



FS Agreement No. _____
Cooperator Agreement No. _____

**CHALLENGE COST SHARE AGREEMENT
Between The
And
And The
USDA, FOREST SERVICE**

This CHALLENGE COST SHARE AGREEMENT is hereby made and entered into by and between the _____, hereinafter referred to as “_____,” and the USDA, Forest Service, hereinafter referred to as the “U.S. Forest Service,” under the authority:

Background:

Title:

I. PURPOSE:

The purpose of this agreement is to document the cooperation between the parties to in accordance with the following provisions and the hereby incorporated Operating and Financial Plan, attached as Exhibit A.

II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

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

III. SHALL:

- A. LEGAL AUTHORITY. _____ 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. U.S. Forest Service vehicles may be used for official U.S. Forest Service business only in 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-U.S. FOREST SERVICE PERSONNEL. may be granted access to U.S. 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 U.S. Forest Service facilities and computer systems must have background checks following the procedures established by USDA Directives 3505 and Departmental Manual 4620-02. Those granted computer access must fulfill all U.S. Forest Service requirements for mandatory security awareness and role-based advanced security training, and sign all applicable U.S. Forest Service statements of responsibilities.
- D.

IV. THE U.S. FOREST SERVICE SHALL:

- A. PAYMENT/REIMBURSEMENT. The U.S. Forest Service shall reimburse for the U.S. Forest Service's share of actual expenses incurred, not to exceed \$ _____, as shown in the Financial Plan. The U.S. Forest Service shall make payment upon receipt of _____'s invoice. Each invoice from _____ must display the total project costs for the billing period, separated by U.S. Forest Service and 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 _____'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. _____'s name, address, and telephone number
2. U.S. 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 sent by one of three methods (email is preferred):

EMAIL: asc_ga@fs.fed.us

FAX: 877-687-4894

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



Send a copy to:

B.

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: Address: City, State, Zip: Telephone: FAX: Email:	Name: Address: City, State, Zip: Telephone: FAX: Email:

Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
Name: Address: City, State, Zip: Telephone: FAX: Email:	Name: Address: City, State, Zip: Telephone: FAX: Email:

B. NON-LIABILITY. The U.S. 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 U.S. Forest Service or _____ are sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

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

To _____, at _____'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 U.S. Forest Service or _____ from participating in similar activities with other public or private agencies, organizations, and individuals.
- E. ENDORSEMENT. Any of _____'s contributions made under this agreement do not by direct reference or implication convey U.S. Forest Service endorsement of _____'s products or activities.
- F. USE OF U.S. FOREST SERVICE INSIGNIA. In order for _____ to use the U.S. Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the U.S. Forest Service's Office of Communications. A written request must be submitted and approval granted in writing by the Office of Communications (Washington Office) prior to use of the insignia.
- G. NON-FEDERAL STATUS FOR COOPERATOR PARTICIPANT LIABILITY.
_____ agree(s) that any of their 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 _____ hereby willingly agree(s) to assume these responsibilities.
- Further, _____ shall provide any necessary training to _____'s employees, volunteers, and program participants to ensure that such personnel are capable of performing tasks to be completed. _____ shall also supervise and direct the work of its employees, volunteers, and participants performing under this agreement.
- H. 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.
- I. NONDISCRIMINATION. _____ shall comply with all applicable Federal statutes relating to nondiscrimination. This includes all applicable requirements of all other Federal laws, regulations, and policies. These include but are not limited to Title VI of the Civil Rights Act of 1964 as amended, which prohibits discrimination on the bases of race, color and national origin; Title IX of the Education Amendments of 1972 which prohibits discrimination based on sex in educational programs and activities; Age Discrimination Act of 1975, as amended, prohibiting age discrimination; and 504 of the Rehabilitation Act of 1973 as amended, which prohibits discrimination on the basis of disability.
- J. ELIGIBLE WORKERS. _____ 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). _____ shall comply with regulations regarding



certification and retention of the completed forms. These requirements also apply to any contract awarded under this instrument.

K. STANDARDS FOR FINANCIAL MANAGEMENT.

1. Financial Reporting

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

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

shall maintain effective control over and accountability for all U.S. Forest Service funds, real property, and personal property assets. 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.

shall adequately safeguard all such property and shall ensure that it is used solely for authorized purposes.

4. Source Documentation

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.

- L. AVAILABILITY OF FUNDS. U.S. Forest Service funds in the amount of \$ are currently available for performance of this instrument through . The U.S. Forest Service's obligation for performance of this instrument beyond this date is contingent upon the availability of appropriated funds from which payment can be made. No legal liability on the part of the U.S. Forest Service for any payment may arise for performance under this instrument beyond _until funds are made available to the U.S. Forest Service for performance and until receive(s) notice of availability to be confirmed in a written modification by the U.S. Forest Service.

M. PROGRAM INCOME – PARTNERSHIP AGREEMENTS.

1. shall apply the standards set forth in this Provision to account for program income earned under the agreement.



2. If any program income is generated as a result of this agreement, the income must be applied using the deduction alternative. The deduction alternative means that program income must be deducted from total allowable costs to determine the net allowable costs, unless otherwise approved by the signatory official. Program income must be used for current costs unless the Federal agency authorizes otherwise. Program income which did not anticipate at the time of the award must be used to reduce the Federal agency and 's contributions rather than to increase the funds committed to the project.
3. Unless the terms and conditions of the agreement provide otherwise, shall have no obligation to the U.S. Government regarding program income earned after the end of the project period.
4. Costs incident to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the agreement and they comply with the Cost Principles, if applicable.
5. Unless the terms and conditions of the agreement provide otherwise, shall have no obligation to the U.S. Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an instrument. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research awards.

N. HEALTH & HUMAN SERVICES PAYMENT MANAGEMENT SYSTEM (HHS PMS). 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 questions concerning payments should be addressed to the Albuquerque Service Center at (877) 372-7248.** Please ask for the Grants and Agreements Payments section. Any subsequent changes to banking information are made by through the HHS PMS. The HHS sub-account number(s) for this Agreement is/are:

HHS SUB-ACCOUNT	AMOUNT
G	\$
G	\$

O. OVERPAYMENT. Any funds paid to 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 to the U.S. 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 U.S. Forest Service may reduce the debt by:

1. Making an administrative offset against other requests for reimbursement.
2. Withholding advance payments otherwise due to .
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 U.S. Forest Service may charge interest on an overdue debt.

P. INSTRUMENT CLOSEOUT. shall close out the instrument within 90 days after expiration or notice of termination.

Any unobligated balance of cash advanced to must be immediately refunded to the U.S. Forest Service, including any interest earned in accordance with 7 CFR 3016.21, 7 CFR 3019.22, or other relevant law or regulation.

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 U.S. Forest Service by .

If this instrument is closed out without audit, the U.S. 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 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.

shall submit select from drop-down performance reports to the U.S. Forest Service Program Manager. These reports are due select from drop-down days after the reporting period. The final performance report shall be submitted either with



'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. 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. shall provide access and the right to examine all records related to this instrument to the U.S. 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.

shall provide access to any project site(s) to the U.S. 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 exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).

T. PUBLIC NOTICES. It is the U.S. Forest Service's policy to inform the public as fully as possible of its programs and activities. is/are 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:

" of the U.S. Forest Service, Department of Agriculture ."

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

U. PURCHASE OF EQUIPMENT. U.S. Forest Service funds may be used by to purchase equipment necessary to accomplish activities described in this agreement. The available funding is displayed in the financial plan. Title to the equipment rests with the U.S. Forest Service, but may be transferred to on completion of the project, if appropriate.



- V. FUNDING _____. Federal funding under this instrument is not available for reimbursement of _____'s purchase of _____. Equipment is defined as having a fair market value of \$5,000 or more per unit and a useful life of over one year. Supplies are those items that are not equipment.
- W. PROPERTY IMPROVEMENTS. Improvements placed on National Forest System land at the direction or with the approval of the U.S. Forest Service becomes property of the United States. These improvements are subject to the same regulations and administration of the U.S. Forest Service as would other National Forest improvements. No part of this instrument entitles _____ to any interest in the improvements, other than the right to use them under applicable U.S. Forest Service regulations.
- X. CONTRACT REQUIREMENTS. Any contract under this agreement must be awarded following _____'s established procurement procedures, to ensure free and open competition, and avoid any conflict of interest (or appearance of a conflict). _____ must maintain cost and price analysis documentation for potential U.S. Forest Service review. _____ is/are 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 U.S. 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.

- Y. GOVERNMENT-FURNISHED PROPERTY. _____ may only use U.S. Forest Service property furnished under this agreement for performing tasks assigned in this agreement. _____ shall not modify, cannibalize, or make alterations to U.S. Forest Service property. A separate document, Form AD-107, must be completed to document the loan of U.S. Forest Service property. The U.S. Forest Service shall retain title to all U.S. Forest Service-furnished property. Title to U.S. Forest Service property must not be affected by its incorporation into or attachment to any property not owned by the U.S. 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, _____ 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—
 - a. The risk is covered by insurance or _____ is/are otherwise reimbursed (to the extent of such insurance or reimbursement).



- b. The loss, damage, destruction, or theft is the result of willful misconduct or lack of good faith on the part of _____'s managerial personnel. _____'s managerial personnel, in this clause, means _____'s directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of _____'s business; all or substantially all of _____'s operation at any one plant or separate location; or a separate and complete major industrial operation.
2. _____ shall take all reasonable actions necessary to protect the Government property from further loss, damage, destruction, or theft. _____ 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. _____ 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, _____ 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.
- Z. OFFSETS, CLAIMS AND RIGHTS. Any and all activities entered into or approved by this agreement will create and support afforestation/ reforestation efforts within the National Forest System without generating carbon credits. The U.S. Forest Service does not make claims of permanence or any guarantees of carbon sequestration on lands reforested or afforested through partner assistance. The U.S. Forest Service will provide for long-term management of reforested and afforested lands, according to applicable Federal statute regulations and forest plans.
- AA. U.S. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS AND ELECTRONIC MEDIA. _____ shall acknowledge U.S. Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this instrument.
- BB. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. _____ 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."

CC. REMEDIES FOR COMPLIANCE RELATED ISSUES. If materially fail(s) to comply with any term of the instrument, whether stated in a Federal statute or regulation, an assurance, the agreement, or elsewhere, the U.S. Forest Service may take one or more of the following actions:

1. Temporarily withhold cash payments pending correction of the deficiency by or more severe enforcement action by the U.S. 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 _____'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.

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

1. When the U.S. Forest Service and _____ 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 _____ to the U.S. 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 U.S. Forest Service determines that the remaining portion of the instrument will not accomplish the purposes for which the instrument was made, the U.S. Forest Service may terminate the instrument in its entirety.

Upon termination of an instrument, _____ 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 U.S. Forest Service shall allow full credit to _____ for the United States Federal share of the non-cancelable obligations properly incurred by _____ up to the effective date of the termination. Excess funds must be refunded within 60 days after the effective date of termination.

EE. 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.

FF. DEBARMENT AND SUSPENSION. _____ shall immediately inform the U.S. 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 _____ or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the U.S. Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.

GG. INTERNATIONAL TRAVEL. When U.S. Forest Service funds are used, and no Federal, statutory exceptions apply, _____ 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).

HH. COPYRIGHTING. _____ is/are 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 U.S. Forest Service shall be copyrighted. The U.S. 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 _____ under this agreement.
- Any right of copyright to which _____ purchase(s) ownership with any federal contributions.

II. PUBLICATION SALE. _____ may sell any publication developed as a result of this agreement. The publication may be sold at fair market value, which is initially defined in this agreement to cover the costs of development, production, marketing,



and distribution. After the costs of development and production have been recovered, fair market value is defined in this agreement to cover the costs of marketing, printing, and distribution only. Fair market value must exclude any in-kind or federal government contributions from the total costs of the project.

JJ. 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 _____ days prior to implementation of the requested change. The U.S. Forest Service is not obligated to fund any changes not properly approved in advance.

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

LL. 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.

_____, _____ Date

_____, _____ Date
U.S. Forest Service,

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

_____, _____ 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 0596-0217. The time required to complete this information collection is estimated to average 4 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.