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STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL and CULTURAL RESOURCES
DIVISION OF FORESTS AND LANDS

172 Pembroke Road Concord, New Hampshire 03301
Phone: 271-2214 Fax: 271-6488 www.nhdfi.org

March 21, 2022

The Honorable Karen Umberger, Chairman
Fiscal Committee of the General Court
and
His Excellency, Governor Christopher T. Sununu
and the Honorable Executive Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Pursuant to RSA 14:30-a, VI, authorize the Department of Natural and Cultural Resources, Division of Forest and Lands (Department) to accept and expend a Federal Grant Award #21-DG-11094200-138 in an amount up to \$2,300,000 for the acquisition of Conservation Easements on 1,196 +/- acres in the towns of Jackson and Bartlett in Carroll County, New Hampshire, known as the "Dundee Community Forest, Forest Legacy Project" (the Project) upon Fiscal Committee and Governor and Executive Council approval through June 30, 2023. 100% Federal Funds

Funds are to be budgeted in fiscal year 2022 as follows:

03-035-035-351010-35460000, Forest Legacy II

Class-Account- RG	Description	FY22 Current Adjusted Authorized	Requested Action	Revised FY22 Adjusted Authorized
000-404735-16	Federal Funds	\$2,691,098.00	\$2,300,000.00	\$4,991,098.00
Total Revenue		\$2,691,098.00	\$2,300,000.00	\$4,991,098.00
020-500200	Current Expenses	\$18,432.00	\$0.00	\$18,432.00
030-500311	Equipment New Replacement	\$4,000.00	\$0.00	\$4,000.00
033-509033	Land Acquisition & Easements	\$2,640,009.00	\$2,300,000.00	\$4,940,009.00
040-501587	Indirect Cost	\$1,750.00	\$0.00	\$1,750.00
041-500801	Audit Fund Set Aside	\$79.00	\$0.00	\$79.00
046-500464	Consultants	\$25,000.00	\$0.00	\$25,000.00
070-500705	In State Travel Reimbursement	\$1,825.00	\$0.00	\$1,825.00
211-501530	Property and Casualty Insurance	\$3.00	\$0.00	\$3.00
Total Expenses		\$2,691,098.00	\$2,300,000.00	\$4,991,098.00

EXPLANATION

The Department has received a Federal Financial Assistance Award of \$2,300,000 under the State Grant Option of the Forest Legacy Program (Grant Award #21-DG-11094200-138) for the Project. Federal Forest Legacy Program Project Grants preclude the State from securing Indirect Costs or Audit Set Aside funds from such grant awards.

The conservation of the 1,196 +/- acres, contained in a tract (Property), will protect a significant conservation and woodland resource. The Property contains high quality forest soils and productive northern hardwood and conifer forests, abutting the White Mountain National Forest. Significant water resources include Great Brook riparian area maintaining water quality downstream to Wildcat River, a designated Wild and Scenic River, and Jackson Falls a recreation and tourist destination. The Property will be managed for sustainable timber production, wildlife habitat and water resource protection, and ensure public access for traditional public recreational opportunities including pedestrian public uses such as hiking, hunting, and fishing.

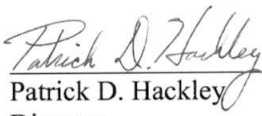
The Conservation Easement language has been approved by the Attorney General's Office. The total Forest Legacy payment for the Conservation Easements will not exceed \$2,300,000 or the appraised value, as stipulated by Federal Forest Legacy Program Standards and Guidelines. The landowner, Dundee Management Corporation, will complete the title, survey, stewardship plan, baseline documentation, and environmental due diligence. Administrative grant funds from the Forest Legacy account will be used to purchase title insurance. The landowner and project partner will contribute in excess of 25% matching funds through protection of additional lands and in-kind services. There are no State monies contributing to the acquisition of the Project.

The following appropriation is being requested for Fiscal Year 2022:

Class 033 – Land Acquisition & Easements \$2,300,000 to purchase conservation easements

In the event that Federal Funds are no longer available, General Funds will not be requested to support this program.

Respectfully submitted,


Patrick D. Hackley
Director

Concurred,


Sarah L. Stewart
Commissioner

(15/16)

State of New Hampshire
Department of Natural and Cultural Resources
Division of Forests and Lands

FISCAL SITUATION
03-035-035-351010-35460000
Forest Legacy - II

Current Budget for FY 2022	\$2,691,098
Additional Federal Funds Budget Request	<u>\$2,300,000</u>
Total Revised Budget for FY 2022	\$4,991,098

**FEDERAL FINANCIAL ASSISTANCE
AWARD OF DOMESTIC GRANT 21-DG-11094200-138
Between The
NATURAL AND CULTURAL RESOURCES, NEW HAMPSHIRE DEPARTMENT OF
And The
USDA, FOREST SERVICE
STATE AND PRIVATE FORESTRY, REGION 9**

Program Title: DUNDEE FOREST LEGACY ACQUISITION

Upon execution of this document, an award to NATURAL AND CULTURAL RESOURCES, NEW HAMPSHIRE DEPARTMENT OF, hereinafter referred to as "NHDNCR," in the amount of **\$2,300,000.00**, is made under the authority of P.L. 101-624- Rural Revitalization Through Forestry, PL 101-624 as amended. 7 USC 6601 and P.L. 95-313 - Cooperative Forestry Assistance Act of 1978 . The Assistance Listing (formerly Catalog of Federal Domestic Assistance - CFDA) number and name are 10.676 Forest Legacy Program. NHDNCR accepts this award for the purpose described in the application narrative. Your application for Federal financial assistance, dated May 11, 2021, and the attached Forest Service provisions, 'Forest Service Award Provisions,' are incorporated into this letter and made a part of this award.

This authority requires a match of 25%, which your organization has agreed to meet, as shown in the attached application, financial plan and narrative.

This is an award of Federal financial assistance. Prime and sub-recipients to this award are subject to the OMB guidance in subparts A through F of 2 CFR Part 200 as adopted and supplemented by the USDA in 2 CFR Part 400. Adoption by USDA of the OMB guidance in 2 CFR 400 gives regulatory effect to the OMB guidance in 2 CFR 200 where full text may be found.

Electronic copies of the CFRs can be obtained at the following internet site: www.ecfr.gov. If you are unable to retrieve these regulations electronically, please contact your Grants and Agreements Office at SM.FS.R9SPFgrants@usda.gov .

The following administrative provisions apply to this award:

- A. **LEGAL AUTHORITY.** NHDNCR shall have the legal authority to enter into this award, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the non-Federal share of project costs, when applicable.



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

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Name: Susan Francher Address: 172 Pembroke Road, P.O. Box 1856 City, State, Zip: Concord, NH 03302 Telephone: 603-271-2214 Email: susan.francher@dcnr.nh.gov	Name: Leslie Sherman Address: 172 Pembroke Road, P.O. Box 1856 City, State, Zip: Concord, NH 03302 Telephone: 603-271-2214 Email: leslie.sherman@dnr.nh.gov

Principal Forest Service Contacts:

Forest Service Program Manager Contact	Forest Service Administrative Contact
Name: Kirston Buczak Address: 626 E. Wisconsin Ave City, State, Zip: Milwaukee, WI 53202 Telephone: 414-297-3609 Email: Kirston.Buczak@usda.gov	Name: John LaBounty Address: 626 E. Wisconsin Ave City, State, Zip: Milwaukee, WI 53202 Telephone: 414-297-3645 Email: john.labounty@usda.gov

- C. SYSTEM FOR AWARD MANAGEMENT REGISTRATION REQUIREMENT (SAM). NHDNCR shall maintain current information in the System for Award Management (SAM) until receipt of final payment. This requires review and update to the information at least annually after the initial registration, and more frequently if required by changes in information or award term(s). Additional information about registration procedures may be found at the SAM Internet site at www.sam.gov.
- D. ADVANCE AND REIMBURSABLE PAYMENTS – FINANCIAL ASSISTANCE. Advance and Reimbursable payments are approved under this award. Only costs for those project activities approved in (1) the initial award, or (2) modifications thereto, are allowable. Requests for payment must be submitted on Standard Form 270 (SF-270), Request for Advance or Reimbursement, and must be submitted no more than monthly. In order to approve a Request for Advance Payment or Reimbursement, the Forest Service shall review such requests to ensure advances or payments for reimbursement are in compliance and otherwise consistent with OMB, USDA, and Forest Service regulations.

Advance payments must not exceed the minimum amount needed or no more than is needed for a 30-day period, whichever is less. If the Recipient receives an advance payment and subsequently requests an advance or reimbursement payment, then the request must clearly demonstrate that the previously advanced funds have been fully

expended before the Forest Service can approve the request for payment. Any funds advanced, but not spent, upon expiration of this award must be returned to the Forest Service.

The Program Manager reserves the right to request additional information prior to approving a payment. To expedite payment, please attach a list of expenses that match the approved project budget when submitting each SF-270. Each SF-270 shall include the award number **21-DG-11094200-138** in Block 4. If this award has multiple projects, each project must be identified in separate columns for tracking purposes in Block 11.

The invoice must be sent by one of three methods:

EMAIL (preferred): SM.FS.asc_ga@usda.gov
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FAX: 877-687-4894

POSTAL: Albuquerque Service Center Payments – Grants & Agreements 101B Sun Ave NE Albuquerque, NM 87109
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- E. INDIRECT COST RATES. The approved indirect cost rate at the time of execution is **16.43%** as shown in the NICRA provided by the Cooperator.

As new NICRAs are agreed to between NHDNCR and their cognizant audit agency, the revised provisional or final rate(s) are automatically incorporated into this award, as appropriate, and must specify (1) the agreed upon rates, (2) the bases to which the rates apply, (3) the fiscal year for which the rates apply, and (4) the items treated as direct costs. The award obligation will not increase as a result of indirect cost rate increases. Updates to NICRAs will not affect the total funds available for this award unless documented in a formally executed modification.

If the NICRA is for a provisional rate, NHDNCR shall be reimbursed at the established provisional rate(s), subject to appropriate adjustment when the final rate(s) for the fiscal year are established.

- F. PRIOR WRITTEN APPROVAL. NHDNCR shall obtain prior written approval pursuant to conditions set forth in 2 CFR 200.407.
- G. MODIFICATIONS. Modifications within the scope of this award 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 90 days prior to implementation of the requested change. The Forest Service is not obligated to fund any changes not properly approved in advance.
- H. PERIOD OF PERFORMANCE. This agreement is executed as of the date of the Forest Service signatory official signature.

The start date of this award is July 1, 2021. Pre-award costs are authorized pursuant to 2 CFR 200.458.

The end date, or expiration date is **September 30, 2024**. This instrument may be extended by a properly executed modification. *See Modification Provision above.*

- I. 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 award. In witness whereof the parties hereto have executed this award.

Patrick D. Hackley

07/27/2021

Director, NH Division of Forests & Lands
Natural and Cultural Resources, New Hampshire
Department Of

Date

ROBERT LUECKEL Digitally signed by
ROBERT LUECKEL
Date: 2021.08.03
11:24:39 -05'00'

8/3/21

ROBERT LUECKEL
Deputy Regional Forester
Region 9, State and Private Forestry

Date

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

JOHN LABOUNTY Digitally signed by
JOHN LABOUNTY
Date: 2021.07.20
09:38:00 -05'00'

7/20/21

JOHN W. LABOUNTY
Forest Service Grants Management Specialist

Date

ATTACHMENT A: FOREST SERVICE AWARD PROVISIONS

- A. COLLABORATIVE ARRANGEMENTS. Where permitted by terms of the award and Federal law, NHDNCR may enter into collaborative arrangements with other organizations to jointly carry out activities with Forest Service funds available under this award.
- B. FOREST SERVICE LIABILITY TO THE RECIPIENT. The United States shall not be liable to NHDNCR for any costs, damages, claims, liabilities, and judgments that arise in connection with the performance of work under this award, including damage to any property owned by NHDNCR or any third party.
- C. NOTICES. Any notice given by the Forest Service or NHDNCR will be sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

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

To NHDNCR, at the address shown in the award or such other address designated within the award.

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

- D. SUBAWARDS. NHDNCR shall notify Subrecipients under this award that they are subject to the OMB guidance in subparts A through F of 2 CFR Part 200, as adopted and supplemented by the USDA in 2 CFR Part 400. Any sub-award must follow the regulations found in 2 CFR 200.330 through .332.
- E. FINANCIAL STATUS REPORTING. A Federal Financial Report, Standard Form SF-425 (and Federal Financial Report Attachment, SF-425A, if required for reporting multiple awards), must be submitted annually. These reports are due 90 days after the reporting period ending December 31. The final SF-425 (and SF-425A, if applicable) must be submitted either with the final payment request or no later than 120 days from the expiration date of the award. These forms may be found at <https://www.grants.gov/web/grants/forms.html>.
- F. PROGRAM PERFORMANCE REPORTS. The recipient shall perform all actions identified and funded in application/modification narratives within the performance period identified in award.

In accordance with 2 CFR 200.301, reports must relate financial data to performance accomplishments of the federal award.

NHDNCR shall submit annual performance reports. These reports are due 90 days after the reporting period end. The final performance report shall be submitted either with NHDNCR's final payment request, or separately, but not later than 120 days from

the expiration date of the award.

- Additional pertinent information: SM.FS.R9SPFgrants@usda.gov

- G. NOTIFICATION. NHDNCR shall immediately notify the Forest Service of developments that have a significant impact on the activities supported under this award. Also, notification must be given in case of problems, delays or adverse conditions that materially impair the ability to meet the objectives of the award. This notification must include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.
- H. CHANGES IN KEY PERSONNEL. Any revision to key personnel identified in this award requires notification of the Forest Service Program Manager by email or letter.
- I. USE OF FOREST SERVICE INSIGNIA. In order for NHDNCR to use the Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted by the Forest Service's Office of Communications (Washington Office). A written request will be submitted by Forest Service, Program Manager, to the Office of Communications Assistant Director, Visual Information and Publishing Services prior to use of the insignia. The Forest Service Program Manager will notify NHDNCR when permission is granted.
- J. FUNDING EQUIPMENT. Federal funding under this award is not available for reimbursement of NHDNCR's purchase of equipment. 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.
- K. USE OF GOVERNMENT OWNED VEHICLE. Forest Service vehicles may be used for official Forest Service business only in accordance with FSH 7109.19, ch. 60, the requirements established by the region in which performance of this award takes place, and the terms of this award
- L. BUILDING AND COMPUTER ACCESS BY NON-FOREST SERVICE PERSONNEL. NHDNCR may be granted access to Forest Service facilities and/or computer systems to accomplish work described in the Operating Plan or Statement of Work. All non-government employees with unescorted access to Forest Service facilities and computer systems must have background checks following the procedures established by USDA Directives 3800 series. Those granted computer access must fulfill all Forest Service requirements for mandatory security awareness and role-based advance security training, and sign all applicable Forest Service statements of responsibilities.
- M. PUBLIC NOTICES. It is Forest Service's policy to inform the public as fully as possible of its programs and activities. NHDNCR is encouraged to give public notice of the receipt of this award and, from time to time, to announce progress and accomplishments.

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

- N. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS, AND ELECTRONIC MEDIA. NHDNCR shall acknowledge Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this award. Follow direction in USDA Supplemental 2 CFR 415.2.
- O. COPYRIGHTING. NHDNCR is/are granted sole and exclusive right to copyright any publications developed as a result of this award. 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 award.

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

This right shall be transferred to any sub-awards or subcontracts.

This provision includes:

- The copyright in any work developed by NHDNCR under this award.
- Any right of copyright to which NHDNCR purchase(s) ownership with any federal contributions.

- P. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. NHDNCR 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 (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, disability, and reprisal or retaliation for prior civil rights activity. (Not all prohibited bases apply to all programs.)

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, and American Sign Language) should contact the responsible State or local Agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form, which can be obtained online at <https://www.ocio.usda.gov/document/ad-3027>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

- (1) Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, D.C. 20250-9410; or*
- (2) Fax: (833) 256-1665 or (202) 690-7442; or*
- (3) Email: program.intake@usda.gov.*

If the material is too small to permit the full Non-Discrimination Statement to be included, the material will, at a minimum, include the alternative statement:

"This institution is an equal opportunity provider."

Q. PROGRAM INCOME – FINANCIAL ASSISTANCE.

1. NHDNCR shall apply the standards set forth in this Provision to account for program income earned under the award.
2. If any program income is generated as a result of this award, the income shall be applied using the deductive alternative as described in 2 CFR 200.307; the deductive alternative is the default if no other method is selected.
3. Unless the terms and conditions of the award/agreement provide otherwise, Recipients shall have no obligation to the U.S. Government regarding program income earned after the end of the project period.
4. Costs incident to the generation of program income may be deducted from gross income to determine net program income, provided these costs have not been charged to the award and they comply with 2 CFR 200.307.
5. Unless the terms and conditions of the award provide otherwise, NHDNCR shall have no obligation to the U.S. Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research awards.

R. DISPUTES.

1. Any dispute under this award shall be decided by the Signatory Official. The Signatory Official shall furnish NHDNCR a written copy of the decision.

2. Decisions of the Signatory Official shall be final unless, within 30 days of receipt of the decision of the Signatory Official, NHDNCR appeal(s) the decision to the Forest Service's Director, State & Private Forestry (SPF). Any appeal made under this provision shall be in writing and addressed to the Director, USDA, Forest Service, Washington, DC 20024. A copy of the appeal shall be concurrently furnished to the Signatory Official.
 3. In order to facilitate review on the record by the Director, SPF, NHDNCR shall be given an opportunity to submit written evidence in support of its appeal. No hearing will be provided.
 4. A decision under this provision by the Director, SPF is final.
 5. The final decision by the Director, SPF does not preclude NHDNCR from pursuing remedies available under the law.
- S. AWARD CLOSEOUT. The Recipient must submit, no later than 120 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award.
- Any unobligated balance of cash advanced to NHDNCR must be immediately refunded to the Forest Service, including any interest earned in accordance with 2 CFR 200.343(d).
- If this award is closed without audit, the Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.
- T. TERMINATION. This award may be terminated, in whole or part pursuant to 2 CFR 200.340.
- U. DEBARMENT AND SUSPENSION. NHDNCR shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should NHDNCR or any of their principals receive a transmittal letter or other official federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary. The Recipient shall adhere to 2 CFR Part 180 Subpart C in regards to review of sub-recipients or contracts for debarment and suspension.

All subrecipients and contractors must complete the form AD-1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Lower Tier Covered Transactions. Blank forms are available electronically. Completed forms must be kept on file with the primary recipient.

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

W. TRAFFICKING IN PERSONS.

1. Provisions applicable to a Recipient that is a private entity.

- a. You as the Recipient, your employees, Subrecipients under this award, and Subrecipients' employees may not:
 - (1) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - (2) Procure a commercial sex act during the period of time that the award is in effect; or
 - (3) Use forced labor in the performance of the award or subawards under the award.
- b. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a Subrecipient that is a private entity:
 - (1) Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - (2) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either:
 - i. Associated with performance under this award; or
 - ii. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),".

2. Provision applicable to a Recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity:
- a. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
 - b. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
 - (1) Associated with performance under this award; or
 - (2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),".

3. Provisions applicable to any recipient.
 - a. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
 - b. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - (1) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - (2) Is in addition to all other remedies for noncompliance that are available to us under this award.
 - c. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
4. Definitions. For purposes of this award term:
 - a. "Employee" means either:
 - (1) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - (2) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
 - b. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
 - c. "Private entity":
 - (1) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
 - (2) Includes:
 - i. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - ii. A for-profit organization.
 - d. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

X. DRUG-FREE WORKPLACE.

1. NHDNCR 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 NHDNCR will take against employees for violating that prohibition; and

- c. Let each employee know that, as a condition of employment under any award, the employee:
 - (1) Shall abide by the terms of the statement, and
 - (2) Shall notify NHDNCR in writing if they are convicted for a violation of a criminal drug statute occurring in the workplace, and shall do so no more than 5 calendar days after the conviction.
- 2. NHDNCR 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. The established 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 instrument, or the completion date of this award, whichever occurs first.
- 4. NHDNCR agrees to immediately notify the Program Manager if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the award number of each award on which the employee worked. The notification must be sent to the Program Manager within 10 calendar days after NHDNCR learns of the conviction.
- 5. Within 30 calendar days of learning about an employee's conviction, NHDNCR 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.

Y. PROHIBITION AGAINST USING FUNDS WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS.

- 1. The recipient may not require its employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

2. The recipient must notify its employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with paragraph (1) of this award provision are no longer in effect.
 3. The prohibition in paragraph (1) of this award provision does not contravene requirements applicable to any other form issued by a Federal department or agency governing the nondisclosure of classified information.
 4. If the Government determines that the recipient is not in compliance with this award provision, it;
 - a. Will prohibit the recipient's use of funds under this award in accordance with sections 743, 744 of Division E of the Consolidated Appropriations Act, 2016, (Pub. L. 114-113) or any successor provision of law; and
 - b. May pursue other remedies available for the recipient's material failure to comply with award terms and conditions.
- Z. ELIGIBLE WORKERS. NHDNCR 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 U.S.C. 1324(a)). NHDNCR shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract or supplemental instruments awarded under this award.
- AA. FREEDOM OF INFORMATION ACT (FOIA). Public access to award or 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). Requests for research data are subject to 2 CFR 315(e).
- Public access to culturally sensitive data and information of Federally-recognized Tribes may also be explicitly limited by P.L. 110-234, Title VIII Subtitle B §8106 (2009 Farm Bill).
- BB. 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 Cooperatives, 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.
- CC. PROMOTING FREE SPEECH AND RELIGIOUS FREEDOM. As a recipient of USDA financial assistance, you will comply with the following:
1. Do not discriminate against applicants for sub-grants on the basis of their religious character.
 2. 7 Code of Federal Regulations (CFR) part 16.3(a), Rights of Religious Organizations.

3. Statutory and National policy requirements, including those prohibiting discrimination and those described in Executive Order 13798 promoting free speech and religious freedom, 2 CFR 200.300.

DD. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. The cooperator (including subrecipients) is responsible for compliance with the prohibition on certain telecommunications and video surveillance services or equipment identified in 2 CFR 200.216. See Public Law 115-232, Section 889 for additional information.

In accordance with 2 CFR 200.216, the grantee (including subrecipients) is prohibited from obligating or expending loan or grant funds for covered telecommunications equipment or services to:

- (1) procure or obtain, extend or renew a contract to procure or obtain;
- (2) enter into a contract (or extend or renew a contract) to procure; or
- (3) obtain the equipment, services or systems.

ATTACHMENT A.1: Whistleblower Protection

Whistleblowers perform an important service to USDA and the public when they come forward with what they reasonably believe to be evidence of wrongdoing. They should never be subject to reprisal for doing so. Federal law protects federal employees as well as personal services contractors and employees of Federal contractors, subcontractors, grantees, and subgrantees against reprisal for whistleblowing. USDA bears the responsibility to ensure that nothing in a non-disclosure agreement which a contractor, subcontractor, grantee, or subgrantee requires their employees to sign should be interpreted as limiting their ability to provide information to the Office of Inspector General (OIG).

41 U.S.C. § 4712 requires the head of each executive agency to ensure that its contractors inform their workers in writing of the rights and remedies under the statute. Accordingly, it is illegal for a personal services contractor or an employee of a Federal contractor, subcontractor, grantee, or subgrantee to be discharged, demoted, or otherwise discriminated against for making a protected whistleblower disclosure. In this context, these categories of individuals are whistleblowers who disclose information that the individual reasonably believes is evidence of one of the following:

- Gross mismanagement of a Federal contract or grant;
- A gross waste of Federal funds;
- An abuse of authority relating to a Federal contract or grant;
- A substantial and specific danger to public health or safety; or
- A violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

To be protected under 41 U.S.C. § 4712, the disclosure must be made to one of the following:

- A Member of Congress, or a representative of a committee of Congress;
- The OIG;
- The Government Accountability Office (GAO);
- A Federal employee responsible for contract or grant oversight or management at USDA;
- An otherwise authorized official at USDA or other law enforcement agency;
- A court or grand jury; or
- A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

Under 41 U.S.C. § 4712, personal services contractors as well as employees of contractors, subcontractors, grantees, or subgrantees may file a complaint with OIG, who will investigate the matter unless they determine that the complaint is frivolous, fails to allege a violation of the prohibition against whistleblower reprisal, or has been addressed in another proceeding. OIG's investigation is then presented to the head of the executive agency who evaluates the facts of the investigation and can order the contractor, subcontractor, grantee, or subgrantee to take remedial action, such as reinstatement or back pay.

Federal Acquisition Regulation (FAR) Subpart 3.903, *Whistleblower Protections for Contractor Employees, Policy*, prohibits government contractors from retaliating against a contract worker for making a protected disclosure related to the contract. FAR Subpart 3.909-1 prohibits the Government from using funds for a contract with an entity that requires its employees or subcontractors to sign internal confidentiality statements prohibiting or restricting disclosures of

fraud, waste, or abuse to designated persons. This prohibition does not contravene agreements pertaining to classified information. The regulation also requires contracting officers to insert FAR clause 52.203-17, *Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights*, in all solicitations and contracts that exceed the Simplified Acquisition Threshold as defined in FAR Subpart 3.908. This clause requires notification to contractor employees that they are subject to the whistleblower rights and remedies referenced in 41 U.S.C. § 4712.

In order to make a complaint alleging any of the violations mentioned above, one should complete the OIG Hotline form located at: <https://www.usda.gov/oig/hotline>. For additional information, they may also visit the WPC's webpage at: <https://www.usda.gov/oig/wpc> or they may directly contact the WPC at OIGWPC@oig.usda.gov.

ATTACHMENT B: 2 CFR PART 170

Appendix A to Part 170—Award Term

I. Reporting Subawards and Executive Compensation

a. *Reporting of first-tier subawards.*

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).
2. *Where and when to report.*
 - i. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.
 - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

b. *Reporting total compensation of recipient executives for non-Federal entities.*

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
 - i. The total Federal funding authorized to date under this Federal award equals or exceeds \$30,000 as defined in 2 CFR 170.320;
 - ii. in the preceding fiscal year, you received—
 - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards), and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and,
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:
 - i. As part of your registration profile at <https://www.sam.gov>.
 - ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. *Reporting of Total Compensation of Subrecipient Executives.*

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier non-Federal entity subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most

highly compensated executives for the subrecipient's preceding completed fiscal year, if—

- i. in the subrecipient's preceding fiscal year, the subrecipient received—
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards) and,
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
- ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
 - i. To the recipient.
 - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. *Exemptions.*

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. Subawards, and
- ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. *Definitions.* For purposes of this award term:

1. Federal Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).
2. Non-Federal *entity* means all of the following, as defined in 2 CFR part 25:
 - i. A Governmental organization, which is a State, local government, or Indian tribe;
 - ii. A foreign public entity;
 - iii. A domestic or foreign nonprofit organization; and,
 - iv. A domestic or foreign for-profit organization
3. *Executive* means officers, managing partners, or any other employees in management positions.
4. *Subaward*:
 - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.331).
 - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

5. *Subrecipient* means a non-Federal entity or Federal agency that:
 - i. Receives a subaward from you (the recipient) under this award; and
 - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
6. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)).

END OF ATTACHMENT B: 2 CFR PART 170

Attachment C: Forest Legacy Program Project Grant Award Provisions – The following information is to be inserted in a Forest Legacy Program project grant document and establishes the terms and conditions of a Forest Legacy project grant.

A. Background. The Cooperative Forestry Assistance Act of 1978, as amended, (16 USC 2103c et. seq.) provides authority for the U.S. Secretary of Agriculture to establish the Forest Legacy Program (FLP) to protect environmentally important forest areas that are threatened by conversion to nonforest uses. Through the 1996 Farm Bill (Federal Agricultural Improvement and Reform Act of 1996; Public Law 104-127; Title III - conservation; Subtitle G - Forestry; Section 374, Optional Grants for Forest Legacy Program), the Secretary is authorized, at the request of a participating State, to make a grant to the State to carry out the FLP in the State, including the acquisition by the State of lands and interests in lands. Forest Legacy Program delivery is guided by the National FLP Implementation Guidelines (dated May 2017).

B. Support Program Goals. The State must ensure that all acquisitions conducted under an FLP grant meet the conservation objectives and goals of the Forest Legacy Program, which can be found in the Forest Legacy Program's authorization, Forest Legacy Program Implementation Guidelines, and the State Forest Resource Assessment and Strategy (Forest Action Plan) and associated Forest Legacy Program Assessment of Need.

C. Funding

1. FLP grant funds must be used for the acquisition of eligible lands or interests in lands.
2. Funds may also be used for directly related real estate transaction costs incurred by or at the request of the State, including but not limited to: appraisals and appraisal review, land surveys, closing costs (document preparation and recording fees), establishing baseline information, title work, purchase of title insurance, conservation easement negotiations and drafting (travel and attorney fees), and other real estate transaction expenses for the project tracts.
3. FLP grant funds may be expended to develop a Multi-Resource Management Plan for the FLP project tract(s).
4. FLP grant funds may also be expended to facilitate donations of land, or interests in lands, to a qualified and willing donee for FLP purposes. The State may use FLP grant funds to pay for expenses directly related to the donation, including but not limited to, land surveys, conservation easement drafting, title work, and establishing baseline information.
5. Forest Legacy Program funds are prohibited from being used for: (1) management of acquired lands or interests in lands including, monitoring of conservation easements; (2) costs associated with setting up an endowment or stewardship fund; (3) enforcement actions and associated activities; or (4) payment for appraisals of donated property or interest when the donation represents the full and total value.

6. In addition, Forest Legacy Program project funds are prohibited from being used for: (1) general expenses of the FLP; (2) indirect costs; and (3) other project costs outside the area of the project in the grant award except for qualified donations.

7. For advance payments, the grant recipient must notify the U.S. Department of Agriculture, Forest Service's FLP manager at least 60 days in advance of the acquisition closing date, and submit all necessary documentation for final review and concurrence. Advance payments must be approved by the Forest Service's FLP manager. The funds will not be made available to the State more than 30 days in advance of the acquisition closing date.

8. For third-party payments direct to a title company, the State must follow the following procedures in advance of the acquisition closing date:

- The State must formally request that payment be made to the title company on its behalf. This must be in writing and signed by the State Lead Agency signatory. An email request is not acceptable.
- The title company must be registered in SAM (System for Award Management) at www.sam.gov, and provide their Data Universal Numbering System (DUNS) and Employer Identification Number (EIN).
- The Forest Service will draft a modification to the FLP grant showing the title company as an alternate payee. The request letter from the State Lead Agency must be attached as documentation. Both the State and Forest Service will sign the modification.
- No sooner than 30 days before closing on the purchase, the State Lead Agency must submit an SF-270, or HHS-PMS payment request. The SF-270 must show the State as the award recipient in block 9 and the title company as the payee in block 10. The request for payment must be signed by the State.
- The State Lead Agency is responsible for all financial and program reporting, as well as any audit. There is no grantee/grantor relationship between the title company and the Forest Service.

D. Cost Share

1. FLP cost-share requirements limit Federal funding to 75 percent of the total project cost. The non-Federal cost share may include cash, donation of land or interest in lands, and/or in-kind services, and must be documented on a project basis.
2. Endowment funds for conservation easement stewardship or ongoing management of the property cannot be used as cost share.
3. If the State plans to use mitigation funds for cost share, the State must ensure that an official determination has been made that the funds can be treated as non-Federal or consult with the Forest Service to obtain a determination.

4. Any donation of land, or interest in lands, used for cost share for an FLP grant must comply with the following requirements:

i. The donation contributes to the objectives and priorities of the State FLP as set forth in the State Forest Action Plan and associated Forest Legacy Program Assessment of Need.

ii. All or part of the tract being donated must be within the boundaries of a Forest Legacy Area.

iii. The donor documents their desire that the value of the interests may be used as cost share for the FLP project.

iv. The donation of land, or an interest in land, must contain perpetual covenants to assure that the tract will be managed in a manner compatible with the goals for which the Forest Legacy Program and the specific Forest Legacy Area were established.

v. The donee (holder of donated rights) must be a unit of government or a nonprofit conservation organization (land trust) that meets the eligibility requirements for holding a conservation easement established by the Internal Revenue Service and has as its purpose the management of lands or interests in land consistent with FLP purposes.

vi. If the donation is in the form of a conservation easement, the easement must include a provision that will reimburse or make whole the United States for its proportionate share of the value of the Easement or the portion thereof that is extinguished. The United States' "proportionate share" is determined by dividing the portion of the value of the Easement that, at the time of its conveyance, was used to meet the cost-share requirement by the value of this Easement at the time of its conveyance.

vii. If the donation is in the form of a fee simple tract, the deed must include a provision to reimburse or make whole the United States for its proportionate share of the value of the fee simple tract or the portion thereof that is disposed. The United States' "proportionate share" is determined by dividing the portion of the value of this fee simple tract that, at the time of its conveyance, was used to meet the cost-share requirement by the value of the entire fee simple tract at the time of its conveyance.

viii. The respective portion of the donation must not have been previously credited towards any Federal program's non-Federal cost share.

ix. The State approves the donation as contributing to the cost share.

x. For cost-share tracts, the State must determine the value of the donation. The State may use an existing appraisal, a new appraisal, or another documented analysis to determine value. Appraisals for cost-share tracts do not need comply with Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA or Yellow Book) and do not need to be reviewed.

xi. All cost share must be incurred during the life of the grant, including acquisition of cost-share tracts, unless pre-award costs are approved by the appropriate Forest Service line officer.

E. Approval of Project Changes. The State must submit, in writing, any significant changes to the project configuration as described in the approved grant narrative. Before submitting proposed changes to the Forest Service for approval, the changes must be reviewed by the State Forest Stewardship Coordinating Committee. Such changes include, but are not limited to: type/degree/extent of public access, proposed reserved rights by landowners, acreage, and conservation values of the property.

F. Program Requirements. The State shall ensure that all land(s) or interests in land(s) acquired under an FLP grant, meet the following requirements:

1. Are located within or partially within, the boundaries of an approved Forest Legacy Area as identified in the State Forest Resource Assessment and Strategy (Forest Action Plan) and associated Forest Legacy Program Assessment of Need.
2. Prior to acquisition of a conservation easement, a Multi-Resource Management Plan will be prepared and approved by the landowner and approved by the State forester or designee. This plan must include the environmental values to be protected, the management activities that are planned, and how they affect the environment values identified (16 USC 2103 (d)(1)) (16 USC 2103 (i)). Modifications to the plan are to be agreed to by the State forester or designee.
3. For tracts acquired in fee, a Multi-Resource Management Plan must be created for the tract or the tract must be incorporated into an existing management plan for surrounding conservation lands. A natural resource professional shall prepare the Multi-Resource Management Plans and shall include provisions to meet the purposes of the FLP. Such plans identify the management objectives of the property and describe actions to protect and manage soil, water, range, aesthetic quality, recreation, timber, fish and wildlife resources, and other conservation values identified on the tract. Approval shall be granted by the State forester or designee (if the State Lead Agency is other than the State Forestry Agency, then the plan may be approved by the head of that Agency) upon determination that the plan meets the FLP Multi-Resource Management Plan requirements.
4. Ensure that the title is free and unencumbered and/or that title insurance is secured in the name of the State for the full value of the encumbered property. Identify any existing easements, covenants, or long-term contracts, recorded or unrecorded, or any rights that may be held by a third party. These agreements/encumbrances could be (or could include) recorded or unrecorded. Any encumbrance to the title must be deemed by the State as not affecting the purpose for which the land or interests in land is being acquired. Title insurance is not an alternative to free and unencumbered title.
5. Evaluate any preexisting severed mineral reservations or leases and make a determination as to whether the acquisition of mineral rights, prohibition on reserved

areas, or an exclusion of the area that does not comply with FLP would be necessary in order to protect the other rights that are being considered for acquisition. In some situations, it may be impossible to protect environmentally important forest areas without acquiring the mineral rights.

6. Notify the landowner in writing of the market value of the property, that eminent domain will not be used, and that the property will not be acquired if negotiations fail to result in an amicable agreement.

7. Complete a baseline documentation for each conservation easement tract and ensure it depicts the attributes of land on the day it is restricted by a conservation easement.

8. Ensure that the State or its assignee will monitor the lands annually for conformance with the terms of the conservation easement.

9. The State Lead Agency shall monitor fee simple and cost-share tracts periodically, including those owned and managed by other governmental entities within the State (such as other State agencies or local governments), and submit a self-certifying statement to the Forest Service regions/Northeastern Area/International Institute of Tropical Forestry (R/A/I) as part of the State FLP Program Review every 5 years. Similarly, for fee simple cost-share tracts held by a qualifying nonprofit conservation organization, the State Lead Agency shall acquire from the fee interest holder a self-certifying statement and submit it to the R/A/I as part of the State FLP Program Review every 5 years.

10. The consideration paid to any landowner must be no more than the market value of the conveyed lands or interests as determined by an appraisal that conforms to the most current version of the Uniform Appraisal Standards for Federal Land Acquisitions and meet the following requirements:

i. Be completed by an appraiser licensed in the State where the project is located and who meets the qualifications specified in the Forest Legacy Program Implementation Guidelines;

ii. Be reviewed by a qualified review appraiser who meets the qualifications specified in the Forest Legacy Program Implementation Guidelines;

iii. The appraiser and review appraiser will engage in an initial consultation before the project appraisal takes place;

iv. The review appraiser will develop project-specific appraisal instructions for the appraiser as a result of this consultation;

v. The effective date of value must reflect current market conditions;

vi. The review appraiser attests to Federal Appraisal Standard conformance; and

vii. The State may be asked to consult with a qualified USDA Forest Service review appraiser prior to or during the appraisal process even if a non-Federal review appraiser is used for the assignment.

G. Acquisitions Requirements. The Grant Recipient shall ensure that the recorded deed(s) or conservation easement(s) for all land or interests in land acquired under this grant contain the following:

1. Clearly state that the acquisition supports Forest Legacy Program goals and include a citation to the Forest Legacy Program's authorizing language.
2. Limit or prohibit the subdivision of the encumbered land. If allowed, the easement should specify the number, sizes, and locations of divisions, and ensure that the conservation easement will be rerecorded for all parcels at the time of subdivision.
3. Prohibit industrial or commercial uses inconsistent with maintaining forest cover and that could negatively impact the conservation values protected by the easement.
4. Limit or prohibit structures or other improvements that could impact the conservation values protected by the easement. When allowed, these uses (such as house, barn, remote recreation camps) should be in a designated improvement area and the easement language must identify the specific location and limit of the allowed activities.
5. Prohibit extensive surface disturbances including residential, commercial, and industrial development, and mining. Limited excavation of sand and gravel for onsite use for roads and landings may be allowed, and the conservation easement must clearly describe the extent and location.
6. Require the landowner to manage the property in a manner that is consistent with the purposes for which the land was entered in the Forest Legacy Program, and that the landowner shall not convert the property to other noncompatible uses.
7. For each fee simple and conservation easement tract, require that all management activities be conducted in accordance with the approved Multi-Resource Management Plan, described above.
8. Limit or exclude nonforest uses that are inconsistent with maintaining a minimum of 75 percent forest cover. Up to 25 percent of the total Forest Legacy Program tract may be compatible nonforest land uses, including cultivated farmland, pasture, grassland, shrubland, open water, and nonforested wetlands. Tracts with greater than 25 percent compatible nonforest uses must have an approved Multi-Resource Management Plan that ensures reforestation/afforestation within 10 years of project completion, if sivilculturally possible.
9. Ensure the conservation easement refers to the baseline documentation report.
10. Ensure the conservation easement provides the right to enter the property to conduct conservation easement monitoring.
11. Establish the roles of all parties involved in potential conservation easement violations and identify those responsible for addressing them.

12. Include terms that limit additional easements, leases, or contracts that negatively impact the conservation purposes of the conservation easement and include language to ensure any subsequent easement or agreements must be approved in advance.

13. Include the required provisions for conservation easements (ecosystem service markets, transfer, amendment, and extinguishment) and deeds (ecosystem service markets as applicable, transfer, and disposal) as specified in the Forest Legacy Implementation Guidelines.

H. Project Conclusion. The State shall complete the following actions upon completion of the Forest Legacy Project:

1. As a condition of this grant, the State may be required to publicly acknowledge (through news articles, posting of Forest Legacy signs on the land, and/or inclusion in publications) the United States Department of Agriculture, Forest Service and specifically the Forest Legacy Program as the/a source of funding for the project(s).
2. Update the Forest Legacy Information System (FLIS) with the closing dates, final acreages, and Forest Legacy payments and cost-share information for the project.
3. Provide a geographic information system (GIS) shape file in accordance with FLP data standard, of the rights acquired to the Forest Service.
4. Comply with the FLP recordkeeping requirements as outlined in the Forest Legacy Program Implementation Guidelines.

I. Post-Grant Requirements. The State shall complete the following actions upon closing of the FLP grant:

1. The State or its assigns shall monitor and manage lands for conformance to Forest Legacy purposes and the conservation easement to which they are subject and in accordance with the Forest Legacy Program Implementation Guidelines. Monitoring shall occur periodically, but not less than annually.
2. In addition, the State or its assigns shall periodically monitor and manage fee simple and cost-share tracts for conformance to Forest Legacy purposes and in accordance with the Forest Legacy Program Implementation Guidelines.
3. As a condition of this grant, the Forest Service may request an annual report on the status of monitoring and management of the lands or interests in lands that were entered into the Forest Legacy Program.

J. Signatures

Patrick D. Hackley

07/27/2021

Director, NH Division of Forests & Lands
NATURAL AND CULTURAL RESOURCES, NEW
HAMPSHIRE DEPARTMENT OF

Date

ROBERT Digitally signed by
LUECKEL ROBERT LUECKEL
Date: 2021.08.03
11:25:29 -05'00'

8/3/21

ROBERT LUECKEL
Deputy Regional Forester,
Region 9, State and Private Forestry

Date