

**39 - Exhibit 10**

**AGREEMENT TO INITIATE**

U. S. DEPARTMENT OF AGRICULTURE      OMB No. 0596-0105  
Forest Service

5430 Exchanges

\_\_\_\_\_ NF

\_\_\_\_\_ (non-Federal party)

(exchange authority(ies))

(cite the statute and U.S.C)

(I) We, the \_\_\_\_\_ (non-Federal party's name and address) \_\_\_\_\_, Telephone: \_\_\_\_\_, hereinafter called the non-Federal party, and the Forest Service, U.S. Department of Agriculture, acting through their authorized representatives intend to exchange real property of equal value described in attached Exhibits A and B under the terms and conditions described in the exhibits. It is understood that the basis for value of the exchange properties shall be appraisals which have been approved by the Forest Service. This Agreement to Initiate authorizes each party to enter on lands of the other for such purposes as preparing land value appraisals, land line surveys, wildlife and wetland inventories, and other evaluations deemed necessary by the Forest Service to fully evaluate the effects and merits of the exchange proposal.

It is understood that upon approval of the decision, exchange values, terms and conditions by the appropriate Forest Service official, the parties may enter into an exchange agreement that shall be binding to both parties. It is understood that prior to the exchange agreement, or issuance of a patent or deed by the United States if no exchange agreement is executed, no action taken shall create or establish any contractual or other obligations against the non-Federal party or the United States. Either the non-Federal party or the Forest Service may withdraw from the exchange at any time prior to execution of the exchange agreement, or conveyance from the United States.

Pursuant to Section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), a payment may be required by either party to equalize exchange values. The non-Federal party may reserve such rights as are acceptable to the Forest Service. Any reservations shall be subject to the rules and regulations of the Secretary of Agriculture, where applicable, and such other conditions as may be agreed upon. The reservations and exceptions of the non-Federal party are listed in Exhibit A attached.

### **39 - Exhibit 10--Continued**

If this offer is approved and title accepted by the United States, the non-Federal party agrees to accept, in exchange, that National Forest System land described in Exhibit B attached, subject to the reservations and exceptions shown in Exhibit B attached. Title will be conveyed by Patent/Exchange Deed issued by the USDI-Bureau of Land Management/USDA-Forest Service.

It will be the non-Federal party's responsibility to furnish a good and sufficient title to the property free from objectionable encumbrances. The non-Federal party will convey title by general warranty deed when notified to do so. A policy of title insurance satisfactory to the Office of the General Counsel of the Department of Agriculture will be prepared at the expense of the non-Federal party.

The United States does not furnish title insurance for the property it conveys.

No authorization for compensation for costs assumed pursuant to the provision of 36 CFR 254.7 is provided.

The timeline for processing this proposal and the agreement on responsibility for costs on specific items (36 CFR 254.4(c)(6)) is provided for in Exhibit C (Implementation Schedule) and Exhibit D (Projected Costs and Allocation).

If the non-Federal party is assigned the responsibility of providing appraisals for the Federal and/or non-Federal properties in the Implementation Schedule, execution of this agreement requires the non-Federal party to instruct the Forest Service-approved fee appraiser to simultaneously submit all appraisals to the Forest Service and the non-Federal party. A copy of this Agreement to Initiate may be provided to the appraiser of record and serve as written authorization by the appraiser's client to provide a copy of all appraisals to the Forest Service.

Qualified tenants occupying the non-Federal lands affected by this proposal may be entitled to relocation benefits under 49 CFR 24.2. The non-Federal party agrees to formally notify the Forest Service of any tenants occupying the non-Federal land and provide the Forest Service documentation that the tenant has been notified of the proposed land exchange.

Unless otherwise provided by law or regulation (49 CFR 24.101(a)(1)), relocation benefits are not applicable to owner-occupants involved in exchanges with the United States provided the owner-occupants are notified in writing that the non-Federal lands are being acquired by the United States on a voluntary basis.

Therefore, this Agreement to Initiate serves as that notice and by signing the same, the owner-occupants agree that they are not entitled to relocation benefits.

**39 - Exhibit 10--Continued**

Each party to this agreement is responsible to provide the other documentation of the existence or non-existence of storage of hazardous substances stored on their respective lands for 1 year or more or disposed of or released on said lands. If evidence of hazardous substances are found, either party may refuse, without liability, to complete the exchange.

No member of Congress, or Resident Commissioner, shall be admitted to any share or part of this proposal or to any benefit that may arise therefrom unless it is made with a corporation for its general benefit (18 U.S.C. 431, 433).

The undersigned is a citizen of the United States or a corporation or other legal entity subject to the laws of the United States or a State thereof. The undersigned is also 21 years old or over and is the owner of the above described offered land or has a firm contract to acquire it.

Notification statement: Public availability of Property-Related Information. Any party who has signed below acknowledges receipt of this notification: All documents pertaining to both Federal and non-Federal lands necessary for the evaluation, processing, and consummation of a land adjustment transaction, including but not limited to appraisals, timber cruises, specialist reports, geology/mineral reports, title and other property information, are subject to public availability pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a).

However, it is the general intent of all parties that these land adjustment transaction documents will be considered “pre-decisional working papers” not subject to premature availability prior to the point which concludes evaluation of the proposal through the agency’s established, required process and policy.

\_\_\_\_\_  
Date

BY: \_\_\_\_\_  
Non-Federal Party

\_\_\_\_\_  
Date

BY: \_\_\_\_\_  
Authorized Officer  
U.S. Department of Agriculture  
Forest Service

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 0596-0105. The time required to complete this information collection is estimated to average 3 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.

**39 - Exhibit 10--Continued**

**EXHIBIT A**

Property that the Non-Federal Party will consider exchanging:

\* Principal Meridian, \* County, \* (State)

(insert non-Federal legal description)

Land reservations of the Non-Federal Party and exceptions to title:

Reservations:

Outstanding Rights:

### **EXHIBIT B**

Property that the U.S.D.A. Forest Service will consider exchanging:

\* Principal Meridian, \* County, \* (State)

(insert Federal legal description)

Land reservations of the U.S.D.A. Forest Service, exceptions to title and uses to be recognized:

Reservations:

1. Reserving to the United States a right-of-way thereon for ditches or canals constructed by the authority of the United States Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945). (note: applies to reserved Public Domain)

Outstanding Rights:

### **EXHIBIT C**

IMPLEMENTATION SCHEDULE  
(see sec. 39, ex. 02-06)

**39 - Exhibit 10--Continued**

**EXHIBIT D**

PROJECTED COSTS AND ALLOCATION

(Optional - use this exhibit when it is appropriate to display specific amounts to be contributed by either party towards common activities, such as appraisal costs being shared equally (50/50), or when there is a desire to demonstrate the proportional sharing overall by displaying total contributions by each party.

Activity	<u>Allocation of Costs</u>		Total
	Forest Service	Non-Federal	
1. Appraisal	\$	\$	\$
2. Survey	\$	\$	\$
3. Title Work & Curative actions	\$	\$	\$
4. Environmental Site Assessment	\$	\$	\$
5. Environmental Analysis (NEPA)	\$	\$	\$
6. Closing (Escrow, Recording)	\$	\$	\$
7.	\$	\$	\$
8.	\$	\$	\$

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Totals

Note: Allocation of costs must be linked to Exhibit C - Implementation Schedule and associated assignment of responsibilities. Activities may be broken out as needed to clarify agreement on cost sharing.

**39 - Exhibit 02**

**IMPLEMENTATION SCHEDULE**

**Land-for-Land Exchange**

Case Name: Action Item Feasibility Analysis (Items 1-8)	Responsible for Preparation	Responsible for Costs	Target Date
1. Exchange Proposal - Define the Estates	Non-Fed/FS		
2. Forest Plan Compliance Review/Public Benefits Summary	FS		
3. Obtain Title Insurance Commitment	Non-Fed/FS	Non-Fed Party	
4. Boundary Management Review	Forest Surveyor		
5. Federal Land Status Report	FS		
6. *Water Rights Analysis	Hydro/Appraiser		
7. Valuation Consultation	Appraiser		
8. Identify Party Responsible for Costs	Non-Fed/FS		
9. Draft ATI & Exhibits	FS		
10.**Oversight (FA and Draft ATI)	RO/WO		
11. Execute Agreement To Initiate (ATI)	Non-Fed/SO/RO		
12. *Request BLM Serialization/ Segregation	FS		
13. Prepare Notice of Publication/Posting	FS		
14. Notify County Commissioners, State Clearinghouse, Congressional Delegations, Tribal Governments, and other Agencies	FS		
15.**Submit Notice of Publication for 30-day Appropriation Committee Review	FS		
16. *Notify Permittees	FS		
17. 4-Week Publication Period, Including Wetlands and Floodplains Information	FS		
18. Initiate Public Scoping	FS		
19. *Request Land Survey (BLM/Forest Service)	FS		
20. *Request Withdrawal Revocation(s)	FS		
21. *Prepare Mineral Potential Report			
22. Complete Certificate of Possession	FS		
23. Obtain SHPO Concurrence	FS		

**39 - Exhibit 02--Continued**

Case Name:	Responsible		
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Action Item	for Preparation	Responsible for Costs	Target Date
24. Prepare TES Report/Consultation			
25. Prepare Wetlands/Floodplains Report			
26. Prepare Hazardous Substances Evaluation	Non-Fed/FS		
27. Analyze Effects on Cost Share Agreements	FS		
28. Request Appraisals	FS		
29. Finalize Appraisals	Appraiser		
30. Prepare Appropriate NEPA Documentation	FS		
31.*Request BLM Concurrence on Minerals	FS		
32. *NEPA Comment Period	FS		
33. Appraisal Reviews and Approvals	Appraiser		
34. Certificate of Use and Consent	FS		
35. Agreement on Values	Non-Fed/FS		
36. Finalize NEPA Document	FS		
37. Draft Decision Document	FS		
38. Draft Exchange Agreement (optional)	FS		
39.**Oversight (NEPA document and supporting documents, draft decision, appraisals and reviews, draft exchange agreement, and initial file material)	RO/WO		
40. Issue Decision	FS		
41. Publish Decision	FS		
42. Appeal Period	FS		
43.*** Certify Estate Consistency	FS		
44. Request Preliminary Title Opinion	FS		
45. Provide Preliminary Title Opinion	OGC		
46. Execute Exchange Agreement (optional)	Non-Fed/FS		
47. Prepare Form FS-5400-10 (Digest)	FS		
48. *Submit to WO for Congressional Oversight	FS		

**39 - Exhibit 02--Continued**

Case Name: Action Item	Responsible for Preparation	Responsible for Costs	Target Date
49. Record Exchange Agreement and Update Title Commitments (optional)	Non-Fed/FS		
50. *Prepare/Obtain Easements, Relinquishments for Special Use Permits	Non-Fed/FS		
51. Prepare Deed to Non-Federal Land; Patent Request/Exchange Deed to Federal Land	Non-Fed/FS		
52. Supplemental Certificate of Possession	FS		
53. *Execute Easements/Relinquishment	Non-Fed/FS		
54. Execute Deeds to Non-Federal Land	Non-Fed		
55. Deliver Deeds and/or Patent	FS		
56. Record Patent and All Deeds and/or Patent	NoN-Fed/FS		
57. File Water Rights Transfer/Use Documents	Non-Fed/FS		
58. Return Deeds to Non-Federal Land with Title Insurance Policy	Non-Fed Party		
59. Final Certificate of Use and Consent	FS		
60. Return Copies of Recorded Patent or Deeds to RO	FS		
61. Submit Final Form FS-5400-10 (Digest) to WO	FS		
62. Request Final Title Opinion	FS		
63. Provide Final Title Opinion	OGC		
64. Post Status and Close Case	FS		

\* If applicable/if needed.

\*\* Regional oversight applies to ALL cases. WO review required commensurate with WO designated value threshold.

\*\*\*Certify that the estate appraised is identical to the physical estate; estate noted in Decision Document, Exchange Agreement, and Deeds.