

Agreement Number: 68-8D43-XX-XX
Fund Code: XXXXX
Amount: \$
Fund Code: XXXXX
Amount: \$
Expiration date:

**COOPERATIVE AGREEMENT
68-8D43-XX-XX**

between the

**UNITED STATES DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE (NRCS)**

and

SPONSOR, UTAH (Sponsor)

PROJECT: Sponsor, Utah, Emergency Watershed Protection (EWP) FY12 Creek Project #5000 – Technical and Financial Assistance

I. AUTHORITY

A. Code of Federal Regulations, Title 7: Agriculture, Part 624-Emergency Watershed Protection, paragraph 624.8(c) authorizes NRCS to enter into a cooperative agreement with a sponsor.

B. For purposes of this agreement, “sponsor” refers to Sponsor, Utah and is defined in 7 CFR 624.4(g) as: “Project sponsor means a State government or a State agency or a legal subdivision thereof, local unit of government, or any Native American tribe or tribal organization as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), with a legal interest in or responsibility for the values threatened by a watershed emergency; is capable of obtaining necessary land rights; and is capable of carrying out any operation and maintenance responsibilities that may be required.”

II. PURPOSE

A. The purpose of this agreement is to provide financial assistance to Sponsor to implement recovery measures that, if left undone, pose a risk to life and property. Heavy thunderstorms and the resulting runoff caused flooding and erosion along the Creek and a bridge located on County Road XXX on lands near Beautiful Mountain, Utah. NRCS funding is for implementation of stream bank protection measures to protect the Creek stream channel and the abutments of the bridge from further erosion, from scour in the stream bed, and to repair damage to the channel around the bridge abutments.

B. Defined sites and work to be completed will be established during discussions between the Sponsor and NRCS once work requirements are analyzed and estimated repair costs determined. The completed Damage Survey Report(s) (DSR) will serve as the Plan of Work for the project. The final NRCS Damage Survey Report for this project will be signed by

both NRCS and the Sponsor and incorporated into the agreement through an amendment to the agreement.

C. This agreement provides \$165,000.00 of NRCS financial and technical assistance funding to the Sponsor (described below and in further detail in section VII (A) (2).

1. Funds in the amount of \$150,000.00 are for on-the-ground construction work (up to 75% of total construction costs), estimated to cost a total of \$200,000.00. These funds are referred to Financial Assistance funds or "FA" funds. The Sponsor is responsible for 25% of total construction expenses (estimated \$50,000.00) in either direct cash expenditures, the value of non-cash materials or services, or 3rd party in-kind contributions. The value of any in-kind donation shall be agreed to in writing prior to implementation.

2. This agreement also provides NRCS financial assistance to the Sponsor of \$15,000.00 for technical and administrative costs directly charged to the project. While NRCS can pay 100% of these costs up to \$15,000.00, it is possible that technical and administrative costs will exceed this amount, requiring the Sponsor to contribute resources to complete technical and administrative work.

III. BENEFITS

NRCS funding will be used to implement emergency recovery measures, providing immediate benefits to Sponsor residents and long-term benefits to the general public in protection of the watershed.

IV. ATTACHMENTS TO AGREEMENT

The following attachments are incorporated into the agreement:

Attachment A: General Terms and Conditions for Grants and Cooperative Agreements

Attachment B: Required Contract Clauses and Bonding Requirements

Attachment C: NRCS Supplement to OSHA Parts 1910 and 1926

Attachment D: 7 CFR Part 624, Emergency Watershed Protection Program

Attachment E: 7 CFR 3016.36, Procurement

Attachment F: The following Standard Forms submitted by the Sponsor:

SF 424 – Application for Federal Assistance

SF 424C Budget Information Construction Programs

SF 424D Assurances – Construction Programs

Attachment G: Quarterly Accrual Report Format

V. TERM OF THE AGREEMENT

This agreement is effective as of the date of final signature by USDA/NRCS on NRCS-ADS-093 form, Notice of Grant and Agreement Award and continues in full force and in effect through

May 2, 2013. The agreement may be amended to extend the date. Requests from the Sponsor to the NRCS Utah State Conservationist, to extend the term of the agreement and/or amendment(s) must be submitted in writing 45 days prior to the current expiration date of the agreement and include a detailed description of circumstances that created the need for the extension. The Sponsor must be vigilant in tracking the expiration date(s) of the agreement and subsequent amendments.

VI. CONTACT INFORMATION

Sponsor	NRCS Utah
Project Manager	Project Manager
Name	Bronson Smart
Title	NRCS Utah State Conservation Engineer
Sponsor	USDA Natural Resources Conservation Service
Address	125 South State St., Room 4010
Town, UT 84XXX	Salt Lake City, UT 84138
Phone:	Phone: 801-524-4559
Fax:	Fax: 801-524-4403
Email:	Email: bronson.smart@ut.usda.gov
Administrative Contact	Administrative Contact
Name	
Title	NRCS Grants Management Specialist
Sponsor	USDA Natural Resources Conservation Service
Address	125 South State St., Room 4010
Town, UT 84XXX	Salt Lake City, UT 84138
Phone:	Phone:
Fax:	Fax:
Email:	Email:

VII. RESPONSIBILITIES AND OBLIGATIONS:

A. Sponsor will:

1. **Construction Plan** - Sponsor and NRCS will evaluate damage and jointly determine the most effective measures to be implemented with the funding available. The completed Damage Survey Report(s) will serve as the Plan of Work for the project. The Sponsor will design and write specifications, solicit, evaluate, award, and manage the construction contract(s) for on-the-ground construction. Construction documents will include USDA bonding requirements and construction clauses (reference attachment B) and the NRCS Supplement to OSHA Parts 1910 and 1926 (reference attachment C) and adhere to procurement policies of the Code of Federal Regulations, Section 7, 3016.36 (7 CFR 3016.36) entitled "Procurement" (see attachment E). The Sponsor will comply with the General Terms and Conditions for Grants and Cooperative Agreements (see attachment A). Only sites identified in the NRCS DSR signed by NRCS and the Sponsor are NRCS approved sites. Work completed at other sites will not be reimbursed by NRCS.

2. **Funding and Cost-Share** - NRCS funding for this project is provided to the Sponsor in two separate NRCS funding accounts, one for Technical Assistance (TA) and Financial Assistance (FA). In order for funds to be expended according to NRCS program requirements, the Sponsor must account for TA and FA expenditures separately. Following is a description of the accounts:

a. NRCS **technical assistance (TA)** funding of \$15,000.00 (up to 13% of actual FA costs expended) is obligated to the Sponsor for allowable costs of services such as:

- Administrative costs incurred in the solicitation, evaluation, award, and management of the construction contract(s)
- Other administrative costs such as verifying invoices, record keeping, and accounting for Sponsor resources expended for the project.
- Project design, construction drawings and specifications
- Design report addressing items pertaining to: geology, geotechnical, structural, hydrology, hydraulics, and sedimentation as applicable
- Development of an Operations and Maintenance Plan
- Development of a Quality Assurance/ Inspection Plan

(1) In acceptance of this agreement, the Sponsor acknowledges that NRCS funding of \$15,000.00 may be insufficient to cover all technical assistance costs and the Sponsor may need to contribute resources toward completion of the technical assistance tasks described in this agreement.

(2) A cost-share contribution is not required from the Sponsor for activities conducted under technical assistance; however, technical assistance funding provided is up to 13% of actual FA costs expended, not to exceed \$15,000.00 or unless NRCS approves additional funding and the agreement is revised through issuance of an amendment, signed by both parties.

(3) The Sponsor is prohibited from using federal funds as any portion of the cost-share requirement. Funds are considered federal in origin if disbursed directly to the Sponsor by a federal government agency or indirectly through another entity. For example, federal funding to a state agency passed by the state to a County and from the County to a city is considered to be federal in origin by the state, the County, and the city.

b. The **financial assistance (FA)** funds, \$150,000.00, are exclusively for actual allowable costs of on-the-ground construction. NRCS contribution will not exceed 75% of total allowable project construction costs, up to the maximum of \$150,000. Estimated project construction cost is:

NRCS (up to 75% not to exceed):	\$150,000.00.
Sponsor required cost share (25%)	<u>\$ 50,000.00</u>
Total estimated project construction cost:	\$200,000.00

(1) Funds in the amount of \$150,000.00 are for on-the-ground construction work (up to 75% of total construction costs), estimated to total \$200,000.00. The Sponsor is responsible for 25% of total construction expenses (estimated \$50,000.00) in either direct cash expenditures, the value of non-cash materials or services, or 3rd party in-kind

contributions. The value of any in-kind donation shall be agreed to in writing prior to implementation. The Sponsor shall have a process in place to directly charge Sponsor construction costs dedicated to this project (salaries and benefits of Sponsor employees performing construction, use of Sponsor owned equipment, etc.) and shall have supporting documentation on file.

(2) Once the project is completed and all requests for reimbursement submitted, any excess funding remaining in the agreement (over and above the NRCS commitment of up to 75% of actual construction costs and within the not-to-exceed amount) will be de-obligated from the agreement.

(3) EWP program rules prohibit NRCS from reimbursing the Sponsor for work performed prior to the date of final signature by USDA/NRCS on NRCS-ADS-093 form, Notice of Grant and Agreement Award.

3. **Pre-Construction Notification** - Prior to beginning any on-the-ground construction work, the Sponsor will review the following items (a through h) and contact the NRCS Project Manager when necessary, to ensure any concerns relative to the following requirements (a through h) have been addressed and resolved. Once all requirements (a through h) have been met, and documentation has been received by the NRCS Administrative Contact, the NRCS Project Manager will provide you with a written authorization to begin construction.

a. **Real Property Rights** - The Sponsor will, prior to implementing construction activities, submit a completed ADS-78 form, Assurances Relating to Real Property Acquisition, to the NRCS Program Manager and the NRCS Administrative Contact. An attorney's opinion must be attached to the form certifying an examination of the real property instruments and files was made and found to provide adequate land title, rights, permission and authority for the purpose(s) of the project. The ADS-78 and Attorney's Opinion must encompass all construction sites. All costs relative to obtaining property rights will be borne by the Sponsor. In accordance with EWP program regulations, NRCS cannot pay for these costs nor can they be counted as a cost-share contribution by the Sponsor.

b. **Permits** - Ensure all applicable Federal, State, and local permits are obtained and work is performed in accordance with permit requirements. The Sponsor will submit a copy of all permits to the NRCS Administrative Contact. In most cases working on or near streams will require at a minimum a Stream Alteration Permit from the State of Utah and the Nationwide 37 Permit from the U.S. Army Corps of Engineers. If the project requires mining for riprap, a permit from the Utah Division of Oil, Gas, and Mining will be submitted to the NRCS Project Manager and Administrative Contact. The mining area will need to be surveyed for cultural and biological resources, and comply with all NEPA requirements. All costs relative to obtaining required permits will be borne by the Sponsor. In accordance with EWP program regulations, NRCS cannot pay for these costs nor can they be counted as a cost-share contribution by the Sponsor.

c. **Endangered Species Act (ESA) Compliance** - The Sponsor is responsible for compliance with the Endangered Species Act including implementation of U.S. Fish and Wildlife avoidance and minimization measures and conservation measures identified for threatened and endangered species. Sponsor agrees to implement avoidance and minimization measures and conservation measures identified for threatened and endangered

species through consultation under Section 7 of the Endangered Species Act. **The Sponsor Project Manager must review the DSR prior to starting construction and comply with ESA conditions identified in the DSR. For questions related to ESA, contact Casey Burns, NRCS Utah Biologist, at 801-524-4566 or casey.burns@ut.usda.gov or Derek Hamilton, EWP Biologist, at 801-524-4560 or derek.hamilton@ut.usda.gov.**

d. **National Historic Preservation Act Compliance** – Construction contract(s) awarded by the Sponsor must incorporate all cultural resource requirements as determined by NRCS. The Sponsor will review the cultural resources report and comply with all avoidance and mitigation measures. If the Sponsor is using rock quarries as part of the project, the location and extent of the rock quarries must be verified by the NRCS State Cultural Resources Specialist (CRS). **If the Sponsor has not been contacted by NRCS prior to starting construction, the Sponsor Project Manager must contact the NRCS State CRS, at 801-524-4556 or andrew.williamson@ut.usda.gov, in writing, to verify that the Sponsor has taken all required action. Correspondence via email message to Andrew is acceptable.**

e. **National Environmental Policy Act (NEPA) Compliance** – The Sponsor is responsible for compliance with all NEPA requirements. **The Sponsor Project Manager must review the DSR prior to starting construction and comply with NEPA requirements identified in the DSR and if applicable an EA. For questions related to NEPA compliance contact Elise Boeke, NRCS State Resource Conservationist, at 801-524-4562 or elise.boeke@ut.usda.gov.**

f. **Quality Assurance and Inspection Staffing Plan** – The Sponsor will write the Quality Assurance and Inspection Staffing Plan and submit it to NRCS for review, and conduct required Quality Assurance and Inspection as described in the reviewed Quality Assurance and Inspection Staffing Plan.

g. **Operations and Maintenance Plan** – The Sponsor will write the Operations and Maintenance Plan and submit a draft to NRCS for review. The Sponsor is responsible for all operation and maintenance costs. Upon project completion, Sponsor shall submit a final Operation and Maintenance Plan to the NRCS Project Manager and Administrative Contact.

h. **Functional Review** – Submit draft designs and specifications to NRCS for review (see Engineering and Construction Performance paragraph below).

4. **Construction Contract(s)** - Solicit, evaluate, award, and manage construction contract(s) in accordance with established Sponsor procurement policy and all applicable State and Federal laws and regulations. **Reference 7 CFR 3016.36, section entitled “Procurement” for procurement requirements, including required construction contract clauses and bonding requirements (see attachment E).** The Sponsor is responsible for continuous oversight of their construction contractor to ensure 100% compliance with all contract provisions. Compliance with the Davis-Bacon Act, as amended, is not required by the Emergency Watershed Protection Program legislation.

5. **Safety** - All contractors on NRCS assisted projects are required to perform their work in accordance with OSHA regulations, NRCS Supplement to OSHA Parts 1910 and 1926, and the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by

Department of Labor regulations (29 CFR Part 5) (see attachment C). The Sponsor is responsible for periodically checking the contractor's compliance with safety requirements. The Sponsor will notify NRCS of all accidents and/or injuries that occur on the NRCS assisted project.

a. Because NRCS is responsible for construction observation, the Sponsor agrees to authorize NRCS to notify the Sponsor's contractor orally, with written confirmation, to take immediate corrective action to correct any condition which poses a serious or imminent danger to the health or safety of contractor employees, government personnel, or the public. If after this notice the contractor fails or refuses to promptly take the required corrective action, NRCS is authorized to issue an order suspending all or part of the work, as appropriate, until satisfactory corrective action has been taken. NRCS will keep the Sponsor informed, on a daily basis, of actions taken and the contractor's response. The Sponsor will issue resume orders upon completion of satisfactory corrective action.

6. **Engineering and Construction Performance** - All construction will be performed in compliance with the following:

a. Ensure individuals and/or organizations providing engineering services employ a licensed professional engineer who directly supervises the staff performing the services or who serves as a Principal.

b. Ensure any designs, drawings and specifications submitted for a functional review to NRCS State Conservation Engineer, Bronson Smart, meet NRCS standards and are sealed by a licensed engineer. Associated hazard classification with practice standard will be stated in accordance with NEM Section 501.7 and design documentation will follow 511.11(A) of the NRCS National Engineering Manual. Engineering designs, drawings and specifications shall include avoidance and mitigation measures as identified in the signed DSR. The documents will be certified as follows: **"To the best of my professional knowledge, judgment and belief, these plans (or this report, etc.) meet applicable NRCS standards."** This certification statement will be signed and sealed by the licensed professional engineer. The Utah NRCS Engineering website address is: <http://www.ut.nrcs.usda.gov/technical/engineering/index.html>. Contact the NRCS State Engineer if you have difficulty accessing the site. Contact information:

Bronson Smart
USDA/NRCS Utah State Conservation Engineer
125 South State St., Room 4010
Salt Lake City, UT 84138
Phone: 801-524-4559
Cell: 801-710-5387
Email: bronson.smart@ut.usda.gov

c. Agree that NRCS engineering staff will perform only a functional review of the design and specifications. A functional review shall consist of the following as defined in NRCS National Engineering Manual (NEM) 505.03(b)(3):

- (1) Achieves the objectives of the plan and program(s);
- (2) Meets the criteria in the applicable practice standards;
- (3) Complies with the applicable State and Federal programs;

- (4) Includes a design report addressing hydrology, hydraulics, and sedimentation, as applicable;
- (5) Includes an Inspection Plan and Operation and Maintenance Plan; and,
- (6) Does not require a technical review as defined in NEM 511.05.

NOTE: Designs and/or specifications that, upon cursory review by NRCS, appear to be unacceptable will be returned to the Sponsor for revision without further review by NRCS. The Sponsor bears the responsibility for ensuring that contracted architectural and engineering firms possess the skills required to successfully and efficiently perform the project work and that payment is made only for work performed in producing acceptable products.

d. All construction will be performed in compliance with:

- (1) Sponsor developed design and specifications.
- (2) NRCS standards.

(3) Requirements of all necessary local, State, and Federal permits. The Sponsor is responsible for securing all permits and complying with permit requirements. A copy of all permits will be submitted to the NRCS Administrative Contact.

(4) All avoidance, mitigation measures and conservation measures identified in the DSR.

(5) Information and assurances provided in Attachment F of this agreement.

7. **Notification of Noteworthy Events** - Immediately notify the NRCS Project Manager (see "Contact" Section) of events that impact the project. Such events include, but are not limited to, problems, delays, and adverse or differing site conditions that will materially impair continuation of the project.

8. **Quality Assurance and Inspection Staffing Plan** - The Sponsor will conduct the required Quality Assurance and Inspection as described in the Sponsor developed and NRCS reviewed Quality Assurance and Inspection Staffing Plan.

9. **Operations and Maintenance** - Conduct required operation and maintenance as described in the Operations and Maintenance Plan developed by the Sponsor and reviewed by NRCS. **The Sponsor is responsible for all operation and maintenance costs.**

10. **Excess costs** - Accept all financial and other responsibility for excess costs resulting from failure of the Sponsor to obtain, or delay in obtaining, adequate land and water rights, permits, and licenses needed for the emergency watershed protection measures.

11. **Deficient Construction Services** - Accept liability for any damage and any additional construction costs to others to correct problems arising during or after construction resulting from deficient construction services performed by or through the Sponsor.

12. **Deviations from Certified Design** – The Sponsor will obtain NRCS concurrence, in writing, for any deviations from the certified design. Every attempt will be made to contact NRCS for verbal concurrence of minor deviations and corrections that become necessary during construction; however, construction should not be delayed to await approval **unless there is reasonable doubt on the part of the Sponsor that the change will be unacceptable to NRCS. All minor changes and corrections, regardless of whether NRCS was verbally contacted or not, will be documented by the Sponsor in writing and submitted to the NRCS Project Manager and Administrative Contact within 24 hours of occurrence.**

13. **Weekly Inspection Reports** – The Sponsor shall submit weekly inspection reports throughout the duration of construction or other EWP activities to the NRCS Project Manager and NRCS Administrative Contact. Failure to submit weekly reports will result in delayed or nonpayment. Inspection reports shall adhere to the following:

- a. The report shall contain a narrative and photos in one .pdf file.
- b. The report will list and describe the status of work at each DSR site, using the same name as shown on page 1 of the DSR.
- c. If construction has not yet begun or has been temporarily delayed, note this in the weekly report.
- d. Name each file using the NRCS Agreement Number, Inspection Report, Week (use two digits), and Date. For example: 68-8D43-12-04 Inspection Report Week 05, Oct 29 – Nov 2, 2012.
- e. Inspection reports shall be submitted to NRCS even if also posted at a central site.

14. **Final Digital Photographic Documentation** -

a. Upon completion of the project, the Sponsor will provide photographs in digital format (.jpeg) on a CD to both the NRCS Project Manager and Administrative Contact. The photographic documentation should be a complete diary of activities from preconstruction through final inspection.

b. A set of final photos should be made of all completed project sites and should be taken from similar vantage points as the original pre-construction photos. Photos should be taken daily of construction activities and should show construction methods, subsurface materials encountered, construction problems as well as problem solutions, and any damages incurred during construction either natural or manmade.

15. **Removal or Relocation of Utilities** – The Sponsor will arrange and pay for any necessary location, removal, or relocation of utilities; **EWP program regulations prohibit NRCS from reimbursing the Sponsor or otherwise paying for any such costs nor do the costs qualify as a Sponsor cost-share contribution.**

16. **Increased Level of Protection** - If the Sponsor desires to increase the level of protection over and above that described in the NRCS Damage Survey Report (DSR), the Sponsor will be responsible for paying 100% of the costs of any unapproved and unfunded upgrade or additional work.

17. **Unforeseen events** - Events may occur that have significant impact upon the project. In such cases, the Sponsor must inform the NRCS Project Manager either (1) verbally, if the issue is time-sensitive, with a written notice documenting the conversation submitted to NRCS within 24 hours of occurrence; or (2) if the issue is not time-sensitive, in writing, as soon as the following types of conditions become known:

a. Problems, delays, or adverse conditions which will materially impair the Sponsor's ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

b. Favorable developments which enable meeting time schedules and objectives sooner or for less cost than anticipated or producing more beneficial results than originally planned.

18. **As-built Drawings** - Complete as-built drawings for the project. A copy of the as-built drawings will be submitted to the NRCS Project Manager and Administrative Contact.

19. **Reimbursement and Financial Reporting** – Reference Section V, "Payments" in Attachment A entitled "General Terms and Conditions for Grants and Cooperative Agreements".

a. A request for reimbursement (SF-270) must be submitted to the NRCS Administrative Contact at a minimum of quarterly and a maximum of monthly.

b. Progress payments will be withheld until all required documentation is submitted and complete (this includes required pre-construction documentation as well as weekly construction reports). Final payment will not be processed by NRCS until all provisions of the agreement have been met including: receipt of as-built drawings, copy of permits, ADS-78 and Attorney's Opinion, reports, etc. Final payment request shall be submitted to NRCS within 90 days of agreement expiration.

c. NRCS cannot process a reimbursement to a sponsor unless the sponsor is registered in the System for Award Management (SAM) program which replaced the Central Contractor Registration (CCR) system. The Sponsor is responsible for ensuring their SAM registration is current so reimbursements are not delayed.

22. **Nondiscrimination Requirements** - Recipients of Federally-Assisted Programs are required to post the following notice in their offices and include, in full, on all materials regarding this project that are produced by the recipient for public information, public education, or public distribution:

"U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees and applicants for employment on the bases of race, color, national origin,

age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases apply to all programs and/or employment activities.)

To File a Program Complaint

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9419, by fax (202) 690-7442 or email at program.intake@usda.gov.

Persons with Disabilities

Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish). Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD)."

23. **Performance Reports** - In accordance with 7 CFR 3015.92, because this is a construction project, on-site technical inspections and certified percentage-of-completion data will be used to monitor progress. No written performance reports will be required.

24. **Accrual Reports** - NRCS requires quarterly accrual information. An accrual is the value of the work that has been performed or will be performed in cooperation with NRCS, but for which you an SF-270 has not yet been submitted. The Sponsor shall complete the Accrual Information form (Attachment E) and submit it to the NRCS Administrative Contact no later than 15 days prior to the end of the quarter (submit by March 15, June 15, September 15, and December 15). The U.S. Congress relies on audits of financial statements, including accrual information, to determine future funding amounts for NRCS on-going and new projects and programs.

25. **Procurement** - Sponsor will conduct all procurement activities in a manner that provides, to the maximum extent possible, free and open competition.

26. **Settlement of Sponsor Contracts** - The Sponsor is responsible, without recourse to NRCS or USDA, for the settlement and satisfaction of all contractual and legal issues arising out of arrangements entered into between the Sponsor and others to carry out approved project activities. Matters concerning violation of law should be referred to the federal, state, or local authority having proper jurisdiction.

27. **Pre-Award Costs** - NRCS cannot reimburse the Sponsor for work performed prior to the date of final signature by USDA/NRCS on NRCS-ADS-093 form, Notice of Grant and Agreement Award.

28. **Inconsistencies** - Should inconsistencies arise between language in the agreement and the plan of work, the language in the agreement takes precedence.

29. **Travel** - The Federal Travel Regulations will serve as a guideline for any travel performed under this agreement.

30. **Acknowledgement** - The recipient is responsible for ensuring that an acknowledgment of NRCS is made during news media interviews, including popular media such as radio, television, and news magazines, that discuss in a substantial way work funded by this award. The following acknowledgment of NRCS support must appear in the publication of any material, whether copyrighted or not, and any products in electronic formats (World Wide Web pages, computer programs, etc.) that is substantially based upon or developed under this award: "This material is based upon work supported by the Natural Resources Conservation Service, U.S. Department of Agriculture."

B. NRCS will:

1. **Funding** - Contribute up to \$150,000.00 in financial assistance (construction) funds toward expenses for the project at approved construction site as identified in the DSR. Contribute up to 13% of actual FA costs expended, not to exceed \$15,000.00 to be used by the Sponsor to complete technical assistance tasks. Funds will be expended as explained in section VII. (A) (2) of this agreement.

2. **Damage Survey Report** - Develop and write the Damage Survey Report (DSR). A copy of the signed DSR will be submitted to the Sponsor Project Manager.

3. **Environmental Compliance** - Complete all necessary NEPA and cultural and biological resources documentation.

4. **Review of Design and Specifications** - Provide a functional review of the Sponsor's design and specifications. NRCS shall provide feedback in writing to the Sponsor if items of concern are discovered in the functional review.

5. **Review of QA and O&M Plans** - Review the Quality Assurance Plan and Operations and Maintenance Plan for the project developed by the Sponsor. All expenses for operations and maintenance are the responsibility of Sponsor.

6. **Reimbursement** - Upon receipt of a properly completed SF-270, Request for Advance or Reimbursement, and proper supporting documentation, assess description of work completed relative to allowable funds requested and, if request is reasonable, approve and process payment to the Sponsor. In the event there are questions regarding the SF-270 and supporting documentation, NRCS will contact the Sponsor in a timely manner to resolve concerns. Final payment will not be processed until all provisions of the agreement have been met including: receipt of as-built drawings, copy of permits, ADS-78 and Attorney's Opinion, reports, etc.

VIII. AMENDMENTS, CHANGES, AND TERMINATION

See General Terms and Conditions attached to the agreement, Section XIV (see attachment A).

IX. APPROVAL

The United States Department of Agriculture, Natural Resources Conservation Service and Sponsor execute this agreement as of the date of final signature by USDA/NRCS on NRCS-ADS-093 form, Notice of Grant and Agreement Award. The signatories represent that each is duly authorized to bind their respective organization to the terms of this agreement. By signing the NRCS-ADS-093 form, the Sponsor assures USDA that the program or activities provided for under this agreement will be conducted in compliance with all applicable Federal, State and municipal civil rights laws, rules, regulations, and policies.