

# MEMORANDUM OF AGREEMENT

BETWEEN

WISCONSIN DEPARTMENT OF NATURAL RESOURCES,

and

Counties with County Forests as defined under ss. 28.10 and 28.11, Wis. Stats.

for implementation of the

## **Good Neighbor Authority Agreement**

### **I. PURPOSE**

This Memorandum of Agreement (Agreement) sets forth the relationship between the Wisconsin Department of Natural Resources (DNR) and any signatory county (County) to this Agreement that partner in the management of the Wisconsin County Forests, as defined under ss. 28.10 and 28.11, Wis. Stats., to work cooperatively in the implementation of the federal Good Neighbor Authority (GNA) entered into by the DNR and the United States Department of Agriculture Forest Service (Forest Service). Completing authorized restoration services shall help the Chequamegon-Nicolet National Forest (CNNF) to more fully implement the CNNF Forest Plan, provide forest products to the local economy, foster collaboration between federal, state and county forest managers, and improve the health and resiliency of forestlands and watersheds within Wisconsin.

### **II. AUTHORITY**

The United States Department of Agriculture Forest Service (Forest Service) is authorized to enter into cooperative agreements with States to carry out authorized forest, rangeland, and watershed restoration services, including timber sales, on federal land and non-federal land under the authority of the Agricultural Act of 2014, P.L. 113-79, section 8206, (Good Neighbor Authority) and the Wyden Amendment, Section 323(a) of the Department of Interior and Related Agencies Appropriations Act, 1999, as included in P.L. 105-277, Div. A., Section 101 (e), as amended by P.L. 109-54, Sec. 434, and the Omnibus Public Land Management Act, P.L. 111-11, Sec. 3001. Under a cooperative agreement between the Forest Service and DNR, the DNR may conduct forest management activities on federal lands as permitted by federal law and pursuant to Wis. Stats. ss. 20.370 (1) (cz), 20.370 (1) (mv) and 28.15 (GNA Agreement). Further, the DNR may contract with a county for the purpose of conducting forest management activities on federal land under a GNA Agreement pursuant to s. 28.15(3), Wis. Stats. The Catalog of Federal Domestic Assistance (CFDA) number for Good Neighbor Authority cooperative agreements is 10.691.

### **III. SCOPE**

This Agreement establishes the general procedures and requirements for a County to be authorized to complete restoration work as part of a GNA Agreement. This Agreement defines eligibility requirements, procedures for application and award, procedures for identification of the scope of work, primary contacts and communications, eligible and ineligible costs, reimbursement procedures, accounting and reporting requirements and other general agreement conditions. This Agreement is structured and will be implemented in the context of a contract administered in accordance with DNR and Federal grant procedures. Reimbursement received under this Agreement shall be considered a Federal award of funds.

#### **IV. ELIGIBILITY REQUIREMENTS**

In order to be eligible to participate, a county must have established and enrolled lands as county forests under ss. 28.10 and 28.11, Wis. Stats. A participating county must have a forester on staff, as defined by s. NR 1.21(2)(e), Wis. Admin. Code.

#### **V. APPLICATION & AWARD, SCOPE OF WORK, & PRIMARY CONTACTS**

##### **A. Application Process**

The County must submit a completed County Good Neighbor Authority Program Contract (County GNA Contract) application, on a form provided by the DNR, to the DNR National Forest Liaison or DNR GNA Operations Manager indicating the proposed amount of time to be committed to accomplishing authorized activities, the counties in which the County would be willing to complete work, the types of activities the County is willing to complete, and a corresponding budget. Pursuant to Section XIX of this Agreement, the County Forest Administrator shall be authorized to submit an application for a County GNA Contract on behalf of the County.

##### **B. Contract Award**

The DNR shall consider the proposed amount of time, location(s), types of activities, and the relative proposed cost of completion, as submitted in a County's application. The DNR shall make County GNA Contract awards based upon the applications submitted from all eligible Counties, with consideration given to the amount, nature and location of work that is available to be awarded to Counties and the amount of County GNA Contract funding that is available to be committed at the time of award. The DNR shall make County GNA Contract awards in a manner that optimizes the amount of work that can be accomplished by the combined efforts of all contributing entities (DNR, participating Counties, private foresters, and private contractors) under a GNA Agreement entered into by DNR and Forest Service. An approved County GNA Contract shall obligate the County to provide approximately the amount of work, identified in hours, for the types of activities and in the locations indicated in the agreement during the effective dates of the County GNA Contract to complete authorized activities, as identified and agreed to in the supplemental work plan attached and made a part of the County GNA Contract. Pursuant to Section XIX of this Agreement, the County Forest Administrator shall be authorized to sign a County GNA Contract on behalf of the County.

All activities performed by the County pursuant to this Agreement shall be consistent with the terms and conditions of the Wisconsin Good Neighbor Authority Agreements (Master and all applicable Supplemental Agreements) entered into between the DNR and the Forest Service, which are available upon request.

##### **C. Scope of Work**

The scope of work for the State of Wisconsin under the GNA Agreement entered into by the DNR and the Forest Service is subject to annual revision, during which it is anticipated that the scope of work may be amended by mutual agreement of DNR and the Forest Service and additional activities identified. As a result of anticipated amendments to Wisconsin GNA Agreement scope of work, participating Counties understand and agree that there may or may not be additional activities identified each year in a particular county. County work plans may be modified to include additional activities, on an annual basis, consistent with the GNA Agreement entered into by the DNR and Forest Service.

The amount of time committed, general location (Counties) of work, types of activities to be completed, and the time period for completion shall be identified in the County GNA Contract. The specific activities (including locations, budgets, completion dates, and other details as needed) to be completed under a County GNA Contract will be identified by DNR National Forest Liaison in consultation with the County and listed in a work plan appended to the County GNA Contract and signed/dated on behalf of the county by the County Forest Administrator and by the DNR National Forest Liaison. It is anticipated that the work plan will be a dynamic document that may be completed at the time of award or thereafter, and which may be amended as needed with the Agreement of both parties. Pursuant to Section XIX of this agreement, the County Forest Administrator shall be authorized to complete and sign a County GNA Contract work plan addendum and future amendments to the work plan on behalf of the County.

**D. Primary Contacts & Communications**

The primary DNR contact for this Agreement and for any subsequent County GNA Contract, amendment, or work plan addendum shall be the DNR National Forest Liaison, as identified in the County GNA Contract. The primary County contact shall also be identified in the County GNA Contract. The County and DNR primary contacts should stay in regular (i.e., monthly) communication during the County GNA Contract period and keep each other apprised of progress and any complications.

**VI. PROJECT COSTS & REIMBURSEMENT**

**A. Eligible Costs**

The DNR will reimburse participating counties for actual salary, fringe benefits, supply and service costs, and actual indirect costs incurred by the County in carrying out a County GNA Contract, up to the total award amount indicated in the County GNA Contract. Only costs that were incurred during the County GNA Contract period and that were identified in the County GNA Contract and all approved scope of work addendums shall be eligible for reimbursement. It is mutually understood and agreed that the final costs may vary from the amount listed in the County GNA Contract budget because budget amounts are estimates. However, the total amount available for reimbursement shall not exceed the total amount identified in the County GNA Contract . Additionally, the amount eligible for reimbursement by activity, as identified within the County GNA Contract scope of work addendum, shall not exceed the amount estimated by activity unless amended in writing by both the DNR and County during the life of the County GNA Contract.

Labor costs for work performed by County Forest staff will be documented using actual hourly rates for each employee multiplied by the hours worked on approved GNA project activities. These hourly rates may include overtime at the overtime pay rate that each employee is entitled to under their compensation plan or contract. The DNR will also reimburse the County for actual fringe benefits costs for all County labor. The County shall also be reimbursed for indirect (overhead) costs incurred during the life of the County GNA Contract at the actual indirect rate identified by the County and agreed to by the DNR. The indirect rate claimed by the County must be certified as true and correct by either the County Finance Director or Corporation Counsel affiliated with the participating County.

## **B. Ineligible Costs**

1. Costs incurred, or work performed, either prior to or after the contract period identified in the County GNA Contract.
2. Costs associated with activities other than those identified in the scope of work attached to and made a part of the County GNA Contract.
3. Costs to purchase equipment, defined as items with an acquisition cost over \$5,000 and a useful life of greater than 1 year.

## **C. Reimbursements**

1. The County must first incur and pay project costs before requesting reimbursement from the DNR. Final reimbursement claims must be submitted within two (2) months from the County GNA Contract end date. The County may submit partial reimbursement requests for eligible costs on a quarterly basis. Reimbursements may be requested by letter from the County authorized representative submitted to the DNR National Forest Liaison and must be accompanied by proof of purchase documentation, such as copies of vendor invoices for services or materials, county finance department reports for salary and fringe expenses, etc.), that support all project costs claimed. Reimbursement requests must also include a brief report of accomplishments since the last reimbursement request.
2. The County agrees to reimburse the DNR for any and all funds the DNR deems appropriate in the event the County fails to comply with the conditions of this Agreement or County GNA Contract, or fails to provide public benefits as indicated in this Agreement or County GNA Contract. In addition, should the County fail to comply with the conditions of this Agreement, fail to progress due to non-appropriation of funds, or fail to progress with or complete the project to the satisfaction of the DNR, all obligations of the DNR under this Agreement may be terminated, including further project cost payment.
3. Notwithstanding s. NR 120.19(1)(Intro), the County agrees to comply with cost-containment provisions in s. NR 120.19, Wis. Admin. Code, reimbursement procedures in s. NR 120.23, Wis. Admin. Code, and record retention and auditing requirements contained in s. NR 120.26, Wis. Admin. Code, during the execution of this Agreement.

## **VII. ACCOUNTING & REPORTING REQUIREMENTS**

- A. Accounting for project funds shall conform to generally accepted accounting principles and practices, and shall be recorded by the County in a separate account. All financial records, including proofs of purchase and proofs of payment, that support all project costs claimed by the County, shall be kept for three years after the final payment is issued by the DNR and made available upon request to the DNR, Forest Service, or a designated agent.
- B. The County shall submit performance reports prior to June 30<sup>th</sup> annually to the DNR National Forest Liaison and at other times reimbursement is requested. These reports may be brief and must contain a comparison of actual accomplishments to the goals established for the period and reason(s) for delay if established goals were not met. A final performance report shall be submitted either with the County's final payment request, or separately, but not later than 30 days from the end date of the County GNA Contract.

- C. This Agreement is subject to the Office of Management and Budget (OMB) Government-wide Guidance for Grants & Cooperative Agreements found in subparts A through F of 2 CFR Part 200 as adopted and supplemented by the USDA in 2 CFR Part 400. Specific regulations include Uniform Administrative Requirements and Cost Principles. The OMB Circulars are available [http://www.whitehouse.gov/omb/circulars\\_default](http://www.whitehouse.gov/omb/circulars_default). Electronic copies of the CFRs can be obtained at the following internet site: <http://www.gpoaccess.gov/cfr/index.html>.
- D. In accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements, non-Federal entities that expend financial assistance of \$750,000 or more in Federal awards will have a single or a program-specific audit conducted for that year at their own expense. A proportional share of the costs for an annual single audit is reimbursable under this grant.
- E. All data and information acquired as part of the project shall be reported to the DNR in the format specified by the DNR National Forest Liaison.

### **VIII. OTHER GENERAL CONDITIONS**

- A. The DNR and the County mutually agree to perform this agreement in accordance with the project proposal, application, terms, promises, conditions, plans, specifications, estimates, procedures, maps and also any assurances attached hereto and made a part hereof.
- B. The DNR agrees that the County shall have sole control of the method, hours worked, and time and manner of any performance under this agreement other than as specifically provided herein. The DNR reserves the right only to inspect the job site or premises for the sole purpose of insuring that the performance is progressing or has been completed in compliance with the agreement. The DNR takes no responsibility for supervision or direction of the performance of the agreement by the County or the Sponsor's employees or agents. The County is an Independent Contractor for all purposes, not an employee or agent of the DNR. The DNR further agrees that it will exercise no control over the selection or dismissal of the County's employees or agents.
- C. The County may decline the offer of financial assistance provided through the County GNA Contract in writing at any time prior to the starting of the project and before expending any funds. After the project has been started or funds expended, the County GNA Contract may be rescinded, modified, or amended only by mutual agreement in writing.
- D. Failure by the County to comply with the terms of this Agreement or the County GNA Contract shall not cause the suspension of all obligations of the DNR hereunder if, in the judgment of the Secretary of the DNR, such failure was due to no fault of the County. In such case, any amount required to settle at minimum costs any irrevocable obligations properly incurred shall be eligible for assistance under this agreement, at the DNR's discretion.
- E. In connection with the performance of work under this Agreement, the County agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, disability, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Statutes, sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The County further agrees to take affirmative action to ensure equal employment opportunities, as required by law. The County agrees to post in conspicuous places available, for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.

## **IX. NOTICE**

The DNR agrees to provide the Counties with prompt notice of changes to federal law, Wisconsin Statutes, Wisconsin Administrative Codes, the GNA Agreement entered into between the DNR and the Forest Service, guidance, and practices that may impact the Parties, this Agreement, and the County GNA Contract if such changes are identified by the DNR.

## **X. TERM OF AGREEMENT**

This Agreement will take effect upon signature by the DNR and the signatory County, and shall continue through August 4, 2025. Sixty days prior to the termination date, the Parties may evaluate and negotiate necessary changes. If no changes are required, the Agreement will automatically renew for an additional ten years.

## **XI. TERMINATION**

Termination of this Agreement prior to August 4, 2025, is possible upon 60 days written notice by either party. All project activities approved and initiated prior to the termination date shall continue to completion. After a project has been started or funds expended for an activity identified in the County GNA Contract or any scope of work addendum, this Agreement may be rescinded, modified, or amended only by mutual agreement in writing.

## **XII. LIABILITY**

On behalf of itself, its officers, directors, members, employees, personnel, agents, and representatives, all Parties agree that they shall be responsible for their own acts and omissions and the results thereof and shall not be responsible for the acts or omissions of the other Parties, nor the results thereof to the extent authorized by Wisconsin law. The County agrees to save, hold harmless, defend, and indemnify the State of Wisconsin, the DNR and all its officers, employees and agents, to the extent allowed by law, against any and all liability, claims and costs of whatever kind and nature, for injury to or death of any person or persons, and for loss or damage to any property (state or other) occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operation or performance of work in connection with this Agreement or omissions of County's employees, agents or representatives.

## **XIII. ASSIGNMENT**

No right or duty of this Agreement, in whole or in part, may be assigned, delegated or subcontracted without the written consent of all Parties.

## **XIV. AMENDMENT**

No amendment to this Agreement is possible except in writing and signed by all Parties before the end date of this Agreement.

## **XV. COMPLETE AGREEMENT**

This Agreement, together with any referenced parts and attachments, shall constitute the entire agreement and previous communications or agreements pertaining to the subject matter of this Agreement are hereby superseded. Any revisions, including cost adjustments, must be made by an amendment to this Agreement, signed by both parties, prior to the end date of this Agreement.

## **XVI. CONTROLLING LAW**

The interpretation and performance of this Agreement shall be governed by the laws of the State of Wisconsin.

## **XVII. LIBERAL CONSTRUCTION**

Any general rule of construction to the contrary notwithstanding, this Agreement shall be liberally construed to effect the purpose and scope of this Agreement. If any provision in this Agreement is found to be ambiguous, an interpretation consistent with the purpose and scope of this Agreement that would render the provision valid shall be favored over any interpretation that would render it invalid.

## **XVIII. SEVERABILITY**

If any provision of this Agreement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

## **XIX. DELEGATION**

Pursuant to Section V.A of this Agreement, the County Forest Administrator is authorized to submit an application for a County GNA Contract on behalf of the County. Pursuant to Section V.B, the County Forest Administrator is authorized to sign a County GNA Contract on behalf of the County. Pursuant to Section V.C, the County Forest Administrator is authorized to complete and sign a County GNA Contract work plan addendum and future amendments to the work plan on behalf of the County.

The DNR National Forest Liaison, DNR GNA Operations Manager, and DNR GNA Business Manager are authorized to complete and sign a work plan as addendum to the County GNA Contract and any amendment to the County GNA Contract on behalf of the DNR.

**XX. SIGNATURES**

The DNR and Counties may separately sign this Agreement which shall, in the aggregate, be signed by all Parties. Each counterpart shall be deemed an original instrument as against any Party who has signed it. In the event of any disparity between the counterparts produced, the counterpart held by the DNR shall be controlling.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Agreement as of the last date written below.

Wisconsin Department of Natural Resources

By: \_\_\_\_\_ Date  
DNR Secretary

\_\_\_\_\_ County

By: \_\_\_\_\_ Date  
\_\_\_\_\_ County Board Chair

By: \_\_\_\_\_ Date  
\_\_\_\_\_ County Forestry Committee Chair

By \_\_\_\_\_ Date  
\_\_\_\_\_ County Forest Administrator