

FS Agreement No. 12-PA-11060200-004
Cooperator Agreement No. _____

**MASTER
PARTICIPATING AGREEMENT
Between
KLAMATH TRIBES
And The
USDA, FOREST SERVICE
PACIFIC NORTHWEST REGION
FREMONT-WINEMA NATIONAL FOREST**

This MASTER PARTICIPATING AGREEMENT is hereby made and entered into by and between Klamath Tribes, hereinafter referred to as "Tribes," and the USDA, Forest Service, Pacific Northwest Region, Fremont-Winema National Forest hereinafter referred to as the "U.S. Forest Service," under the authority: Cooperative Funds and Deposits Act of December 12, 1975, Pub. L. 94-148, 16 U.S.C. 565a1 - a3, as amended by the Consolidated Appropriations Act of 2008, Pub. L. 110-161, and the Omnibus Public Land Management Act, Pub. L. 111-11, Sec. 301.

Background: The above referenced authority authorizes the U.S. Forest Service to cooperate with a partner to accomplish projects benefiting U.S. Forest Service programs where the primary purpose is to provide a work environment for an existing manpower and job training and development program.

The Klamath Tribes are pursuing two interrelated goals: First, they are committed to protect, restore and enhance the health of the National Forest System (NFS) lands and natural resources on their ancestral lands in the Upper Klamath Basin. Their interest extends to the Fremont-Winema National Forest which includes over 1 million acres of their former reservation, and where the Tribes retain treaty resources and traditional rights to trap, hunt, fish and gather. Second, the Tribes are committed to engage in active stewardship and the development of forest-related enterprises that will create economic, employment, and career development opportunities for their tribal members.

These goals are being advanced through collaboration between the Tribes and the U.S. Forest Service. This partnership was initiated several years ago when they joined forces to obtain an American Recovery and Reinvestment Act grant to establish a locally based forest restoration work force. The grant was used to hire and train a crew of twenty formerly unemployed tribal members in a range of restoration and project management skills. As of March 15, 2011, the crew will have performed restoration work on over 1000 acres of public and private forest lands.

The Klamath Tribes and the U.S. Forest Service have a mutual interest in coordinating activities on the National Forest, mobilizing funds for resource restoration and workforce development from other public and private sources, sharing staff and staff expertise, providing resource management skills training and on-the-job experiences, expanding the range of training



opportunities through mentoring, and encouraging and supporting entry into new forestry careers by their younger tribal members.

The Klamath Tribes have several other previously established job training and development programs that will benefit from this agreement. These programs provide a public benefit by providing training and work experience for participants while at the same time performing valuable services on NFS lands.

Title: Klamath Tribes Work Experience Program

I. PURPOSE

The purpose of this agreement is to document the cooperation between the parties to benefit natural resources within the Fremont-Winema National Forest through manpower and job training and development opportunities. This agreement will focus on the creation of training experiences and the attainment of new skills through the accomplishment of project work opportunities with the Tribes in accordance with the following provisions and any incorporated Supplemental Project Agreement(s).

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 mission of the Klamath Tribes is to "protect, preserve, and enhance the spiritual, cultural, and physical values and resources of the Klamath, Modoc, and Yahooskin Peoples, by maintaining the customs and heritage of our ancestors. To establish a comprehensive unity by fostering the enhancement of spiritual and cultural values through a government whose function is to protect the human and cultural resources, treaty rights, and to provide for the development and delivery of social and economic opportunities for our People through effective leadership."

The overall mission of the U.S. Forest Service is "Caring for the Land and Serving People". The mission is to achieve quality land management under the multiple-use management concept to meet the diverse needs of people.

As represented by their individual mission statements, it is in the mutual interest of the Tribes and U.S. Forest Service to work cooperatively to benefit natural resources.

It is mutually beneficial for these entities to work together to motivate and enhance the skills and abilities of the workforce through diversified job training opportunities in natural resources that are of interest to the Tribes. The Tribes and the U.S. Forest Service can accomplish habitat restoration; promote positive land stewardship; and, build trust and understanding to cultivate a stronger working relationship.



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

III. THE TRIBES SHALL:

- A. LEGAL AUTHORITY. The TRIBES 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 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. The TRIBES 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-base advanced security training, and sign all applicable U.S. Forest Service statements of responsibilities.
- D. Nothing in this Master Participating Agreement is intended to modify or change federal law, or waive any rights or responsibilities pursuant thereto, as it applies to the TRIBES, through other more specific authority, such as the Klamath Treaty of 1864, the Indian Self Determination, Education and Assistance Act (P.L. 93-638) and/or other principles of federal Indian law, including but not limited to those set out in decisions of the courts of the United States, Executive Order 13175, and Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments.
- E. Provide training opportunities for TRIBAL employees. Work with the U.S. FOREST SERVICE to develop projects that meet the purpose of this agreement on NFS lands.
- F. Notify the U.S. FOREST SERVICE of accepted projects. Work with U.S. FOREST SERVICE to develop a detailed SPA and financial plan prior to commencement of the project.
- G. Utilize the TRIBES' personnel system to recruit, interview, employ and refer to the appropriate job locations.
- H. Pay the TRIBE employees that participate under this agreement a salary at a rate commensurate with other tribal employees as identified in the project financial plan.
- I. Replace any participant that does not satisfactorily perform his/her assigned duties, if possible with another employee to perform the duties or make other mutually satisfactory



arrangements.

- J. Complete the assigned U.S. FOREST SERVICE project work to the specifications and standards of the U.S. FOREST SERVICE.
- K. Avoid interruptions of U.S. FOREST SERVICE operations and delays of other projects and completion dates.
- L. TRIBES will provide personnel to fully supervise the job training and discipline of participants while working on NFS land projects.
- M. Designate an individual employed by the TRIBES to serve as a point of contact for the U.S. FOREST SERVICE.
- N. Provide and maintain work environments and procedures which will safeguard tribal trainees, the public and U.S. FOREST SERVICE personnel, property, materials, supplies, and equipment exposed to the operations and activities.
- O. Assure compliance with all applicable Federal and State safety laws and regulations and labor laws and regulations.
- P. Provide for all the basic needs of the participants while working on NFS land projects.
- Q. Provide transportation for participants and Crew Supervisors participating in the TRIBES program, relevant to this agreement.
- R. Provide, as needed, all tools, equipment, vehicles, and support services to ensure project objectives are met.
- S. Ensure participants have standard safety equipment, such as 8-inch high leather boots, hard hats, goggles, field clothing and gloves appropriate to the season and to the job to be performed as identified in the SPA.
- T. Accept U.S. FOREST SERVICE provided tools, materials, equipment and facilities on a loan basis only. All such items will be returned in the same condition as received, the exception being for normal wear and tear in conjunction with the training. Negligent acts by the participant, causing loss or damage to the items, will be the responsibility of the TRIBES.
- U. Bill the U.S. FOREST SERVICE for actual expenses. The amount to be billed shall not exceed the amount shown on the project financial plan attached to the SPA.

**IV. THE U.S. FOREST SERVICE SHALL:**

- A. Provide training opportunities for TRIBAL employees. Work with the TRIBES to develop projects that meet the purpose of this agreement on NFS lands.
- B. Notify the TRIBES of accepted projects. Work with TRIBES to develop a detailed SPA and financial plan prior to commencement of the project.
- C. Provide properly trained and qualified personnel on project work sites to provide technical guidance and project coordination. Ensure that the projects are completed safely and in accordance to the specifications and standards of the U.S. FOREST SERVICE as clearly defined in the SPA.
- D. Designate an individual employed by U.S. FOREST SERVICE to serve as a point of contact for the TRIBES.
- E. Provide and maintain work environments and procedures which will safeguard tribal trainees, the public and U.S. FOREST SERVICE personnel, property, materials, supplies, and equipment exposed to the operations and activities.
- F. Assure compliance with all applicable Federal and State safety laws and regulations and labor laws and regulations.
- G. Provide agreed upon government furnished tools, equipment, materials, and transportation as identified in each SPA.
- H. Report work accomplishments of the participants to the TRIBES in accordance with requirements of the agreement.
- I. Reimburse the TRIBES for actual costs upon receipt of an appropriate invoice. The amount to reimburse shall not exceed the amount shown on the project financial plan attached to the SPA.

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
Kathleen Mitchell PO Box 436 Chiloquin, OR 97624 Telephone: 541-783-2219 FAX: 541-783-2029 Email: kathleen.mitchell@klamathtribes.com	Kathy Rich PO Box 436 Chiloquin, OR 97624 Telephone: 541-783-2219 FAX: 541-783-2029 Email: kathy.rich@klamathtribes.com

Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
Mike Lawrence, District Ranger 38500 Highway 97 North Chiloquin, OR 97624 Telephone: 541-783-4001 FAX: 541-783-2134 Email: mlawrence@fs.fed.us	DeEtte Stofleth, Grants & Agreements 1301 South G St Lakeview, OR 97630 Telephone: 541-947-6283 FAX: 541-947-6242 Email: dmstofleth@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 U.S. 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 U.S. Forest Service or the Tribes 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 the Tribes, at the Tribes' 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 U.S. Forest Service or the Tribes from participating in similar activities with other public or private agencies, organizations, and individuals.
- G. ENDORSEMENT. Any of the Tribes's contributions made under this agreement do not by direct reference or implication convey U.S. Forest Service endorsement of the Tribes's products or activities.
- H. USE OF U.S. FOREST SERVICE INSIGNIA. In order for the Tribes 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.
- I. NON-FEDERAL STATUS FOR COOPERATOR PARTICIPANT LIABILITY. The Tribe 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 the Tribes hereby willingly agree(s) to assume these responsibilities.
- Further, the Tribes shall provide any necessary training to the Tribes employees, volunteers, and program participants to ensure that such personnel are capable of performing tasks to be completed. The Tribes 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. NONDISCRIMINATION. The TRIBES 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.
- L. ELIGIBLE WORKERS. The TRIBES 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 TRIBES 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.

M. STANDARDS FOR FINANCIAL MANAGEMENT.

1. Financial Reporting

The TRIBES 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 TRIBES 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 TRIBES shall maintain effective control over and accountability for all U.S. Forest Service funds, real property, and personal property assets. The TRIBES 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 TRIBES shall adequately safeguard all such property and shall ensure that it is used solely for authorized purposes.

4. Source Documentation

The TRIBES 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 Tribes 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 Tribes 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 the Tribes.
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.

- O. INSTRUMENT CLOSEOUT. The TRIBES shall close out the instrument within 90 days after expiration or notice of termination.

Any unobligated balance of cash advanced to the Tribes 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 the Tribes.

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.

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

- Q. RETENTION AND ACCESS REQUIREMENTS FOR RECORDS. The TRIBES 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 TRIBES 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.

The TRIBES 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.

- R. 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).
- S. PUBLIC NOTICES. It is the U.S. Forest Service's policy to inform the public as fully as possible of its programs and activities. The TRIBES are encouraged to give public notice of the receipt of this instrument and, from time to time, to announce progress and accomplishments.

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

- T. PURCHASE OF EQUIPMENT. U.S. Forest Service funds may be used by the Tribes 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 the Tribes on completion of the project, if appropriate.
- U. FUNDING EQUIPMENT. Federal funding under this instrument is not available for reimbursement of the Tribes's purchase of equipment and supplies. 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.
- V. PROPERTY IMPROVEMENTS. Improvements placed by the Tribes on NFS land at the direction or with the approval of the U.S. Forest Service becomes the property of the United States. These improvements are subject to the same regulations and administration of the U.S. Forest Service as other National Forest improvements. No



part of this instrument entitles the Tribes to any interest in the improvements, other than the right to use them under applicable U.S. Forest Service regulations.

- W. CONTRACT REQUIREMENTS. Any contract under this agreement must be awarded following the Tribes' established procurement procedures, to ensure free and open competition, and avoid any conflict of interest (or appearance of a conflict). The TRIBES must maintain cost and price analysis documentation for potential U.S. Forest Service review. The TRIBES 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

- X. GOVERNMENT-FURNISHED PROPERTY. The TRIBES may only use U.S. Forest Service property furnished under this agreement for performing tasks assigned in this agreement. The TRIBES 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, the Tribes 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 the Tribes 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 the Tribes' managerial personnel. The TRIBES's managerial personnel, in this clause, means the Tribes' directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of the Tribes' business; all or substantially all of the Tribes' operation at any one plant or separate location; or a separate and complete major industrial operation.
2. The TRIBES shall take all reasonable actions necessary to protect the Government property from further loss, damage, destruction, or theft. The TRIBES 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 TRIBES 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 Tribes 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.
- Y. 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.
- Z. U.S. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS AND ELECTRONIC MEDIA. The TRIBES shall acknowledge U.S. Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this instrument.
- AA. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. The TRIBES 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."

- BB. REMEDIES FOR COMPLIANCE RELATED ISSUES. If the Tribes 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 the the Tribes 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 the Tribes'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.

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

1. When the U.S. Forest Service and the Tribes 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 Tribes 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, the Tribes 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 the Tribes for the United States Federal share of the non-cancelable obligations properly incurred by the Tribes up to the effective date of the termination. Excess funds must be refunded within 60 days after the effective date of termination.

DD. 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.

EE. DEBARMENT AND SUSPENSION. The TRIBES 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 the Tribes 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.

- FF. COPYRIGHTING. The TRIBES 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. However, the cooperator shall not sell, or grant copyrights to a third-party designee who intends to sell the document as a profit making venture.

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 the Tribes under this agreement.
- Any right of copyright to which the Tribes purchase(s) ownership with any federal contributions.

- GG. PUBLICATION SALE. The TRIBES 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.

- HH. 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 U.S. Forest Service is not obligated to fund any changes not properly approved in advance.

- II. COMMENCEMENT/EXPIRATION DATE. This instrument is executed as of the date of the last signature and is effective through *December 31, 2016* at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.



JJ. 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.

Gary Frost 4-12-12
GARY FROST, Tribal Chairman Date
The Klamath Tribes

Fred L. Way 10 April 2012
FRED L. WAY, Forest Supervisor Date
U.S. Forest Service, Fremont-Winema NF

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

DeEtte M. Stofleth 2/9/2012
DEETTE M. STOFLETH (12-PA-11060200-004) 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.



FS Agreement No.

xx-PA-11060200-xxx

Cooperator Agreement No.

PARTICIPATING AGREEMENT SUPPLEMENTAL PROJECT AGREEMENT

To

MASTER PARTICIPATING AGREEMENT # 12-PA-11060200-004

BETWEEN

KLAMATH TRIBES

AND THE

USDA, FOREST SERVICE

FREMONT-WINEMA NATIONAL FOREST

This Supplemental Project Agreement (SPA) is hereby made and entered into by and between Klamath Tribes, hereinafter referred to as "Tribes," and the USDA, Forest Service, Fremont-Winema National Forest, hereinafter referred to as the "U.S. Forest Service," as specified under the provisions of Master Participating Agreement #12-PA-11060200-004.

I. GENERAL PROJECT DESCRIPTION

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

II. RESPONSIBILITIES:

A. The Tribes shall:

1.

B. The U.S. Forest Service shall:

1. **PAYMENT/REIMBURSEMENT.** The U.S. Forest Service shall reimburse the Tribes 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 the Tribes's monthly invoice. Each invoice from the Tribes shall display the total project costs for the billing period, separated by U.S. Forest Service and the Tribes's 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 Tribes'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. The Tribes'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:

3. AVAILABILITY OF FUNDS. U.S. Forest Service funds in the amount of \$xxx are currently available for performance of this agreement through (date). The U.S. Forest Service's obligation for performance of this agreement 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 agreement beyond (date) until funds are made available to the U.S. Forest Service for performance and until the Tribes receive(s) notice of availability to be confirmed in a written modification by the U.S. Forest Service.
4. PURCHASE OF EQUIPMENT. U.S. Forest Service funds may be used by the Tribes to purchase equipment necessary to accomplish activities described in this Supplemental Project 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 the Tribes on completion of the project, if appropriate.
5. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All cooperators, their employees, volunteers, and contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.



III. CONTACTS & TIME LIMITS:

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

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Kathleen Mitchell PO Box 436 Chiloquin, OR 97624 Telephone: 541-783-2219 FAX: 541-783-2029 Email: kathleen.mitchell@klamathtribes.com	Kathy Rich PO Box 436 Chiloquin, OR 97624 Telephone: 541-783-2219 FAX: 541-783-2029 Email: kathy.rich@klamathtribes.com

Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
Mike Lawrence, District Ranger 38500 Highway 97 North Chiloquin, OR 97624 Telephone: 541-783-4001 FAX: 541-783-2134 Email: mlawrence@fs.fed.us	DeEtte Stofleth, Grants & Agreements 1301 South G St Lakeview, OR 97630 Telephone: 541-947-6283 FAX: 541-947-6242 Email: dmstofleth@fs.fed.us

- B. COMMENCEMENT/EXPIRATION DATE. This agreement is executed as of the date of the last signature and is effective through (date) 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.
- D.

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 agreement. In witness whereof, the parties hereto have executed this agreement as of the last date written below.



GARY FROST, Tribal Chairman
The Klamath Tribes

Date

FRED L. WAY, Forest Supervisor
U.S. Forest Service, Fremont-Winema NF

Date

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

DEETTE M. STOFLETH (XX-PA-11060200-XXX)
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 0596-0217. 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.

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Attachment: EXHIBIT A

USFS Agreement No.: xx-PA-11060200-xxx
Cooperator Agreement No.:

Mod. No.:

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

Agreements Financial Plan (Short Form)

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

	FOREST SERVICE CONTRIBUTIONS		COOPERATOR CONTRIBUTIONS		(e) Total
	(a) Noncash	(b) Cash to Cooperator	(c) Noncash	(d) In-Kind	
COST ELEMENTS					
Direct Costs					
Salaries/Labor	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Travel	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Equipment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Supplies/Materials	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Printing	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other					\$0.00
Subtotal	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Coop Indirect Costs		\$0.00	\$0.00		\$0.00
FS Overhead Costs	\$0.00				\$0.00
Total	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Project Value:					\$0.00

Matching Costs Determination	
Total Forest Service Share = (a+b) ÷ (e) = (f)	(f) #DIV/0!
Total Cooperator Share (c+d) ÷ (e) = (g)	(g) #DIV/0!
Total (f+g) = (h)	(h) #DIV/0!

WORKSHEET FOR

FS Non-Cash Contribution Cost Analysis, Column (a)

Use this worksheet to perform the cost analysis that supports the lump sum figures provided in the matrix. NOTE: This worksheet auto populates the relevant and applicable matrix cells.

Cost element sections may be deleted or lines may be hidden, if not applicable. Line items may be added or deleted as needed. The Standard Calculation sections provide a standardized formula for determining a line item's cost, e.g. cost/day x # of days=total, where the total is calculated automatically. The Non-Standard Calculation sections provide a write-in area for line items that require a calculation formula that is other than the standardized formulas, e.g. instead of salaries being calculated by cost/day x # of days, costs may be calculated simply by a contracted value that is not dependent on days worked, such as 1 employee x \$1,200/contract= \$1,200. Be sure to review your calculations when entering in a Non-Standard Calculation, and provide a brief explanation of units used to make calculation, e.g. '1 month contract,' on a line below the figures.

Salaries/Labor				
Standard Calculation				
Job Description		Cost/Day	# of Days	Total
				\$0.00
Total Salaries/Labor				\$0.00

Travel				
Standard Calculation				
Travel Expense	Employees	Cost/Trip	# of Trips	Total
				\$0.00
Total Travel				\$0.00

Equipment				
Standard Calculation				
Piece of Equipment	# of Units	Cost/Day	# of Days	Total
				\$0.00
Total Equipment				\$0.00

Supplies/Materials				
Standard Calculation				
Supplies/Materials		# of Items	Cost/Item	Total
				\$0.00
Total Supplies/Materials				\$0.00

Printing				
Standard Calculation				
Paper Material		# of Units	Cost/Unit	Total
				\$0.00
Total Printing				\$0.00

Other Expenses				
Standard Calculation				
Item		# of Units	Cost/Unit	Total
				\$0.00
Total Other				\$0.00

Subtotal Direct Costs	\$0.00
------------------------------	---------------

Forest Service Overhead Costs				
Current Overhead Rate	Subtotal Direct Costs			Total
		\$0.00		\$0.00
Total FS Overhead Costs				\$0.00

TOTAL COST	\$0.00
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WORKSHEET FOR

FS Cash to the Cooperator Cost Analysis, Column (b)

Use this worksheet to perform the cost analysis that supports the lump sum figures provided in the matrix. NOTE: This worksheet auto populates the relevant and applicable matrix cells.

Cost element sections may be deleted or lines may be hidden, if not applicable. Line items may be added or deleted as needed. The Standard Calculation sections provide a standardized formula for determining a line item's cost, e.g. cost/day x # of days=total, where the total is calculated automatically. The Non-Standard Calculation sections provide a write-in area for line items that require a calculation formula that is other than the standardized formulas, e.g. instead of salaries being calculated by cost/day x # of days, costs may be calculated simply by a contracted value that is not dependent on days worked, such as 1 employee x \$1,200/contract= \$1,200. Be sure to review your calculations when entering in a Non-Standard Calculation, and provide a brief explanation of units used to make calculation, e.g. '1 month contract,' on a line below the figures.

Salaries/Labor				
Standard Calculation				
Job Description		Cost/Day	# of Days	Total
				\$0.00

Total Salaries/Labor	\$0.00
-----------------------------	---------------

Travel				
Standard Calculation				
Travel Expense	Employees	Cost/Trip	# of Trips	Total
				\$0.00

Total Travel	\$0.00
---------------------	---------------

Equipment				
Standard Calculation				
Piece of Equipment	# of Units	Cost/Day	# of Days	Total
				\$0.00

Total Equipment	\$0.00
------------------------	---------------

Supplies/Materials				
Standard Calculation				
Supplies/Materials		# of Items	Cost/Item	Total
				\$0.00

Total Supplies/Materials	\$0.00
---------------------------------	---------------

Printing				
Standard Calculation				
Paper Material		# of Units	Cost/Unit	Total
				\$0.00

Total Printing	\$0.00
-----------------------	---------------

Other Expenses				
Standard Calculation				
Item		# of Units	Cost/Unit	Total
				\$0.00

Total Other	\$0.00
--------------------	---------------

Subtotal Direct Costs	\$0.00
------------------------------	---------------

Cooperator Indirect Costs

Current Overhead Rate	Subtotal Direct Costs			Total
	\$0.00			\$0.00

Total Coop. Indirect Costs	\$0.00
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TOTAL COST	\$0.00
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WORKSHEET FOR

Cooperator Non-Cash Contribution Cost Analysis, Column (c)

Use this worksheet to perform the cost analysis that supports the lump sum figures provided in the matrix.
 NOTE: This worksheet auto populates the relevant and applicable matrix cells.

Cost element sections may be deleted or lines may be hidden, if not applicable. Line items may be added or deleted as needed. The Standard Calculation sections provide a standardized formula for determining a line item's cost, e.g. cost/day x # of days=total, where the total is calculated automatically. The Non-Standard Calculation sections provide a write-in area for line items that require a calculation formula that is other than the standardized formulas, e.g. instead of salaries being calculated by cost/day x # of days, costs may be calculated simply by a contracted value that is not dependent on days worked, such as 1 employee x \$1,200/contract= \$1,200. Be sure to review your calculations when entering in a Non-Standard Calculation, and provide a brief explanation of units used to make calculation, e.g. '1 month contract,' on a line below the figures.

Salaries/Labor				
Standard Calculation				
Job Description		Cost/Day	# of Days	Total
				\$0.00
Total Salaries/Labor				\$0.00

Travel				
Standard Calculation				
Travel Expense	Employees	Cost/Trip	# of Trips	Total
				\$0.00
Total Travel				\$0.00

Equipment				
Standard Calculation				
Piece of Equipment	# of Units	Cost/Day	# of Days	Total
				\$0.00
Total Equipment				\$0.00

Supplies/Materials				
Standard Calculation				
Supplies/Materials		# of Items	Cost/Item	Total
				\$0.00
Total Supplies/Materials				\$0.00

Printing				
Standard Calculation				
Paper Material		# of Units	Cost/Unit	Total
				\$0.00
Total Printing				\$0.00

Other Expenses				
Standard Calculation				
Item		# of Units	Cost/Unit	Total
				\$0.00
Total Other				\$0.00

Subtotal Direct Costs	\$0.00
------------------------------	---------------

Cooperator Indirect Costs				
Current Overhead Rate	Subtotal Direct Costs			Total
	\$0.00			\$0.00
Total Coop. Indirect Costs				\$0.00

TOTAL COST	\$0.00
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WORKSHEET FOR

Cooperator In-Kind Contribution Cost Analysis, Column (d)

Use this worksheet to perform the cost analysis that supports the lump sum figures provided in the matrix.
 NOTE: This worksheet auto populates the relevant and applicable matrix cells.

Cost element sections may be deleted or lines may be hidden, if not applicable. Line items may be added or deleted as needed. The Standard Calculation sections provide a standardized formula for determining a line item's cost, e.g. cost/day x # of days=total, where the total is calculated automatically. The Non-Standard Calculation sections provide a write-in area for line items that require a calculation formula that is other than the standardized formulas, e.g. instead of salaries being calculated by cost/day x # of days, costs may be calculated simply by a contracted value that is not dependent on days worked, such as 1 employee x \$1,200/contract= \$1,200. Be sure to review your calculations when entering in a Non-Standard Calculation, and provide a brief explanation of units used to make calculation, e.g. '1 month contract,' on a line below the figures.

Salaries/Labor

Standard Calculation

Job Description	Cost/Day	# of Days	Total
			\$0.00

Total Salaries/Labor	\$0.00
-----------------------------	---------------

Travel

Standard Calculation

Travel Expense	Employees	Cost/Trip	# of Trips	Total
				\$0.00

Total Travel	\$0.00
---------------------	---------------

Equipment

Standard Calculation

Piece of Equipment	# of Units	Cost/Day	# of Days	Total
				\$0.00

Total Equipment	\$0.00
------------------------	---------------

Supplies/Materials

Standard Calculation

Supplies/Materials	# of Items	Cost/Item	Total
			\$0.00

Total Supplies/Materials	\$0.00
---------------------------------	---------------

Printing

Standard Calculation

Paper Material	# of Units	Cost/Unit	Total
			\$0.00

Total Printing	\$0.00
-----------------------	---------------

Other Expenses

Standard Calculation

Item	# of Units	Cost/Unit	Total
			\$0.00

Total Other	\$0.00
--------------------	---------------

Subtotal Direct Costs

\$0.00

TOTAL COST

\$0.00