selwaybitterroot@gmail.com

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook
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79.52 - Exhibit 01--Continued



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Principal Forest Service Contacts:

Forest Service Program Contact	Forest Service Administrative Contact
Name: Carol Hennessey Address: 903 3 rd St City, State, Zip: Kamiah, ID 83536 Telephone: 208-935-4270 FAX: 208-935-4275 Email: cahennessey@fs.fed.us	Name: Elaine Hilliard Address: PO Box 7669 City, State, Zip: Missoula, MT 59807 Telephone: 406-329-3649 FAX: 406-329-3682 Email: ehilliard@fs.fed.us

- B. COMMENCEMENT/EXPIRATION DATE. This instrument is executed as of the date of the last signature and is effective through **December 31, 2009**, at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.
- C. AVAILABILITY FOR CONSULTATION. Both parties will make themselves available at mutually agreeable times, for continuing consultation to discuss the conditions covered by this agreement and agree to actions essential to fulfill its purposes.

IV. APPROVAL

AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this instrument. In witness whereof, the parties hereto have executed this instrument as of the last date written below.

ROB MASON, Executive Director Selway-Bitterroot Foundation	Date
THOMAS L. TIDWELL, Regional Forester U.S. Forest Service, Northern Region	Date

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook
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The authority and format of this instrument has been reviewed and approved for signature.

ELAINE HILLIARD

Date

U.S. Forest Service Grants & Agreements Specialist

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-New. The time required to complete this information collection is estimated to average XX minutes/hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook
Chapter 70 - Partnership Agreements
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Effective date: October 20, 2009

79.52 - Exhibit 02

FS-1500-17b - Agreements Financial Plan Short Form Sample

USFS Agreement No.: 09-CS-11015600-009 Mod. No.:
 Cooperator Agreement No.:

Agreements Financial Plan (Short Form)

COST ELEMENTS	FOREST SERVICE CONTRIBUTIONS		COOPERATOR CONTRIBUTIONS		(e) Total
	(a) Noncash	(b) Cash to Cooperator	(c) Noncash	(d) Third-Party In-Kind	
Direct Costs					
Salaries/Labor	\$3,500.00	\$23,250.00	\$12,438.00	\$12,410.00	\$51,598.00
Travel			\$702.00		\$702.00
Equipment	\$1,000.00				\$1,000.00
Supplies/Materials					\$0.00
Printing					\$0.00
Office Space RO	\$1,750.00				\$1,750.00
Office Space Kamiah	\$1,000.00				\$1,000.00
Subtotal	\$7,250.00	\$23,250.00	\$13,140.00	\$12,410.00	\$56,050.00
Coop Indirect Costs		\$1,750.00			\$1,750.00
FS Overhead Costs	\$240.00				\$240.00
Total	\$7,490.00	\$25,000.00	\$13,140.00	\$12,410.00	
Total Project Value:					\$58,040.00

Note: This Financial Plan may be used when:

- (1) No program income is expected and**
- (2) The Cooperator is not giving cash to the FS and**
- (3) There is no other Federal funding**

Matching Costs Determination		Reimbursement Calculation	
Total Forest Service Share =	(f)	Forest Service reimbursement percent (as % of expenses directly incurred by the Cooperator-- i.e., Cooperator's non-cash contributions only that are subject to Forest Service reimbursement)	
(a+b) ÷ (e) = (f)	55.98%		
		(b) ÷ (b+c) = (i)	(i) 65.55%
Total Cooperator Share	(g)	Cooperator non-cash contributions <u>not</u> reimbursed by Forest Service	
(c+d) ÷ (e) = (g)	44.02%		
		(c) ÷ (b+c) = (j)	(j) 34.45%
Total (f+g) = (h)	(h) 100.00%	Reimbursable Amount = Total actual cost incurred to date (sum of cost elements from the Cooperator's invoice as prescribed in agreement provision and multiplied by (i) minus any previous Forest Service payments, not to exceed the subtotal amount listed in Column (b).	
		65.55%	

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook
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79.52 - Exhibit 02--Continued

2. Cost Analysis:

Column (a) | Forest Service office space is estimated at \$10/sq ft, salary 14 days @ \$250/day

Forest
Service
Noncash
Contribution

Column (b) | Salary is 93 days @ \$250/day

Forest
Service Cash
to
Cooperator

Column (c) | Salary is 691 hours @ \$18/hr (\$144/day)

Cooperator
Noncash
Contribution

Column (d) | Salary is 188 days @ \$66/day

Cooperator
Third Party
In-Kind
Contribution

Burden Statement

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To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

79.6 – Joint Venture Agreements

Joint Venture Agreements may be entered into with domestic or foreign entities. Select the template appropriate to the cooperator type, either FS-1500-14 Joint Venture Agreement or FS-1500-14a International Joint Venture.

79.61 – FS-1500-14 Joint Venture Agreement Sample

79.61 - Exhibit 01

FS-1500-14 - Joint Venture Agreement Sample



USDA Forest Service

OMB 0596-0217
FS-1500-14

FS Agreement No.	09-JV-11242309-068
Cooperator Agreement No.	2009-RES-217-00

JOINT VENTURE AGREEMENT
Between The
OHIO STATE UNIVERSITY RESEARCH FOUNDATION
And The
U.S. FOREST SERVICE
NORTHERN RESEARCH STATION

This JOINT VENTURE AGREEMENT is hereby made and entered into by and between the Ohio State University Research Foundation, hereinafter referred to as the Cooperator, and the U.S. Forest Service Northern Research Station, hereinafter referred to as the Forest Service, under the provisions of the National Agricultural Research, Extension and Teaching Policy Act of 1977 (Pub. L. 95-113), as amended by the Food Security Act of 1985 (7 U.S.C. 3319a, Pub. L. 99-198).

Title: Fuel treatments in mixed-pine forests in the Great Lakes Region: A comprehensive guide to planning and implementation

- I. PURPOSE:** The purpose of this agreement is to document the cooperation between the parties to develop a comprehensive guide and decision-aiding tool that will provide managers with guidance for the implementation of fuel treatments in mixed white and red pine forests. Development of the guide will draw on scientific expertise at Ohio State University, existing research in an array of research areas (ecological restoration, wildlife management, commodity production, and provision of recreation opportunities and amenity values), and the experience of practitioners from the Great Lakes Region.

79.61 - Exhibit 01--Continued



USDA Forest Service

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II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

The Forest Service's interest in this agreement is to support research that informs the development of effective fuels management programs. Better understanding of the potential trade offs between multiple resource management objectives can contribute to more informed consideration of potential fuels management options and therefore more effective decision making.

The Cooperator's interest in this agreement is to fulfill its mission to produce high quality research information in the public service. Ohio State University faculty and students are devoted to generating knowledge and developing policies, techniques and skills to improve natural resource management.

The Forest Service and the Cooperator have a mutual benefit and interest in furthering the state of knowledge regarding current and emerging issues around wildland fire and fuels management. The ultimate goal is to help land managers and policy makers devise more efficient and effective strategies for fire and fuels management.

In consideration of the above premises, the parties agree as follow:

III. THE COOPERATOR SHALL:

- A. LEGAL AUTHORITY: The Cooperator shall have the legal authority to enter into this agreement, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.
- B. PROGRAM PERFORMANCE REPORTS: The Cooperator shall monitor the performance of the agreement activities to ensure that performance goals are being achieved.

Performance reports shall contain information on the following:

- A comparison of actual accomplishments to the goals established for the period. Where the output of the project can be readily expressed in numbers, a computation of the cost per unit of output may be required if that information is useful.

79.61 - Exhibit 01--Continued



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- Reason(s) for delay if established goals were not met.

- Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

The Cooperator shall submit annual performance reports (preferably by email) to the Forest Service Program Manager and to the Forest Service Administrative Contact. If sending via email, the reports must be in MS Word or a rich text format (.rtf) that is readable by MS Word. These reports are due 30 days after the reporting period. The final performance report must be submitted either with the Cooperator's final payment request, or separately, but not later than 90 days from the expiration date of the agreement.

The final report must be in a format suitable for possible publication and contain a written summary of knowledge on fuel treatment practices in mixed-pine forests (a comprehensive guide and topical summaries) and an interactive , computer based decision-aiding tool that will allow users to weigh objectives according to their own mandates and management goals and calculate the expected utility of various management options.

- C. ENVIRONMENTAL STANDARDS. The Cooperator shall comply with environmental standards pursuant to the notification of violating facilities in E.O. 11738.
- D. Collaborate with the Forest Service in the preparation of a mutually acceptable, detailed study plan. The Cooperator shall submit one copy of the plan to the Forest Service Technical Representative and one copy to the Forest Service Administrative Contact by June 1, 2009. The study will be conducted in compliance with the study plan as well as the provisions of this agreement.
- E. Perform the following tasks relevant to fuels management in mixed white and red pine forests in the Great Lake States:
- Provide a synthesis of existing information on ecological, wildlife, social, and fuel treatment effectiveness;
 - Complete an interactive workshop with practitioners to identify appropriate effectiveness measures and identify additional data sources;

79.61 - Exhibit 01--Continued



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- Integrate key findings from existing data with workshop outcomes to create a comprehensive guide and decision support tool;
- Conduct a final workshop with managers to elicit feedback on the support tools and build user capacity.

IV. THE FOREST SERVICE SHALL:

- C. PAYMENT/REIMBURSEMENT. The Forest Service shall reimburse the Cooperator for the Forest Service's share of actual expenses incurred, not to exceed \$141,527, as shown in the Financial Plan. The Forest Service shall make payment upon receipt of the Cooperator's monthly invoice. Each invoice from the Cooperator must display the total project costs for the billing period, separated by Forest Service and Cooperator share. In-kind contributions must be displayed as a separate line item and shall not be included in the total project costs available for reimbursement. The final invoice must display the Cooperator's full match towards the project, as shown in the financial plan, and be submitted no later than 90 days from the expiration date.

Each invoice must include, at a minimum:

- 1) Cooperator name, address, and telephone number
- 2) Forest Service agreement number
- 3) Invoice date
- 4) Performance dates of the work completed (start & end)
- 5) Total invoice amount for the billing period
- 6) Statement that the invoice is a request for payment by 'reimbursement'
- 7) If using SF-270, a signature is required.
- 8) Invoice Number, if applicable

The invoice must be forwarded to:

USDA Forest Service
Albuquerque Service Center
Payments – Grants & Agreements
101B Sun Ave NE
Albuquerque, NM 87109

FAX: 877-687-4894

79.61 - Exhibit 01--Continued



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- B. Collaborate with the Cooperator in the preparation of a mutually acceptable study plan. Forest Service personnel will cooperate by providing literature, technical assistance, and other definable assistance to the Cooperator, and assist the Cooperator in defining the objectives and approaches to the research. The Forest Service will identify task that the Forest Service will perform toward completion of the research.
- C. Provide guidance, advice, and consultation essential to the satisfactory accomplishment of this agreement.
- D. Co-author publication(s) of research findings.

V. IT IS MUTUALLY AGREED AND UNDERSTOOD BY AND BETWEEN THE PARTIES THAT:

- A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this instrument.

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Name: Eric Toman, Asst. Professor Address: 320C Kottman Hall 2021 Coffey Rd City, State, Zip: Columbus, OH 43210 Telephone: 614-292-7313 FAX: 614-292-7432 Email: toman@osu.edu	Name: Laura Finch Address: Rm 112, Ag Engineering Bldg 590 Woody Hayes Dr City, State, Zip: Columbus, OH 43210 Telephone: 614-292-3721 FAX: 614-292-8555 Email: finch@osu.edu

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook
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Principal Forest Service Contacts:

Forest Service Program Contact	Forest Service Administrative Contact
Name: Sarah McCaffrey Address: 1033 University Pl, Ste 360 City, State, Zip: Evanston, IL 60201 Telephone: 847-866-9311 FAX: 847-866-9506 Email: smccaffrey@fs.fed.us	Name: Jay R. Berg, Jr. Address: 1992 Folwell Ave City, State, Zip: St. Paul, MN 55108 Telephone: 651-649-5222 FAX: 651-649-5285 Email: jberg@fs.fed.us

- B. **NON-LIABILITY.** The Forest Service does not assume liability for any third party claims for damages arising out of this instrument.
- C. **NOTICES.** Any communications affecting the operations covered by this agreement given by the Forest Service or the Cooperator is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the Forest Service Program Manager, at the address specified in the agreement.

To Cooperator, at the Cooperator's address shown in the agreement or such other address designated within the agreement.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- D. **PARTICIPATION IN SIMILAR ACTIVITIES.** This agreement in no way restricts the Forest Service or the Cooperator(s) from participating in similar activities with other public or private agencies, organizations, and individuals.
- E. **USE OF FOREST SERVICE INSIGNIA.** In order for the Cooperator to use the Forest Service Insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the Forest Service's Office of Communications. A written request must be submitted and approval granted in writing by the Office of Communications prior to use of the insignia.

79.61 - Exhibit 01--Continued



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F. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no United States member of, or United States delegate to, Congress shall be admitted to any share or part of this instrument, or benefits that may arise therefrom, either directly or indirectly.

G. DRUG-FREE WORKPLACE.

a. The Cooperator agrees that it will publish a drug-free workplace statement and provide a copy to each employee who is engaged in the performance of any project/program that receives Federal funding. The statement must

(1) Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;

(2) Specify the actions the recipient will take against employees for violating that prohibition; and

(3) Let each employee know that, as a condition of employment under any instrument, the employee

(i) Must abide by the terms of the statement, and

(ii) Must notify the Cooperator in writing if they are convicted for a violation of a criminal drug statute occurring in the workplace, and must do so no more than 5 calendar days after the conviction.

b. The Cooperator agrees that it will establish an ongoing drug-free awareness program to inform employees about

(1) The dangers of drug abuse in the workplace;

(2) The established policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation and employee assistance programs; and

(4) The penalties that may be imposed upon the employee for drug abuse violations occurring in the workplace.

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- c. Without the Program Manager's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this instrument, or the completion date of this instrument, whichever occurs first.
- d. The Cooperator agrees to immediately notify the Program Manager if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the agreement number of each instrument on which the employee worked. The notification must be sent to the Program Manager within 10 calendar days after the Cooperator learns of the conviction.
- e. Within 30 calendar days of learning about an employee's conviction, the Cooperator must either
- (1) Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or
 - (2) Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.
- H. **NONDISCRIMINATION.** The Cooperator shall comply with all Federal statutes relating to nondiscrimination and all applicable requirements of all other Federal laws, Executive orders, regulations, and policies. These include, but are not limited to Sections 119 and 504 of the Rehabilitation Act of 1973 as amended, which prohibits discrimination on the basis of race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, participation in any public assistance program, or disability.
- I. **ELIGIBLE WORKERS.** The Cooperator shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). The Cooperator shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract awarded under this instrument.

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J. STANDARDS FOR FINANCIAL MANAGEMENT.

1. Financial Reporting

The Cooperator shall provide complete, accurate, and current financial disclosures of the project or program in accordance with any financial reporting requirements, as set forth in the financial provisions.

2. Accounting Records

The Cooperator shall continuously maintain and update records identifying the source and use of funds. The records shall contain information pertaining to the agreement, authorizations, obligations, unobligated balances, assets, outlays, and income.

3. Internal Control

The Cooperator shall maintain effective control over and accountability for all Forest Service funds, real property, and personal property assets. The Cooperator shall keep effective internal controls to ensure that all United States Federal funds received are separately and properly allocated to the activities described in the agreement. The Cooperator shall adequately safeguard all such property and shall ensure that it is used solely for authorized purposes.

4. Source Documentation

The Cooperator shall support all accounting records with source documentation. These documentations include, but are not limited to, cancelled checks, paid bills, payrolls, contract and subgrant/contract documents, and so forth.

- K. INDIRECT COSTS AND TUITION REMISSION. In accordance with 7 U.S.C. 3319, indirect costs and tuition remission are not reimbursable to a State Cooperative Institution, as defined in 7 U.S.C. 3103 (17), under this agreement. Indirect costs, however, may be used by a State Cooperative Institution to satisfy matching or cost-sharing requirements.

79.61 - Exhibit 01--Continued



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L. HEALTH & HUMAN SERVICES PAYMENT MANAGEMENT SYSTEM (HHS PMS).

Recipients/Cooperators identified for use of this payment system shall designate a financial institution or an authorized payment agent through which a direct deposit may be made in accordance with current HHS PMS system requirements. The Albuquerque Service Center is responsible for soliciting initial enrollment in the HHS PMS. Any subsequent changes to banking information are made by the Cooperator through the HHS PMS.

M. OVERPAYMENT. Any funds paid to the Cooperator in excess of the amount entitled under the terms and conditions of this agreement constitute a debt to the Federal Government. The following must also be considered as a debt or debts owed by the Cooperator to the Forest Service:

- Any interest or other investment income earned on advances of agreement funds; or
- Any royalties or other special classes of program income which, under the provisions of the agreement, are required to be returned.

If this debt is not paid according to the terms of the bill for collection issued for the overpayment, the Forest Service may reduce the debt by:

1. Making an administrative offset against other requests for reimbursement.
2. Withholding advance payments otherwise due to the Cooperator.
3. Taking other action permitted by statute (31 U.S.C. 3716 and 7 CFR, Part 3, Subpart B).

Except as otherwise provided by law, the Forest Service may charge interest on an overdue debt.

N. INSTRUMENT CLOSE-OUT. The Cooperator shall close out the instrument within 90 days after expiration or notice of termination.

Any unobligated balance of cash advanced to the Cooperator must be immediately refunded to the Forest Service, including any interest earned.

Within a maximum of 90 days following the date of expiration or termination of this instrument, all financial performance and related reports required by the terms of the instrument must be submitted to the Forest Service by the Cooperator.

79.61 - Exhibit 01--Continued



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If this instrument is closed out without audit, the Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

- O. RETENTION AND ACCESS REQUIREMENTS FOR RECORDS. The Cooperator shall retain all records pertinent to this instrument for a period of no less than 3 years from the expiration or termination date. As used in this provision, "records" includes books, documents, accounting procedures and practice, and other data, regardless of the type or format. The Cooperator shall provide access and the right to examine all records related to this instrument to the Forest Service Inspector General, or Comptroller General or their authorized representative.

If any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the 3-year period, the records must be kept until all issues are resolved, or until the end of the regular 3-year period, whichever is later.

Records for nonexpendable property acquired in whole or in part, with Federal funds must be retained for 3 years after its final disposition.

The Cooperator shall provide access to any project site(s) to the Forest Service or any of their authorized representatives. The rights of access in this section shall not be limited to the required retention period but shall last as long as the records are kept.

- P. FREEDOM OF INFORMATION ACT (FOIA). Public access to agreement records must not be limited, except when such records must be kept confidential and would have been excepted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).
- Q. PUBLIC NOTICES. It is the Forest Service's policy to inform the public as fully as possible of its programs and activities. The Cooperator is encouraged to give public notice of the receipt of this instrument and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows:

"This research was supported in part by funds provided by the Northern Research Station, Forest Service, Department of Agriculture."

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The Cooperator may call on the Forest Service's Office of Communication for advice regarding public notices. The Cooperator is requested to provide copies of notices or announcements to the Forest Service Program Manager and to the Forest Service's Office of Communications as far in advance of release as possible.

R. FUNDING EQUIPMENT. Federal funding under this instrument is not available for reimbursement of the Cooperator's purchase of equipment. Equipment is defined as having a fair market value of over \$5,000 per unit and a useful life of over one year. Supplies are those items that are not equipment.

S. GOVERNMENT-FURNISHED PROPERTY. The Cooperator may only use Forest Service property furnished under this agreement for performing tasks assigned in this agreement. The Cooperator shall not modify, cannibalize, or make alterations to Forest Service property. A separate document, Form AD-107, must be completed to document the loan of Forest Service property. The Forest Service shall retain title to all Forest Service-furnished property. Title to Forest Service property must not be affected by its incorporation into or attachment to any property not owned by the Forest Service, nor must the property become a fixture or lose its identity as personal property by being attached to any real property.

Cooperator Liability for Government Property.

(1) Unless otherwise provided for in the agreement, the Cooperator shall not be liable for loss, damage, destruction, or theft to the Government property furnished or acquired under this contract, except when any one of the following applies—

(i) The risk is covered by insurance or the Cooperator is otherwise reimbursed (to the extent of such insurance or reimbursement).

(ii) The loss, damage, destruction, or theft is the result of willful misconduct or lack of good faith on the part of the Cooperator's managerial personnel. Cooperator's managerial personnel, in this clause, means the Cooperator's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of the Cooperator's business; all or substantially all of the Cooperator's operation at any one plant or separate location; or a separate and complete major industrial operation.

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(2) The Cooperator shall take all reasonable actions necessary to protect the Government property from further loss, damage, destruction, or theft. The Cooperator shall separate the damaged and undamaged Government property, place all the affected Government property in the best possible order, and take such other action as the Property Administrator directs.

(3) The Cooperator shall do nothing to prejudice the Government's rights to recover against third parties for any loss, damage, destruction, or theft of Government property.

(4) Upon the request of the Grants & Agreements Specialist, the Cooperator shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation, including the prosecution of suit and the execution of instruments of assignment in favor of the Government in obtaining recovery.

T. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS, AND ELECTRONIC MEDIA. The Cooperator shall acknowledge Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this instrument.

U. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. The Cooperator shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)"

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer."

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text:

"This institution is an equal opportunity provider."

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- V. REMEDIES FOR COMPLIANCE RELATED ISSUES. If the Cooperator materially fails to comply with any term of the instrument, whether stated in a Federal statute or regulation, an assurance, the agreement, or elsewhere, the Forest Service may take one or more of the following actions:
- (1) Temporarily withhold cash payments pending correction of the deficiency by the Cooperator or more severe enforcement action by the Forest Service;
 - (2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;
 - (3) Wholly or partly suspend or terminate the current instrument for the Cooperator's program;
 - (4) Withhold further awards for the program, or
 - (5) Take other remedies that may be legally available, including debarment procedures under 7 CFR part 3017.
- W. TERMINATION BY MUTUAL AGREEMENT. This instrument may be terminated, in whole or part, as follows:
- 1. When the Forest Service and Cooperator agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
 - 2. By 30 days written notification by the Cooperator to the Forest Service setting forth the reasons for termination, effective date, and in the case of partial termination, the portion to be terminated.
- If, in the case of a partial termination, the Forest Services determines that the remaining portion of the instrument will not accomplish the purposes for which the instrument was made, the Forest Service may terminate the instrument in its entirety.
- Upon termination of an instrument, the Cooperator shall not incur any new obligations for the terminated portion of the instrument after the effective date, and shall cancel as many outstanding obligations as possible. The Forest Service shall

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allow full credit to the Cooperator for the United States Federal share of the non-cancelable obligations properly incurred by the Cooperator up to the effective date of the termination. Excess funds shall be refunded within 60 days after the effective date of termination.

- X. ALTERNATE DISPUTE RESOLUTION – PARTNERSHIP AGREEMENT. In the event of any issue of controversy under this agreement, the parties may pursue Alternate Dispute Resolution procedures to voluntarily resolve those issues. These procedures may include, but are not limited to conciliation, facilitation, mediation, and fact finding.
- Y. DEBARMENT AND SUSPENSION. The Cooperator shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should the Cooperator or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.
- Z. INTERNATIONAL TRAVEL. When Forest Service funds are used, the Cooperator shall ensure that any air transportation of passengers and property is provided by a carrier holding a United States Government issued certificate in compliance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. 40118 (Fly American Act).
- AA. PATENT RIGHTS. a. Definitions:
 - (1) Invention. Any invention or discovery which is or may be patentable, or otherwise protectable under Title 35 of the United States Code (U.S.C.), or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).
 - (2) Subject Invention. Any invention of the Cooperator conceived or first actually reduced to practice in the performance of work under this instrument, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d) must also occur during the period of the instrument performance.

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(3) Practical Application. To manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations available to the public on reasonable terms.

(4) Made. When used in relation to any invention, the conception or first actual reduction to practice of such invention.

(5) Small Business Firm. A small business concern as defined at section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the administrator of the Small Business Administration. For the purpose of this provision, the size standard for small business concerns involved in Government procurement and subgranting as 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) Non-Profit Organization. A university or other institution of higher education or an organization of the type described in section 501 (c) (3) of the Internal Revenue Code of 1954 Internal Revenue Code (26 U.S.C. 501c) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

b. Allocation of Principal Rights. The Cooperator may retain the entire right, title, and interest throughout the world to each subject invention, subject to this provision and 35 U.S.C. 203. With respect to any subject invention in which the Cooperator retains title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention through out the world.

c. Invention Disclosure, Election of Title and Filing of Patent Applications by the Cooperator.

(1) The Cooperator shall disclose each subject invention to the Forest Service within 2 months after the inventor discloses it in writing to personnel responsible for patent matters. The disclosure to the Forest Service shall be in the form of a written report

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and must identify the instrument under which the invention was made and the inventor(s). It must be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electric characteristics of the invention. The disclosure must also identify any publication, on sale or public use of the invention, and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the Forest Service, the Cooperator shall promptly notify the Forest Service of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Cooperator.

(2) The Cooperator shall elect in writing whether or not to retain title to any such invention by notifying the Forest Service within 2 years of disclosure by Cooperator; provided that in any case where publication, on sale or public use has initiated the 1 year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the Forest Service to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Cooperator shall file its initial patent application on an elected invention within 1 year after election or, if earlier, prior to the end of any statutory period wherein valid protection can be obtained in the United States after publication, on sale, or public use. The Cooperator shall file patent applications in additional countries within either 10 months from the corresponding initial patent application or 6 months from the date permission is granted by the Commissioner of Patents and trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to the Forest Service, election, and filing may, at the discretion of the Forest Service, be granted.

d. Conditions when the Government May Obtain Title. The Cooperator shall convey to the Forest Service, upon written request, title to any subject invention:

(1) If the Cooperator fails to disclose or elect the subject invention within the times specified in item c herein or elects not to retain title; provided that the Forest Service may only request title within 60 days after learning of the failure of the Cooperator to disclose or elect within the specified times.

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(2) In those countries in which the Cooperator fails to file patent applications within the times specified in item c(3) herein; provided, however, that if the Cooperator has filed a patent application in a country after the times specified in item c(3), but prior to its receipt of the written request of the Forest Service, the Cooperator shall continue to retain title in that country.

(3) In any country in which the Cooperator decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

e. Minimum Rights to Cooperator and Protection of the Contractor Right to File.

(1) The Cooperator shall retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Cooperator fails to disclose the subject invention within the times specified in item c herein. The Cooperator's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Cooperator is a party and includes the right to grant sublicenses of the same scope to the extent the Cooperator was legally obligated to do so at the time the instrument was awarded. The license is transferable only with approval of the Forest Service, except when transferred to the successor of that party of the Cooperator's business to which the invention pertains.

(2) The Cooperator's domestic license may be revoked or modified by the Forest Service to the extent necessary to achieve expeditious practical application of the subject invention, pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR Part 404. This license will not be revoked in that field of use or the geographical areas in which the Cooperator has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Forest Service to the extent the Cooperator, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license the Forest Service shall furnish the Cooperator a written notice of its intention to revoke or modify the license, and the Cooperator shall be allowed 30 days (or such other time as may be authorized by the Forest Service for good cause shown by the Cooperator) after the notice to show cause why the license should not be revoked or modified. The recipient/ cooperator

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has the right to appeal, in accordance with applicable regulations in 37 CFR Part 404 concerning the licensing Government-owned inventions, any decision concerning the revocation or modification of its license.

f. Cooperator Action to Protect the Government's Interest

(1) The Cooperator agrees to execute, or to have executed, and promptly deliver to the Forest Service all instruments necessary to (a) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Cooperator elects to retain title, and (b) convey title to the Forest Service when requested under paragraph (c) herein and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Cooperator agrees to require, by written instrument, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Cooperator each subject invention made under the disclose provisions of paragraph c herein and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject invention. This disclosure format should require, as a minimum, the information required by paragraph (c) above, and to execute all papers necessary to file patent applications on subject inventions and to establish the government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by paragraph (c)(1). The Cooperator shall instruct such employees' agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to United States or foreign statutory bars.

(3) The Cooperator shall notify the Forest Service of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response period required by the relevant patent office.

(4) The Cooperator agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement: This invention was made with the Government support under Agreement #09-JV-11242309-068, awarded by the Forest Service. The Government has certain rights in this invention.

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g. Subcontracts

(1) The Cooperator shall include this provision, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor shall retain all rights provided for the Cooperator in this provision, and the Cooperator shall not, as part of the consideration for awarding the subgrant or subcontract under the instrument, obtain rights in the subgrantee's or subcontractor's subject inventions.

(2) The Cooperator shall include in all other subcontracts the patent rights provision, regardless of tier, for experimental, developmental, or research work.

(3) In the case of subcontracts, at any tier, when the prime award with the Federal agency was a contract (but not a grant or cooperative agreement), the agency, subcontractors, and the contractor agree that the mutual obligations of the parties created by this provision constitute a contract between the subcontractor and the Federal agency with respect to those matters covered by this provision; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (j) of this provision.

h. Reporting on Utilization of Subject Invention. The Cooperator agrees to submit, on request, periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Cooperator or its licensees or assignees. Such reports must include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Cooperator, and such other data and information as the Forest Service may reasonably specify. The Cooperator also agrees to provide additional reports as may be requested by the Forest Service in connection with any march-in proceeding undertaken by the Forest Service in accordance with paragraph (j) of this provision. As required by 35 U.S.C. 202(c)(5), the Forest Service agrees it shall not disclose such information to persons outside the government without permission of the Cooperator.

i. Preference for United States Industry. Notwithstanding any other provision of this provision, the Cooperator agrees that neither it nor any assignee shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any product embodying the subject invention will be

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manufactured substantially in the United States. However, in individual cases the requirement for such an agreement may be waived by the Forest Service upon a showing by the Cooperator or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States, or that under the circumstances, domestic manufacture is not commercially feasible.

j. March-in-Rights. The Cooperator agrees that with respect to any subject invention in which it has acquired title, the Forest Service has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the Forest Service to require the Cooperator, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Cooperator assignee, or exclusive licensee refuses such a request, the Forest Service has the right to grant such a license itself if the Forest Service determines that:

(1) Such action is necessary because the Cooperator or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Cooperator, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Cooperator, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph i of this provision has not been obtained or waived, or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

k. Special Provisions for Contracts with Non-profit Organizations. If the recipient/contractor is a non-profit organization, it agrees that:

(1) Rights to a subject invention in the United States may not be assigned without the approval of the Forest Service, except where such assignment is made to an organization which has as one of its primary functions the management of inventions provided that such assignee shall be subject to the same provisions as the Cooperator.

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(2) The Cooperator shall share royalties collected on a subject invention with the inventor, including Federal employee coinventors (when the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10.

(3) The balance of any royalties or income earned by the Cooperator with respect to subject inventions, after payment of expense (including payments to inventor) incidental to the administration of subject inventions will be utilized for the support of scientific research or education; and

(4) It shall make efforts that are reasonable under the circumstances to attract licensees of subject invention that are small business firms and that it shall give preference to a small business firm when licensing a subject invention if the Cooperator determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the Cooperator is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give preference in any specific case will be at the discretion of the Cooperator. However, the Cooperator agrees that the Secretary may review the Cooperator's licensing program and decisions regarding small business applicants, and the Cooperator shall negotiate changes to its licensing policies, procedures, or practices with the Secretary when the Secretary's review discloses that the Cooperator could take reasonable steps to implement more effectively the requirements of this paragraph.

I. Communication

(1) Communications relating to the administration of this provision and disclosure statements should be directed to:

Patent Advisor
National Patent Program
USDA, Forest Service
One Gifford Pinchot Drive
Madison, WI 53705-2398

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(2) Practice statements are also made to the Patent Advisor.

NOTE: Exceptions for Not Using the Patent Rights Provision:

(a) When the instrument is for the operation of a federally funded research and development center of a government-owned production facility;

(b) In exceptional circumstances when it is determined by the Forest Service that restriction or elimination of the right to retain title to any subject invention shall better promote the policy and objective of Title 35, Chapter 18 of the United States Code; or

(c) When it is determined by a Government authority which is authorized by statute or Executive Order to conduct foreign intelligence or counter intelligence activities that the restriction or elimination of the right to retain title to any subject invention is necessary to protect the security of such activities.

Any determination under this section must be in writing and accompanied by a written statement of facts and must contain such information as the Forest Service field office deems relevant and, at a minimum, must:

- (1) Identify the small business firm or nonprofit organization involved.
- (2) Describe the extent to which Forest Service action restricted or eliminated the right to retain title to a subject invention.
- (3) State the facts and rationale supporting the Forest Service action.
- (4) Provide supporting documentation for those facts and rationale.
- (5) Indicate the nature of any objections to the Forest Service action and provide any documentation in which those objections appear. A copy of each such determination and written statement of facts must be sent to the Director, Fiscal and Public Safety, Washington Office, for review and forwarded to the Comptroller General of the United States within 30 days after the award of the applicable agreement. In some cases of determinations applicable to instruments with small business firms, copies must also be sent to the Chief Counsel for advocacy of the Small Business Administration.

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BB. COPYRIGHTING. The cooperator is granted sole and exclusive right to copyright any publications developed as a result of this agreement. This includes the right to publish and vend throughout the world in any language and in all media and forms, in whole or in part, for the full term of copyright and all renewals thereof in accordance with this instrument.

No original text or graphics produced and submitted by the Forest Service shall be copyrighted. The Forest Service reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for federal government purposes. This right must be transferred to any sub-agreements or subcontracts.

This provision includes:

1. The copyright in any work developed by the cooperator under this agreement.
2. Any right of copyright to which the cooperator purchases ownership with any federal contributions.

CC. FOREST SERVICE CODE OF SCIENTIFIC ETHICS. All persons performing under this agreement shall be aware of and perform according to the Forest Service Code of Scientific Ethics found at:

[http://www.fs.fed.us/research/publications/fs_code_of%20 scientific ethics.pdf](http://www.fs.fed.us/research/publications/fs_code_of%20scientific_ethics.pdf)

DD. USDA GUIDELINES FOR QUALITY OF INFORMATION. This agreement is subject to the “Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication” and the “USDA Guidelines for Quality of Information” which can be found at

<http://www.fs.fed.us/goi/>.

EE. MODIFICATIONS. Modifications within the scope of this instrument must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change. The Forest Service is not obligated to fund any changes not properly approved in advance.

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook
Chapter 70 - Partnership Agreements
Amendment: 1509.11-2009-1
Effective date: October 20, 2009

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FF. COMMENCEMENT/EXPIRATION DATE. This instrument is executed as of the date of the last signature and is effective through **March 31, 2011** at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.

GG. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this instrument. In witness whereof, the parties hereto have executed this instrument as of the last date written below.

MICHAEL JONES, Director of Sponsored Programs Ohio State University Research Foundation	Date
JAY R. BERG, JR., Grants & Agreements Specialist U.S. Forest Service, Northern Research Station	Date

The authority and format of this instrument has been reviewed and approved for signature.

JAY R. BERG, JR.
U.S. Forest Service Grants & Agreements Specialist

Date

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook

Chapter 70 - Partnership Agreements

Amendment: 1509.11-2009-1

Effective date: October 20, 2009

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Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-New. The time required to complete this information collection is estimated to average XX minutes/hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

79.62 – FS-1500-14a International Joint Venture Agreement Sample

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FS-1500-14a - International Joint Venture Agreement Sample



USDA Forest Service

OMB 0596-0217

FS-1500-14a

FS Agreement No.	08-IJ-11261976-363
Cooperator Agreement No.	US-2008-77

INTERNATIONAL JOINT VENTURE AGREEMENT

Between

ESSA TECHNOLOGIES LTD

And The

U.S. FOREST SERVICE

PACIFIC NORTHWEST RESEARCH STATION

FOCUSED SCIENCE DELIVERY PROGRAM

This Joint Venture Agreement is hereby made and entered into by and between the ESSA Technologies Ltd., hereinafter referred to as the Cooperator, and the U.S. Forest Service Pacific Northwest Research Station, hereinafter referred to as the Forest Service, under the provisions of the National Agricultural Research, Extension and Teaching Policy Act of 1977 (Pub. L. 95-113), as amended by the Food Security Act of 1985 (7 U.S.C. 3319a, Pub. L. 99-198).

Title: Analytical tools and guidelines for linking FVS and VDDT for landscape modeling

I. PURPOSE: The purpose of this agreement is to develop tools and guidelines for improving linkages between the Vegetation Dynamics Development Tool (VDDT) and the Forest Vegetation Simulator (FVS) to enhance landscape modeling capabilities. VDDT models provide the simplicity necessary to do large scale analyses; FVS provides the detail to provide quantitative metrics necessary to estimate plausible attributes and to calibrate transition pathways and rates in VDDT. Once calibrated, FVS outputs will also provide attributes that can be linked to VDDT states. The objectives of this research are to link empirical results from FVS to VDDT parameters in order to 1) increase the realism of landscape projections of vegetation states and pathways using VDDT models informed by FVS results, 2) to increase defensibility of results by using harmonized VDDT/FVS models, and 3) to develop output attributes from FVS that make VDDT model outcomes easier to display and understand. Specific tasks are outlined in this document.

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Objective 1: Develop methods for harmonizing FVS and VDDT transitions. Currently, VDDT works at the landscape scale using initial conditions derived from maps or like data. Vegetation dynamics in VDDT are modeled using probabilistic transitions parameterized using expert knowledge or values from the literature. FVS works at the stand scale using input attributes about individual trees, and grows them according to equations developed regionally.

Objective 2: Tune VDDT with FVS transition information. This step includes harmonizing the annual and decadal time steps of VDDT and FVS, reconciling (as much as possible) the differences between VDDT's disturbance-driven orientation with FVS's approximation of continuous time and understand and removing the "jittering" of state class transitions observed in FVS simulations. Three candidate model paradigms may be used as part of the tuning exercise: (a) an artificial ecosystem developed to explore an understand model behavior; (b) an undisturbed system; and (c) a system with density or size control.

Objective 3: Develop attribute outputs from FVS that can be tied to VDDT transitions and state classes. Examples of these attributes are values that can be computed from an FVS treelist, such as biomass and carbon, stem distribution in various categories, stand summary attributes like quadratic mean diameter, basal area, live and snag densities, timber volume, fuels characteristics, and habitat characteristics.

Open-End: This research is anticipated to be completed within over a single phase over a six-month period. Additional phases may be anticipated depending on the success of this study. Tasks and timelines for future phases will be determined pending anticipated continued funding. Should this research be approved beyond Phase One, an amendment to this agreement shall be prepared for each new phase.

II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

Pursuant to the statutory authority under the National Agricultural Research, Extension and Teaching Policy Act of 1977 (Pub.L.95-113), as amended by the Food Security Act of 1985 (7 U.S.C., 3318 and 3319, Pub. L. 99-198), the Forest Service is authorized to enter into agreements to perform basic and applied research of mutual benefit, and is responsible for ongoing research regarding all areas of forest research and assessment of forest resources and fish and wildlife habitats.

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The Forest Service's interest in this agreement is to improve analytical landscape modeling capabilities that constitute the major approach within the Interagency Mapping and Assessment Project (IMAP). IMAP is using VDDT to model outcomes to alternative management and disturbance scenarios in conjunction with Forest Plan Revision analyses with NFS partners, statewide assessments with state partners, and various multi-owner large-landscape analyses having common management issues. They need to continue to make improvements to landscape models to make them more realistic and more defensible.

The Cooperator's interest in this agreement is to further their corporate modeling capabilities as 1) the developer of VDDT and 2) co-developers of FVS-related software and 3) consultants for both FVS and VDDT projects and applications. This project is also linked to their corporate vision of building climate-change sensitivity into VDDT and other simulation models they help to develop.

The Forest Service's and the Cooperator's mutual benefit and interest is to leverage each other's scientific knowledge, analytical tools, and computer programming skills to improve landscape modeling approaches for multi-partner, multi-owner assessments. More realistic models will produce more realistic and more defensible assessments and comparisons of alternative management regimes, leading to better forest plans that will in turn help restore or strengthen forested ecosystems

In consideration of the above premises, the parties agree as follow:

III. THE COOPERATOR SHALL:

- A. LEGAL AUTHORITY: The Cooperator shall have the legal authority to enter into this agreement, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.
- B. PROGRAM PERFORMANCE REPORTS: The Cooperator shall monitor the performance of the agreement activities to ensure that performance goals are being achieved.
 - a. Performance reports must contain information on the following:
 - 1. A comparison of actual accomplishments to the goals established for the period. Where the output of the project can be readily expressed in numbers, a computation of the cost per unit of output may be required if that information is useful.

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2. Reason(s) for delay if established goals were not met.
3. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

The Cooperator shall submit annual performance reports to the Forest Service Program Manager and to the Forest Service Administrative Contact. The first report is due **December 31, 2008**. The final performance report shall be submitted by September 30, 2009, in a format suitable for possible publication. The report must contain a summary of the methods, analyses, results, and recommendations for application and further work relevant to the problems outlined in the Operating Plan.

- C. BUILDING AND COMPUTER ACCESS BY NON-FOREST SERVICE PERSONNEL. The Cooperator may be granted access to Forest Service facilities and/or computer systems to accomplish work described in the Operating Plan or Statement of Work. All non-government employees with unescorted access to Forest Service facilities and computer systems must have background checks following the procedures established by USDA Directives 3800 series. Those granted computer access must fulfill all Forest Service requirements for mandatory security awareness and role-based advanced security training, and sign all applicable Forest Service statements of responsibilities.
- D. The following credit line, along with any other appropriate credit line(s), will be included on all reports, publication, and audiovisuals resulting from this study:
"This research was supported in part by funds provided by the Pacific Northwest Research Station, Forest Service"
- E. Perform in accordance with the Operating and Financial Plan, attached as Exhibit A.

IV. THE FOREST SERVICE SHALL:

- A. PAYMENT/REIMBURSEMENT. The Forest Service shall reimburse the Cooperator for the Forest Service's share of actual expenses incurred, not to exceed \$30,000, as shown in the Financial Plan. The Forest Service shall make payment upon receipt of the Cooperator's quarterly invoice. Each invoice from the Cooperator must display the total project costs for the billing period, separated by Forest Service and Cooperator share.

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In-kind contributions must be displayed as a separate line item and must not be included in the total project costs available for reimbursement. The final invoice must display the Cooperator's full match towards the project, as shown in the financial plan, and be submitted no later than 90 days from the expiration date.

Each invoice must include, at a minimum:

- 1) Cooperator name, address, and telephone number
- 2) Forest Service agreement number
- 3) Invoice date
- 4) Performance dates of the work completed (start & end)
- 5) Total invoice amount for the billing period
- 6) Statement that the invoice is a request for payment by 'reimbursement'
- 7) If using SF-270, a signature is required.
- 8) Invoice Number, if applicable
- 9) **Please request payment in U.S. Dollars**

The invoice must be forwarded to:

USDA Forest Service
Albuquerque Service Center
Payments – Grants & Agreements
101B Sun Ave NE
Albuquerque, NM 87109

FAX: 877-687-4894

- B. Perform in accordance with the Operating and Financial Plan, attached as Exhibit A.

V. IT IS MUTUALLY AGREED AND UNDERSTOOD BY AND BETWEEN THE PARTIES THAT:

- A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this instrument.

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook
Chapter 70 - Partnership Agreements
Amendment: 1509.11-2009-1
Effective date: October 20, 2009

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Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Name: Don Robinson or Sarah Beukema Address: Suite 300, 1765 W 8 th Ave City, State, Zip: Vancouver, BC Canada V6J 5C6 Telephone: 604-536-1998 FAX: 604-734-4567 Email: pbaily@essa.org	Name: Virginia Ng Address: Suite 300, 1765 W 8 th Ave City, State, Zip: Vancouver, BC Canada V6J 5C6 Telephone: 604-536-1998 FAX: 604-734-4567 Email: vng@essa.org

Principal Forest Service Contacts:

Forest Service Program Contact	Forest Service Administrative Contact
Name: Miles Hemstrom Address: 620 SW Main, Ste 400 City, State, Zip: Portland, OR 97202 Telephone: 503-818-2196 FAX: 503-818-2121 Email: mhemstrom@fs.fed.us	Name: Theresa Burcsu Address: 620 SW Main, Ste 400 City, State, Zip: Portland, OR 97202 Telephone: 503-818-21186 FAX: 503-818-2121 Email: tburcsu@fs.fed.us

- B. **NON-LIABILITY.** The Forest Service does not assume liability for any third party claims for damages arising out of this instrument.
- C. **NOTICES.** Any communications affecting the operations covered by this agreement given by the Forest Service or the Cooperator is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the Forest Service Program Manager, at the address specified in the agreement.

To Cooperator, at the Cooperator's address shown in the agreement or such other address designated within the agreement.

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Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- D. USE OF FOREST SERVICE INSIGNIA. In order for the Cooperator to use the Forest Service Insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the Forest Service's Office of Communications. A written request must be submitted and approval granted in writing by the Office of Communications prior to use of the insignia.
- E. SAFEGUARDING U.S. FUNDS. Cooperators shall establish safeguards to ensure that U.S. Federal funds are properly spent. The Cooperator shall ensure that funds are not used for partisan or political activity purposes, including, but not limited to:
1. supporting election, referendum, initiative, or similar procedure;
 2. influencing the outcomes of elections; introducing legislation;
 3. influencing government officials to engage in similar lobbying activity;
 4. preparing, distributing, or using publicity or propaganda, or by urging members of the general public to contribute to or participate in any mass demonstration, march, rally, fund raising drive, lobbying campaign or letter writing or telephone campaign; or
 5. attending legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation.
- F. TRAFFICKING IN PERSONS.
- a. Provisions applicable to a Cooperator that is a private entity.
 1. You as the Cooperator, your employees, subrecipients under this award, and subrecipients' employees may not—
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.
 2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —

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- i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
 - A. Associated with performance under this award; or
 - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 7 CFR 3017.
- b. Provision applicable to a Cooperator other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—
 - 1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
 - 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
 - i. Associated with performance under this award; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 7 CFR 3017.
- c. Provisions applicable to any recipient.
 - 1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
 - 2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
 - 3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
- d. Definitions. For purposes of this award term:

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1. “Employee” means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
 2. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
 3. “Private entity”:
 - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
 - ii. Includes:
 - A. A non-profit organization, including any non-profit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - B. A for-profit organization.
 4. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).
- G. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no United States member of, or United States delegate to, Congress shall be admitted to any share or part of this instrument, or benefits that may arise therefrom, either directly or indirectly.
- H. DRUG-FREE WORKPLACE.
- a. The Cooperator agrees that it will publish a drug-free workplace statement and provide a copy to each employee who is engaged in the performance of any project/program that receives Federal funding. The statement must:
 - (1) Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;

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(2) Specify the actions the recipient will take against employees for violating that prohibition; and

(3) Let each employee know that, as a condition of employment under any instrument, the employee;

(i) Must abide by the terms of the statement, and

(ii) Must notify the Cooperator in writing if they are convicted for a violation of a criminal drug statute occurring in the workplace, and must do so no more than 5 calendar days after the conviction.

b. The Cooperator agrees that it will establish an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The established policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation and employee assistance programs; and

(4) The penalties that may be imposed upon the employee for drug abuse violations occurring in the workplace.

c. Without the Program Manager's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this instrument, or the completion date of this instrument, whichever occurs first.

d. The Cooperator agrees to immediately notify the Program Manager if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the agreement number of each instrument on which the employee worked. The notification must be sent to the Program Manager within 10 calendar days after the Cooperator learns of the conviction.

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e. Within 30 calendar days of learning about an employee's conviction, the Cooperator must either:

(1) Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or

(2) Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

- I. POSITIONS OF INFLUENCE. Cooperators shall establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- J. U.S. GOVERNMENT EMPLOYMENT STATUS. In no event must the Cooperator or subrecipients be considered as employees of the United States government, unless authorized by Federal Statute.
- K. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS. No U.S. citizen or legal resident shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this award on the basis of race, color, national origin, age, handicap, or sex.
- L. IMPLEMENTATION OF E.O. 13224 -- EXECUTIVE ORDER ON TERRORIST FINANCING. The Cooperator is reminded that U.S. Executive orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Cooperator to ensure compliance with these Executive orders and laws. This provision must be included in all contracts issued under this agreement.

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M. STANDARDS FOR FINANCIAL MANAGEMENT.

1. Financial Reporting

The cooperator shall provide complete, accurate, and current financial disclosures of the project or program in accordance with any financial reporting requirements, as set forth in the financial provisions.

2. Accounting Records

The cooperator shall continuously maintain and update records identifying the source and use of funds. The records shall contain information pertaining to the agreement, authorizations, obligations, unobligated balances, assets, outlays, and income.

3. Internal Control

The cooperator shall maintain effective control over and accountability for all Forest Service funds, real property, and personal property assets. The cooperator shall keep effective internal controls to ensure that all United States Federal funds received are separately and properly allocated to the activities described in the agreement. The cooperator shall adequately safeguard all such property and shall ensure that it is used solely for authorized purposes.

4. Source Documentation

The Cooperator shall support all accounting records with source documentation. These documentations include, but are not limited to, cancelled checks, paid bills, payrolls, contract and subgrant/contract documents, and so forth.

N. OVERPAYMENT. Any funds paid to the cooperator in excess of the amount entitled under the terms and conditions of this agreement constitute a debt to the federal government. The following must also be considered as a debt or debts owed by the cooperator to the Forest Service:

1. Any interest or other investment income earned on advances of agreement funds;
- or

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2. Any royalties or other special classes of program income which, under the provisions of the agreement, are required to be returned;

If this debt is not paid according to the terms of the bill for collection issued for the overpayment, the Forest Service may reduce the debt by:

1. Making an administrative offset against other requests for reimbursement.
2. Withholding advance payments otherwise due to the cooperator.
3. Taking other action permitted by statute (31 U.S.C. 3716 and 7 CFR, Part 3, Subpart B).

Except as otherwise provided by law, the Forest Service may charge interest on an overdue debt.

- O. INSTRUMENT CLOSE-OUT. The Cooperator shall close out the instrument within 90 days after expiration or notice of termination.

Any unobligated balance of cash advanced to the Cooperator must be immediately refunded to the Forest Service, including any interest earned.

Within a maximum of 90 days following the date of expiration or termination of this instrument, all financial performance and related reports required by the terms of the instrument must be submitted to the Forest Service by the Cooperator.

If this instrument is closed out without audit, the Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

- P. RETENTION AND ACCESS REQUIREMENTS FOR RECORDS. The cooperator shall retain all records pertinent to this instrument for a period of no less than 3 years from the expiration or termination date. As used in this provision, records includes books, documents, accounting procedures and practice, and other data, regardless of the type or format. The cooperator shall provide access and the right to examine all records related to this instrument to the Forest Service Inspector General, or Comptroller General or their authorized representative.

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If any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the 3-year period, the records must be kept until all issues are resolved, or until the end of the regular 3-year period, whichever is later.

Records for nonexpendable property acquired in whole or in part, with Federal funds must be retained for 3 years after its final disposition.

The Cooperator shall provide access to any project site(s) to the Forest Service or any of their authorized representatives. The rights of access in this section shall not be limited to the required retention period but shall last as long as the records are kept.

- Q. FREEDOM OF INFORMATION ACT (FOIA). Public access to agreement records must not be limited, except when such records must be kept confidential and would have been excepted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).
- R. FUNDING EQUIPMENT. Federal funding under this instrument is not available for reimbursement of the Cooperator's purchase of equipment. Equipment is defined as having a fair market value of over \$5,000 per unit and a useful life of over one year. Supplies are those items that are not equipment.
- S. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS, AND ELECTRONIC MEDIA. The Cooperator shall acknowledge Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this instrument.
- T. REMEDIES FOR COMPLIANCE RELATED ISSUES. If the Cooperator materially fails to comply with any term of the instrument, whether stated in a Federal statute or regulation, an assurance, the agreement, or elsewhere, the Forest Service may take one or more of the following actions:
 - (1) Temporarily withhold cash payments pending correction of the deficiency by the cooperator or more severe enforcement action by the Forest Service;
 - (2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;

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- (3) Wholly or partly suspend or terminate the current instrument for the cooperator's program;
- (4) Withhold further awards for the program, or
- (5) Take other remedies that may be legally available, including debarment procedures under 7 CFR part 3017.

U. TERMINATION BY MUTUAL AGREEMENT. This instrument may be terminated, in whole or part, as follows:

- 1. When the Forest Service and Cooperator agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
- 2. By 30 days written notification by the Cooperator to the Forest Service setting forth the reasons for termination, effective date, and in the case of partial termination, the portion to be terminated.

If, in the case of a partial termination, the Forest Services determines that the remaining portion of the instrument will not accomplish the purposes for which the instrument was made, the Forest Service may terminate the instrument in its entirety.

Upon termination of an instrument, the Cooperator shall not incur any new obligations for the terminated portion of the instrument after the effective date, and shall cancel as many outstanding obligations as possible. The Forest Service shall allow full credit to the Cooperator for the United States Federal share of the non-cancelable obligations properly incurred by the Cooperator up to the effective date of the termination. Excess funds must be refunded within 60 days after the effective date of termination.

V. ALTERNATE DISPUTE RESOLUTION – PARTNERSHIP AGREEMENT. In the event of any issue of controversy under this agreement, the parties may pursue Alternate Dispute Resolution procedures to voluntarily resolve those issues. These procedures may include, but are not limited to conciliation, facilitation, mediation, and fact finding.

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- W. DEBARMENT AND SUSPENSION. The cooperator shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should the cooperator or any of their principals receive a transmittal letter or other official federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.
- X. FLY AMERICAN ACT. The Fly America Act (49 U.S.C. 40118) requires that all air travel and shipments under this award must be made on U.S. flag air carriers to the extent service by such carriers is available. The Administrator of General Services Administration (GSA) is authorized to issue regulations for purposes of implementation. Those regulations may be found at 41 CFR part 301, and are hereby incorporated by reference into this award.
- Y. COPYRIGHTING. The cooperator is granted sole and exclusive right to copyright any publications developed as a result of this agreement. This includes the right to publish and vend throughout the world in any language and in all media and forms, in whole or in part, for the full term of copyright and all renewals thereof in accordance with this instrument.

No original text or graphics produced and submitted by the Forest Service shall be copyrighted. The Forest Service reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for federal government purposes. This right must be transferred to any sub-agreements or subcontracts.

This provision includes:

- The copyright in any work developed by the cooperator under this agreement.
 - Any right of copyright to which the cooperator purchases ownership with any federal contributions.
- Z. FOREST SERVICE CODE OF SCIENTIFIC ETHICS. All persons performing under this agreement shall be aware of and perform according to the Forest Service Code of Scientific Ethics found at:
http://www.fs.fed.us/research/publications/fs_code_of%20scientific_ethics.pdf

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook
Chapter 70 - Partnership Agreements
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- AA. USDA GUIDELINES FOR QUALITY OF INFORMATION. This agreement is subject to the “Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication” and the “USDA Guidelines for Quality of Information” which can be found at <http://www.fs.fed.us/goi/>.
- BB. MODIFICATIONS. Modifications within the scope of this instrument must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change. The Forest Service is not obligated to fund any changes not properly approved in advance.
- CC. COMMENCEMENT/EXPIRATION DATE. This instrument is executed as of the date of the last signature and is effective through **September 30, 2009** at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.
- DD. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this instrument. In witness whereof, the parties hereto have executed this instrument as of the last date written below.

DAVID MARMOREK, President ESSA Technologies, Ltd.	Date
BOV B. EAV, Station Director U.S. Forest Service, Pacific Northwest Research Station	Date

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The authority and format of this instrument has been reviewed and approved for signature.

DAVID CASWELL
U.S. Forest Service Grants & Agreements Specialist

Date

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-New. The time required to complete this information collection is estimated to average XX minutes/hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

EXHIBIT A
OPERATING PLAN

I. The Cooperator Shall:

A. Perform and complete the following tasks by **December 31, 2008:**

- 1. Objective 1:** Develop and test the methodology used to link FVS (through Preside software) to VDDT, resolving calibration and behavior issues. The motive for harmonizing the two models is to make use of one of FVS' strengths: namely that its growth and mortality models are fitted with an extensive set of empirical inventories. Results from FVS can then be used to calibrate VDDT, which is otherwise often parameterized with expert opinion.

Currently, FVS and VDDT projections are compared manually using the Preside software developed by Don Vandendriesche of the FVS support group. Comparisons of the transition probabilities developed independently with FVS and VDDT can be quite

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different, and these differences are not yet properly understood. Before attempting to adjust the transition probabilities or the structure of the VDDT models, developing a good understanding of these differences is critical and is a necessary step toward building a semi-automated bridge between the two modeling systems.

One step that may help to better understand the differences in transition time is a method that labels each FVS stand at the time it enters a state and at the time it leaves the state. A second anomaly of the FVS simulation of state transitions is the retrogression of stands to earlier seral conditions and the jittering of stands between two states. We think that the most likely explanation for this jittering is the sensitivity of the classification to one or two individual trees in the FVS stand. Consequently, we think it may be helpful to find methods to make the FVS-Preside classification system less sensitive at the boundaries of the state classes.

The methodology for turning the Preside outputs into VDDT inputs is not totally worked out and there are ambiguities in how to interpret preside output and transform it into VDDT pathways, transition probabilities and age limits on both deterministic and probabilistic transitions. Once the FVS-VDDT methodology has been successfully developed, a trial analysis can proceed, as described below:

2. **Objective 2:** Once an acceptable baseline simulation has been carried out with FVS, the Preside software will be used to produce diagnostic output for comparison with baseline VDDT simulations of the case study PVT. The goal of this step is to fine tune the behavior of VDDT so that its state transition time closely approximates the state transitions implicit in the FVS simulations. State transition times of the VDDT models will be adjusted as necessary to try to harmonize the two models, based on the experience gained in Objective 1. Depending on the outcome of Objective 1, this step could be quite involved and might require repeated runs and tweaking of FVS, Preside and VDDT before finalizing the VDDT input values.
3. **Objective 3:** Selected FVS outputs will be developed through queries of the FVS output database. Averaged attributes will be created for each VDDT state-class and indexed by age or time, and imported to the appropriate VDDT model. Each of the management scenarios and baseline scenario will be simulated in VDDT, and graphical and tabular summaries prepared for the strata of land ownership and landscape aggregation defined above.

79.62 – Exhibit 01--Continued



USDA Forest Service

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- B. Collaborate with the Forest Service in the preparation of a mutually acceptable, detailed study plan, submit one copy of the plan to the Forest Service Technical Representative and one copy to the Forest Service Administrative Contact by **July 30, 2008**, and conduct this study in compliance with the study plan as well as the provisions of this agreement.

II. The Forest Service Shall:

- A. Collaborate with the Cooperator in the preparation of a mutually acceptable study plan.
- B. Provide guidance, advice, consultation, and co-leadership essential to the satisfactory accomplishment of this agreement.
- C. For Objective 1 provide FVS-ready input files, and FVS keywords for projecting a fully calibrated “unmanaged” FVS projection, for a VDDT potential vegetation type (PVT) mutually agreed to by both parties. This PVT will serve as the “case study” material to be used by the Cooperator. Provide requirements document describing the overall process that needs automating by the tools developed. For Objective 2 provide a full VDDT model consisting of state classes, pathways, and transition parameters for the case study PVT. A “no management” scenario and possibly one or more scenarios including management may be submitted, to be mutually agreed upon. For Objective 3, provide a core set of output attributes for tying FVS results to VDDT state classes and transitions.
- D. Consult with the cooperator on the overall technical approach and the details of all analytical tools.
- E. Communicate research results to Forest Service land managers and other user groups.
- F. Collaborate fully with the cooperator in the publication of research results.