



Earl Ray Tomblin
Governor

Charles R. Dye
Director/State Forester

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September 3, 2013

Joint Committee on Government and Finance

President Kessler and Speaker Miley,

As required by the following state code, I respectfully submit this report of activities relating to Stewardship Contracting:

State Code 19-1A-4(b)(4) Enter into stewardship end-result contract projects with the United States Forest Service by written agreement or contract and submit an annual report to the Joint Committee on Government and Finance, no later than the first day of October each year, specifying the locations of projects, the amount of funding received, number of contracts and the purpose of each contract.

In accordance with the above code, the WV Division of Forestry has entered into a Master Stewardship Agreement, 12-SA-11092100-016, with the USFS, Monongahela National Forest. (see attached)

The Division of Forestry is presently reviewing the "Stewardship Agreement Supplemental Project Agreement", 12-SA-11092100-029, presented to us for consideration and execution. Therefore, no specific project information can be reported as required.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Randy Dye".

C. Randy Dye
Director/State Forester

Attachment

cc: Keith Burdette
Josh Jarrell
Greg Cook

FS Agreement No. 12-SA-11092100-016
Cooperator Agreement No. _____

**MASTER
STEWARDSHIP AGREEMENT
Between The
WEST VIRGINIA DIVISION OF FORESTRY
And the
USDA FOREST SERVICE, MONONGAHELA NATIONAL FOREST**

This Master Stewardship Agreement is hereby made and entered into by and between the West Virginia Division of Forestry, hereinafter referred to as "WVD OF," and the USDA Forest Service, Monongahela National Forest (MNF), hereinafter referred to as the "U.S. Forest Service," under the provisions of the Consolidated Appropriations Resolution, 2003, Public Law 108-7, sec 323, amending Public Law 105-277, sec. 347 (Stewardship Authority).

Background: In 2003 Congress authorized the U.S. Forest Service and the Bureau of Land Management to enter into stewardship contracts and agreements "to achieve land management goals for the national forests that meet local and rural community needs." The primary focus of this legislation is to achieve land management goals through stewardship projects awarded under contracts or agreements. Unique to the legislation is the ability to exchange goods for services that meet the land management objectives.

The area addressed in this Master Stewardship Agreement is known as the Monongahela National Forest and lies within the borders of the State of West Virginia. This area includes an un-estimated number of acres to be treated during the term of this Master Stewardship Agreement.

The U.S. Forest Service and WVD OF currently have an existing Memorandum of Understanding (MOU) stating that all parties will work together to benefit forest resources on National Forest System lands in West Virginia. This Master Stewardship Agreement will be used in support of the MOU.

Natural resource management, protection, and restoration have long been a core mission of both the WVD OF and the U.S. Forest Service. These mutual interests have resulted in many beneficial projects to improve and promote forest health, maintain favorable condition of aquatic and terrestrial habitats, and sustain the biota that are supported by these systems. In keeping with this tradition, additional benefits can be achieved using Stewardship Authorities and this Master Stewardship Agreement (SA) as the principle tool to address identified forest needs.

The intent of this Master Stewardship Agreement is to accomplish resource management that will contribute toward the overall health, productivity, and sustainability of forest ecosystems and resources. This Agreement, and subsequent Supplemental Project Agreements, will focus on restoration efforts Forestwide. The Master Stewardship Agreement provides a framework for cooperative management activities necessary to restore and enhance forest resources on landscapes within the Monongahela National Forest and achieve land management goals identified in the 2006 Forest Plan (updated in 2011).

A wide range of restoration activities would be targeted under this Master Stewardship Agreement including but not limited to:

- Road and trail maintenance or obliteration to restore or maintain water quality.
 - Road closures, installation of gates.
 - Road decommissioning.
 - Culvert replacement - aquatic and terrestrial organism passage.
- Soil productivity, habitat for wildlife and fisheries, or other resource values.
- Prescribed fire to improve the composition, structure, condition and health of stands or to improve wildlife habitat.
- Removing vegetation or other activities to promote healthy forest stands, reduce fire hazards, or achieve other land management objectives.
 - Disposal of timber and forest products.
 - Commercial thinning.
 - Midstory reduction.
 - Tree planting.
- Watershed restoration and maintenance.
- Restoration and maintenance of wildlife and fish habitat; and
- Control of noxious and exotic weeds and reestablishing native plant species.

Under this formal agreement the WVDOF and U.S. Forest Service will collaboratively identify and select stewardship projects to complete under this Master Agreement that meet WVDOF criteria and support the Monongahela Forest Plan, ensuring that the work accomplished advances the missions of both the Forest Service and WVDOF. These projects and their specifics will be identified in subsequent Supplemental Project Agreements (SPAs) under this Master Agreement.

I. PURPOSE:

The purpose of this Master Stewardship Agreement is to document the cooperative effort between the parties for landscape restoration activities within the Monongahela National Forest in accordance with the following provisions and the hereby incorporated Template for Stewardship Supplemental Project Agreement (SPA), attached as Exhibit A.

II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

The U.S. Forest Service is a land management agency dedicated to the wise use and management of National Forest System (NFS) lands, including the responsibility for maintaining and improving resource conditions.

The U.S. Forest Service benefits from this agreement include:

- Focusing on the “end result “ecosystem benefits and outcomes, rather than merely on what’s removed from the land.

- Fostering positive partnership work with a counterpart agency sharing a similar mission of forest management.
- Achieving land management goals identified in the Forest Plan.
- Contributing to the sustainability of rural communities by providing a continuing source of local income and employment.
- Improving, maintaining, and protecting ecosystem conditions through collaborative administration and/or implementation of projects.
- Expanding the Forest's capacity to perform critical work required to implement restoration efforts affecting water quality, soil productivity, and aquatic and terrestrial wildlife.
- Increasing operational and financial effectiveness and efficiency through coordination of efforts, services, and products.
- Providing for the use of multiyear and multiple-year agreements (up to 10 years) and the bundling of goods and services.
- Providing the U.S. Forest Service the ability to use highly skilled WVDOF employees without a commitment to expanding a long-term permanent workforce.

The WVDOF acts as the lead agency within the State to protect, nurture, promote utilization, and sustain the State's forest resources. Many other organizations are also involved in this same regard, but all consider the WVDOF to be the core of the forest community that provides leadership and direction. Program areas include fire protection and investigation, water quality related to timber harvest, state timberland management, cooperative forest management, and urban and community forestry.

The WVDOF benefits from this agreement include:

- Furthering the WVDOF mission to protect, nurture, promote utilization, and sustain the State's forest resources.
- Improving, maintaining, and protecting ecosystem conditions in West Virginia through collaborative administration and/or implementation of Stewardship Projects.
- Contributing to the sustainability of rural communities and providing a continuing source of local income and employment through the re-sale of timber products, the development of limited-market opportunities in local areas, and administration of service projects/contracts.
- Fostering positive partnership work with a counterpart agency sharing a similar mission of forest management.
- Allowing WVDOF to collaborate on efforts within the Monongahela National Forest that have positive direct and indirect effects to adjacent private lands and lands throughout West Virginia. For example, removing vegetation or other activities to promote healthy forest stands, reduce fire hazards, or achieve other land management objectives on National Forest System lands can reduce the potential for catastrophic fire, insect epidemics, or spread of non-native invasive species on private lands.
- Maintaining and restoring desirable forest conditions, thus promoting the sustainability of dependent wildlife and fish species within the Monongahela National Forest and throughout the West Virginia with consequent economic benefits to local communities and the citizens of West Virginia.

- Providing an expansion of WVDOF's current capacity to perform critical work required to implement restoration efforts affecting water quality, fire protection, and forest management.
- Increasing operational effectiveness and efficiency through coordination of efforts, services, and products.
- Allowing more strategic and efficient use of personnel and resources through multiyear and multiple-year agreements (up to 10 years) and the bundling of goods and services.
- Providing WVDOF the ability to develop and deliver a highly skilled workforce in partnership with the U.S. Forest Service to complete critical work in various aspects of forest management on National Forest System Lands.
- Providing WVDOF employees with a diverse working experience and career development.

The U.S. Forest Service and the WVDOF share a mandate to promote forest management that sustains forest ecosystems, restores improves land health and water quality, and wildlife habitat diversity while creating additional local and rural employment opportunities through projects that meet these goals. Both parties contribute significant resources to accomplish project level work on land under U.S. Forest Service jurisdiction and on broader landscape level efforts. Both the Forest Service and the WVDOF agree to leverage their respective resources to complete stewardship projects that contribute to accomplishment of their individual missions.

This Master Stewardship Agreement will provide an opportunity for the parties to seek funding to expand partnership opportunities, and to garner new and additional support from partners, including but not limited to the timber industry, federal and non-federal entities, tribal entities, and WVDOF's members and volunteers. Mission accomplishment for both parties will be furthered by the restoration of natural resources across the landscape.

All projects conceived under this Master Stewardship Agreement will undergo a collaborative process to determine specific habitat improvements. The collaborative process will ensure that the benefits of undertaking restoration activities are mutually beneficial to WVDOF and the U.S. Forest Service as well as being beneficial to a wide diversity of interests involved in collaboration.

Both parties share an interest in improving the ecosystem condition and function of the landscape. A healthy landscape provides a variety of benefits beyond the needs of a single species, and therefore benefits both parties.

It is therefore mutually beneficial for the parties to work together to implement landscape restoration and enhancement projects.

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

III. THE PARTNER SHALL:

- A. LEGAL AUTHORITY. WVDOF shall have the legal authority to enter into this Master Stewardship 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. Make available staff from appropriate program areas to participate in the implementation of this Stewardship Agreement.
- C. Maintain open and transparent accounting of any proceeds received from the included timber or other goods and costs of service work performed. WVDOF shall make these accounts available for U.S. Forest Service review.
- D. Participate in the development, prioritization and execution of agreed-upon work items, including Optional/Elective items, identified in Supplemental Project Agreements.
- E. Collaboratively develop and provide an annual progress report for all SPA activities conducted under this Agreement. Annual report is due October 1st of each year. The proper use and management of stewardship agreement receipts must be reported as a normal part of this annual report.
- F. Since there is a mutual benefit to the parties, WVDOF shall not make a profit on this Stewardship Agreement. If the value of the included goods (timber) exceeds the costs of mandatory service work items, the funds will be used for additional (Optional) service work or paid back to the Forest Service as excess receipts.
- G. When residual receipts are generated by one project, they may be used for additional services on the same project or retained for other stewardship projects. WVDOF shall report availability of residual receipts and collaborate with the U.S. Forest Service in identifying Optional work items.
- H. WVDOF shall not assume liability for any third party claims for damages arising out of this Master Stewardship Agreement.
- I. Make records available to the public to the extent allowable under the West Virginia Freedom of Information Act, W.Va. Code 29B-1-1 et seq..

IV. THE U.S. FOREST SERVICE SHALL:

- A. Have the Regional Forester or authorized designee approve all stewardship project proposals.
- B. Complete all necessary National Environmental Policy Act (NEPA) requirements.
- C. Inform WVDOF of any changes in stewardship policy, law and regulations.
- D. Recognize WVDOF's contribution, in a manner acceptable to both parties, in news releases, interpretive signs, photographs, or other media as appropriate.

- E. Provide leadership, as agreed to on a project-by-project basis, for planning, decisions, development, implementation, and monitoring of proposals or projects developed subsequent to this agreement.
- F. Participate in the development and execution of agreed-upon projects or monitoring approved by all parties to this Stewardship Agreement.
- G. Conduct annual performance reviews and provide information for annual reporting.
- H. The U.S. Forest Service shall pay for direct costs and reasonable administrative costs incurred by WVDOF in the implementation of any SPA under this Master Agreement.
- I. The U.S. Forest Service may award Elective/Optional work items if the re-sale value of the included goods on any SPA implemented under this Master Agreement exceeds the costs of mandatory service work items. In cases where WVDOF is able to show, as provided in Section III. B., reduced values for the included goods due to timber market conditions at the time of re-sale, the U.S. Forest Service may collaborate with WVDOF on adjustments to mandatory service items.

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

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

Principal U.S. Forest Service Contacts:

U.S. Forest Service Stewardship Coordinator	U.S. Forest Service Grants & Agreements Contact
Dan Arling Forest Wildlife Biologist Monongahela National Forest 200 Sycamore Street Elkins, WV 26241 Phone: (304) 636-1800, Ext. 202 FAX: (304) 636-1875 Email: darling@fs.fed.us	Anne Workman Grant and Agreements Specialist Monongahela National Forest P.O. Box 210 Marlinton, WV 24954 Phone: (304) 799-4334, Ext. 13 FAX: (304) 799-6820 Email: anworkman@fs.fed.us

Principal Partner Contacts:

Partner Stewardship Coordinator	Partner Administrative Contact
Greg Cook Deputy State Forester West Virginia Division of Forestry 1900 Kanawha Blvd. East Charleston, WV 25305	Andy Roller Grants Manager West Virginia Division of Forestry 1900 Kanawha Blvd. East Charleston, WV 25305

Phone: 304-558-2788 FAX: 304-558-0143 E-Mail: greg.w.cook@wv.gov	Phone: 304-558-2788 (51767) FAX: E-Mail: Andy.m.roller@wv.gov
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- B. **AVAILABILITY FOR CONSULTATION.** Both parties will make themselves available at mutually agreeable times, for continuing consultation to discuss the conditions covered by this Master Stewardship Agreement and agree to actions essential to fulfill its purposes.
- C. **ANNUAL MEETING.** At a minimum, the parties will meet annually to discuss potential stewardship projects and jointly review the active stewardship project proposal list.
- D. **SUPPLEMENTAL PROJECT AGREEMENTS.** Nothing in this Master Stewardship Agreement obligates either party to offer or accept any project proposals under this Master Stewardship Agreement. Any projects added to this Master Stewardship Agreement shall be by mutual consent of the parties through a specific SPA. At a minimum, an SPA shall:
1. Include language stating that the SPA will be made a part of this Master Stewardship Agreement thereby subjecting it to the terms of this Master Stewardship Agreement.
 2. Include a map and description of the project area, treatment activities and corresponding treated acres, and other activities which may include other resource related projects.
 3. Specify a method of designating trees for removal.
 4. Describe the desired end result of the project(s).
 5. Specify the exchange of goods for services. The U.S. Forest Service may apply the value of timber or other forest products removed as an offset against the cost of services received by WVDOT.
 6. Designate a U.S. Forest Service and WVDOT official to monitor their respective responsibilities outlined in the SPA.
 7. Include a Financial Plan to identify each parties contributions for projects identified in the SPA.
 8. Identify appropriate bonding requirements.
 9. Include any necessary forest restrictions and closure dates to allow WVDOT to implement and complete the project(s) within the specified timeframes.
 10. Provide necessary direction to WVDOT to ensure compliance with appropriate laws and regulations to fulfill the terms of the SPA.
 11. Identify any reporting requirements.
 12. Be reviewed and approved by a delegated timber contracting officer when forest products will be disposed.
 13. Be reviewed and approved by a U.S. Forest Service Grants & Agreements Specialist.
 14. Be mutually agreed to, in writing, by both parties and executed by the designated Forest Supervisor.
- E. **PERFORMANCE.** The parties will perform in accordance with the approved SPAs.

- F. EXCHANGE OF GOODS FOR SERVICES. SPA(s) may be completed where U.S. Forest Service goods are exchanged for WVDOP's services; U.S. Forest Service funds are exchanged for WVDOP's services; or a combination thereof.
- G. TECHNICAL AND COST EVALUATION. Best approach determination is the evaluation method used by the U.S. Forest Service to approve stewardship agreement technical proposals. Such consideration shall primarily consider criteria other than cost. These non-price criteria include, but are not limited to:
1. The extent of mutual interest and benefit.
 2. The advantages and effectiveness of mutual participation.
 3. Joint expertise.
 4. Past performance.
 5. Technical approach
 6. Factors relevant to cost such as volunteer participation, contribution from other parties, cost sharing, etc.
 7. Ability to utilize, educate and/or train a local workforce.
 8. Benefits to the local community
 9. Ability to complete work in a timely manner.
 10. Experience in performing similar work.
 11. Ability to conduct work in an environmentally sound manner.
- H. METHODS OF APPRAISAL: The value of timber and other forest products shall be determined using U.S. Forest Service standard guidelines, methods and techniques.
- I. NONLIABILITY. U.S. Forest Service does not assume liability for any third party claims for damages arising out of this Master Stewardship Agreement.
- J. NOTICES. Any notice given by the U.S. Forest Service or WVDOP will be 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 this Master Stewardship Agreement.
- To WVDOP, at WVDOP's address shown in this Master Stewardship Agreement or such other address designated within this Master Stewardship Agreement.
- Notices will be effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.
- K. PARTICIPATION IN SIMILAR ACTIVITIES. This Master Stewardship Agreement in no way restricts the U.S. Forest Service or WVDOP from participating in similar activities with other public or private agencies, organizations, and individuals.
- L. ENDORSEMENT. Any of WVDOP's contributions made under this Master Stewardship

Agreement do not by direct reference or implication convey U.S. Forest Service endorsement of WVDOP's products or activities.

- M. USE OF U.S. FOREST SERVICE INSIGNIA. In order for WVDOP to use the U.S. Forest Service insignia on any published media, such as a webpage, 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.
- N. NON-FEDERAL STATUS FOR PARTNER PARTICIPANT LIABILITY. WVDOP agree(s) that any of WVDOP's 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 WVDOP hereby willingly agree(s) to assume these responsibilities.

Further, WVDOP shall provide any necessary training to WVDOP's employees, volunteers, and program participants to ensure that such personnel are capable of performing tasks to be completed. WVDOP shall also supervise and direct the work of its employees, volunteers, and participants performing under this Master Stewardship Agreement.

- O. 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 Master Stewardship Master Stewardship Agreement, or benefits that may arise therefrom, either directly or indirectly.
- P. DRUG-FREE WORKPLACE.

1. WVDOP agree(s) that it will publish a drug-free workplace statement and provide a copy to each employee who will be engaged in the performance of any project/program that receives federal funding. The statement must
 - a. Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;
 - b. Specify the actions WVDOP will take against employees for violating that prohibition; and
 - c. Let each employee know that, as a condition of employment under any award, he or she
 - (1) Must abide by the terms of the statement, and
 - (2) Must notify you in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace, and must do so no more than five calendar days after the conviction.

2. WVDOF agree(s) that it will establish an ongoing drug-free awareness program to inform employees about
 - a. The dangers of drug abuse in the workplace;
 - b. Your policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation and employee assistance programs; and
 - d. The penalties that you may impose upon them for drug abuse violations occurring in the workplace.
3. Without the Program Manager's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this Master Stewardship, or the completion date of this Master Stewardship Agreement, whichever occurs first.
4. WVDOF agree(s) to immediately notify the Program Manager if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the SPA number of each project which the employee worked. The notification must be sent to the Program Manager within ten calendar days after WVDOF learn(s) of the conviction.
5. Within 30 calendar days of learning about an employee's conviction, WVDOF must either
 - a. Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or
 - b. Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

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

R. ELIGIBLE WORKERS. WVDOF 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). WVDOF shall comply with regulations regarding certification and

retention of the completed forms. These requirements also apply to any contract or supplemental agreement awarded under this Master Stewardship Agreement.

S. STANDARDS FOR FINANCIAL MANAGEMENT.

1. Financial Reporting

WVDOF 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

WVDOF 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

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

4. Payments

Payment is typically made by reimbursement; advances may be used on a case-by-case basis and the need shall be documented. Do not use retained receipts for advance payment(s). An authority to allow advance payments will be added to the SPA. When applicable, WVDOF shall establish and maintain specific procedures to minimize the time elapsing between the advance of federal funds and their subsequent disbursement. Any advance requested by WVDOF must be expended within 30 days of receipt.

5. Source Documentation

WVDOF 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.

T. AGREEMENT CLOSEOUT. WVDOF shall close out any SPAs executed under this Master Stewardship Agreement within 90 days after the expiration date or notice of termination.

Any unobligated balance of cash advanced to WVDOF shall be immediately refunded

to the U.S. Forest Service, including any interest earned.

Within a maximum of 90 days following the date of expiration or termination of a SPA, all financial performance and related reports required by the terms of the Master Stewardship Agreement shall be submitted to the U.S. Forest Service by WVDOF.

If this Master Stewardship Agreement 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.

U. PROGRAM PERFORMANCE REPORTS. WVDOF shall monitor the performance of SPA activities to ensure that performance goals are being achieved.

Performance reports shall contain information on the following:

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

- 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.

WVDOF shall submit annual performance reports. These reports are due 30 days after the reporting period. The final performance report shall be submitted either with WVDOF's final payment request, or separately, but not later than 90 days from the expiration date of any SPAs.

V. RETENTION AND ACCESS REQUIREMENTS FOR RECORDS. WVDOF shall retain all records pertinent to this Master Stewardship Agreement for a period of no less than three 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. WVDOF shall provide access and the right to examine all records related to this Master Stewardship Agreement 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 shall 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 United States Federal funds shall be retained for three years after its final disposition.

WVDOF 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.

- W. FREEDOM OF INFORMATION ACT (FOIA). Public access to Master Stewardship Agreement records shall 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).
- X. 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.
- Y. PUBLIC NOTICES. It is U.S. Forest Service's policy to inform the public as fully as possible of its programs and activities. WVDOP is/are encouraged to give public notice of the receipt of this award/Master Stewardship Agreement and, from time to time, to announce progress and accomplishments. Press releases or other public notices should be reviewed by the Public Affairs Officer on the Monongahela National Forest: Kate Goodrich-Arling, 200 Sycamore Street, Elkins, WV 26241, phone: (304) 636-1800 Ext.220.
- WVDOP may call on U.S. Forest Service's Office of Communication for advice regarding public notices. WVDOP is requested to provide copies of notices or announcements to the U.S. Forest Service Program Manager and to U.S. Forest Service's Office Communications as far in advance of release as possible.
- Z. FUNDING EQUIPMENT. Federal funding under this Master Stewardship Agreement is not available for reimbursement of WVDOP's purchase of equipment. Equipment is defined as having a fair market value of over \$5,000 per unit and a useful life of over one year.
- AA. PROPERTY IMPROVEMENTS. Improvements placed on National Forest System land at the direction of any of the parties, shall thereupon become property of the United States. These improvements shall be subject to the same regulations and administration of the U.S. Forest Service as would other National Forest improvements of a similar nature. No part of this Master Stewardship Agreement shall entitle WVDOP to any share or interest in the improvements, other than the right to use and enjoy the same under the existing regulations of the U.S. Forest Service.
- BB. CONTRACT REQUIREMENTS. If WVDOP issue(s) a contract, it shall be awarded on a competitive basis. Additionally, federal wage provisions (Davis-Bacon or Service Contract

Act) are applicable to any contract developed and awarded under this Master Stewardship Agreement 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

- CC. GOVERNMENT-FURNISHED PROPERTY. WVDOF may only use U.S. Forest Service property furnished under this Master Stewardship Agreement for performing tasks assigned in this Master Stewardship Agreement. WVDOF shall not modify, cannibalize, or make alterations to U.S. Forest Service property. A separate document, Form AD-107, shall 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 shall not be affected by its incorporation into or attachment to any property not owned by the U.S. Forest Service, nor shall the property become a fixture or lose its identity as personal property by being attached to any real property.

Partner Liability for Government Property.

1. Unless otherwise provided for in the Master Stewardship Agreement, WVDOF 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 WVDOF is 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 WVDOF's managerial personnel. WVDOF's managerial personnel, in this clause, means WVDOF's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of WVDOF's business; all or substantially all of WVDOF's operation at any one plant or separate location; or a separate and complete major industrial operation.
 2. WVDOF shall take all reasonable actions necessary to protect the Government property from further loss, damage, destruction, or theft. WVDOF 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. WVDOF 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, WVDOF shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation, including the prosecution of suit and the execution of Master Stewardship Agreements of assignment in favor of the Government in obtaining recovery.
- DD. OFFSETS, CLAIMS and RIGHTS. Any and all activities entered into or approved by this Master Stewardship 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 WVDOF's 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.

EE. U.S. FOREST SERVICE ACKNOWLEDGED IN PUBLICATION AND

AUDIOVISUALS. WVDOF shall acknowledge U.S. Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this Master Stewardship Agreement.

FF. REMEDIES FOR COMPLIANCE RELATED ISSUES. If WVDOF materially fail(s) to comply with any term of the Master Stewardship Agreement, whether stated in a Federal statute or regulation, an assurance, the Master Stewardship 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 WVDOF 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 Master Stewardship Agreement for WVDOF'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.

GG. TERMINATION BY MUTUAL AGREEMENT. This Master Stewardship Agreement may be terminated, in whole or part, as follows:

- When the U.S. Forest Service and WVDOF agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
- By 30 days written notification by WVDOF 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 the U.S. Forest Service decides that the remaining portion of the Master Stewardship Agreement must not accomplish the purpose for which the Master Stewardship Agreement was made, the U.S. Forest Service may terminate the award upon 30 days written notice.

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

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

- HH. ALTERNATE DISPUTE RESOLUTION – PARTNERSHIP AGREEMENT. In the event of any issue of controversy under this Master Stewardship 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.
- II. DEBARMENT AND SUSPENSION. WVDOF 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 WVDOF 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.
- JJ. When WVDOF is seeking bids for product removal and/or stewardship items, both parties agree that the product rates and stewardship item costs used at the approval of the SPA may be based upon tentative value and planned costs. Both parties agree to establish actual rates for both product and stewardship items prior to commencement of operations. WVDOF will notify the U.S. Forest Service in writing 45 days in advance to request appraisal prior to seeking formal bids. Both parties agree to modify the SPA with these actual values and costs. Modified product values shall be greater than or equal to the reappraised rates and value.
Post commencement of work, if there is a change from the established stewardship item rates, the SPA will be modified to increase or decrease the amount of services provided by WVDOF, accordingly. Post commencement of work product value rate redeterminations are subject to authorizing regulation.
- KK. MODIFICATION. Modifications within the scope of this Master Stewardship Agreement shall 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.
- LL. COMMENCEMENT/EXPIRATION DATE. This Master Stewardship Agreement is executed as of the date of the last signature and is effective through 10 years from the date of last signature at which time it will expire.



MM. 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 Master Stewardship Agreement. In witness whereof, the parties have executed this Master Stewardship Agreement as of the last date written below.

CR Dye
CHARLES R. DYE, State Forester
West Virginia Division of Forestry

8/29/12
Date

Clyde M. Thompson
CLYDE M. THOMPSON, Forest Supervisor
U.S. Forest Service, Monongahela National Forest

8/29/12
Date

The authority and format of this Master Stewardship Agreement have been reviewed and approved for signature.

/s/ Anne M. Workman
ANNE M. WORKMAN
U.S. Forest Service Grants & Agreements Specialist

08/24/2012
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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APPROVED AS TO FORM PRIOR TO
ACKNOWLEDGEMENT THEREOF, THIS

27th day of August, 20 12

DARRELL V. MCGRAW, JR.
ATTORNEY GENERAL

By: Dawn D. Wayfield
DEPUTY ATTORNEY GENERAL