Regional Conservation Partnership Program (RCPP) Supplemental Agreement, Type II, Attachment 4: General Terms and Conditions

I. APPLICABLE REGULATIONS

A. The regulations in 7 CFR Part 1464 and are incorporated by reference. In the event of a conflict between these regulations and the terms of this attachment, the provisions of the regulations will prevail.
B. Allowable project costs will be determined in accordance with the authorizing statute, the RCPP regulation, and the purpose(s) of the RCPP project which this supplemental agreement supports.
C. As a condition of this award, the recipient assures and certifies that it has and/or will comply and require subrecipients to comply with the requirements contained in the following statutes and regulations, as applicable.

1. 2 CFR Part 25, "Universal Identifier and System of Award Management"
2. 2 CFR Part 170, "Reporting Subaward and Executive Compensation Information"
3. 2 CFR Part 175, "Award Term for Trafficking in Persons"
4. 2 CFR Part 180, "OMB Guidelines to Agencies On Governmentwide Debarment And Suspension (Nonprocurement)"
5. 2 CFR Part 182, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)" ("
6. 2 CFR Part 400, "Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards"
7. 2 CFR Part 417, "Nonprocurement Debarment and Suspension"
8. 2 CFR Part 418, "New Restrictions on Lobbying"
9. 2 CFR Part 421, "Requirements for Drug-Free Workplace (Financial Assistance)"
10. 2 CFR Part 422, "Research Institutions Conducting USDA-Funded Extramural Research; Research Misconduct"
11. 48 CFR Part 31, "Contract Cost Principles and Procedures" c. For corporate recipients, by accepting this award the recipient acknowledges: (1) that it does not have a Federal tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) that it has not been convicted of a felony criminal violation under any Federal law within 24 months preceding the award, unless a suspending and debarring official of the USDA has considered suspension or debarment of the recipient corporation based on these convictions and/or tax delinquencies and determined that suspension or debarment is not necessary to protect the interests of the Government. If the recipient fails to comply with these provisions, the agency will annul this agreement and may recover any funds the recipient has expended in violation of the above cited statutory provisions.
12. If work preformed under this agreement relates to the alteration, or repair (including painting and decorating) of public buildings or public works (e.g. financial assistance related to the RCPP Watershed funding tied to such purposes), Partner responsible for full compliance with the Davis-Bacon and Related Acts.

II. PRIOR APPROVAL REQUIREMENTS

Certain items of cost and award revisions require the prior written approval of the awarding agency. The following are the most common situations requiring prior approval: change in deliverables, including but not limited to costs, extents, valuation methods or requirements. However, this list is not exhaustive, and the recipient is also bound by any other prior approval requirements identified in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards unless otherwise exempted in this agreement.

III. FINANCIAL AND PERFORMANCE REPORTING

Recipients must submit progress reports as required by NRCS to support NRCS ability to monitor award. Failure to submit reports as required may result in suspension or termination of award.

The recipient must submit final report(s) no later than 90 days after the period of performance end date. NRCS will withhold payments under this award if the recipient is delinquent in submitting required reports.

IV. AUDIT REQUIREMENTS

The recipient is responsible for complying with audit requirements consistent with 2 CFR 200, Subpart F. A recipient entity that expends $750,000 or more during the recipient's fiscal year in Federal awards must have a single or program-specific audit conducted for that year.

V. SPECIAL PROVISIONS

The recipient assures and certifies that it will comply with the minimum-wage and maximum- hour provisions of the Federal Fair Labor Standards Act.

Employees of the NRCS will participate in efforts under this agreement solely as representatives of the United States. They may not participate as directors, officers, employees, or otherwise serve or hold themselves out as representatives of the recipient. They also may not assist the recipient with efforts to lobby Congress or to raise money through fundraising efforts. Further, NRCS employees must report to their immediate supervisor any negotiations with the recipient concerning future employment and must refrain from participation in projects or agreements with such recipients.

Employees of the recipient will not be considered Federal employees or agents of the United States for any purposes under this agreement.

Recipients who engage or assist in scientific related activities on behalf of USDA must uphold the principles of scientific integrity established by Departmental Regulations 1074-001, Scientific Integrity. Covered activities include engaging in, supervising, managing, and reporting scientific work; analyzing and publicly communicating information resulting from scientific work; and utilizing information derived from scientific work in policy and decision making.

Recipients of awards under covered programs (as defined in Executive Order 13858, January 31, 2019) are hereby notified that they are encouraged to use, to the greatest extent practicable, iron and aluminum as well as steel, cement, and other manufactured products produced in the United States in every contract, subcontract, purchase order, or subaward that is chargeable under the award. "Covered program" means a program that provides financial assistance for the alteration, construction, conversion, demolition, extension, improvement, maintenance, construction, rehabilitation, or repair of an infrastructure project in

the United States. However, it does not include programs for which a domestic preference is inconsistent with law or programs providing financial assistance that are subject to comparable domestic preferences.

The recipient and its employees are prohibited from promoting, recommending, or discussing the availability of specific commercial products or services with NRCS clients in the course of carrying out activities under this agreement, including any products or services offered by the recipient, except as may be specifically allowed in the agreement.

PATENTS, INVENTIONS, COPYRIGHTS, AND ACKNOWLEDGMENT OF SUPPORT AND DISCLAIMER

> Allocation of rights of patents, inventions, and copyrights must be in accordance with 2 CFR Part 200.315. This regulation provides that small businesses normally may retain the principal worldwide patent rights to any invention developed with USDA support.
>
> In accordance with 37 CFR Section 401.14, each subject invention must be disclosed to the Federal agency within 2 months after the inventor discloses it in writing to contractor personnel responsible for patent matters. Invention disclosure statements pursuant to 37 CFR Section 401.14(c) must be made in writing to the NRCS contact(s) identified in the RCPP portal.
>
> USDA receives a royalty-free license for Federal Government use, reserves the right to require the patentee to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must manufacture it domestically.

The following acknowledgment of USDA 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 U.S. Department of Agriculture, under Regional Conservation Partnership Program Supplemental Agreement number [*recipient should enter the applicable award number here].*"

In addition, all publications and other materials, except scientific articles or papers published in scientific journals, must include the following statement:

> "Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Agriculture. In addition, any reference to specific brands or types of products or services does not constitute or imply an endorsement by the U.S. Department of Agriculture for those products or services.

All publications printed with Federal Government funds will include the most current USDA nondiscrimination statement, available from the Public Affairs Division, Civil Rights Division, or on the USDA home page. If the material is too small to permit the full nondiscrimination statement to be included, the material must, at a minimum, include the statement:

> "USDA is an equal opportunity provider and employer."

The recipient is responsible for ensuring that an acknowledgment of USDA is made during news media interviews, including popular media such as radio, television, and news magazines, that discuss work funded by this award in a substantial way.

VI. CONTRIBUTIONS/COST-SHARING/MATCH REQUIREMENTS

A. RCPP projects all have "contribution" requirements; some supplemental agreements also have "match" or "cost sharing" requirements. If this Supplemental Agreement (SA) has specific match requirements (see SA), the match from other projects may not be counted toward meeting the specific match requirement of this award and must come from non-Federal sources unless otherwise stated in the applicable (non-RCPP/donor) program authorizing statute.

B. Cost share must be documented on each budget and in source documentation as it is provided by the recipient or third party. The required cost-share or matching ratio must be met by the end of the agreement period of performance; however, it does not have to be maintained for every payment request, unless so specified in the Supplemental Agreement.

Should the recipient become aware that it may be unable to provide the cost-sharing amount identified in this award, it must—

1. Immediately notify the NRCS administrative contact of the situation.
2. Specify the steps it plans to take to secure replacement cost sharing.
3. Indicate the plans to either continue or phase out the project in the absence of cost sharing. If the recipient's plans are not acceptable to the NRCS, the award may be subject to termination.

NRCS modifications to proposed cost sharing revisions are made on a case-by-case basis. Failure by the recipient to notify NRCS in accordance with this section may result in the disallowance of some or all the costs charged to the award, the subsequent recovery by NRCS of some of the NRCS funds provided under the award, and possible termination of the award. It may constitute a violation of the terms and conditions of the award so serious as to provide grounds for subsequent suspension or debarment.

The recipient must maintain records of all project costs that are claimed by the recipient as cost sharing as well as records of costs to be paid by NRCS. If the recipient's cost participation includes in-kind contributions, the basis for determining the valuation for volunteer services and donated property must be documented.

Recipients must provide notification to the agency administrative contact when adding or replacing sources of cost- share contributions.

VII. PROGRAM INCOME

Program income is the gross revenue generated by a Federally funded activity earned during the performance period of the award. Program income may NOT be earned by recipients for RCPP funded work associated with this SA.

VII. NONEXPENDABLE EQUIPMENT

Recipients purchasing equipment or products with funds provided under this award are encouraged to purchase only American-made equipment and products. Title to nonexpendable equipment purchased with award funds will vest in the recipient upon completion of the award project and acceptance by the NRCS. When equipment is no longer needed by the recipient and the per-unit fair market value is less than $5,000, the recipient may retain, sell, or dispose of the equipment with no further obligation to the NRCS. However, if the per-unit fair market value is $5,000 or more, the recipient must submit a written request to the NRCS administrative contact for disposition instructions.

VIII. LIMIT OF FEDERAL LIABILITY

The maximum financial obligation of NRCS to the recipient is the amount of funds indicated in the award as obligated by NRCS. However, if an erroneous amount is stated on the approved budget, or any supporting document relating to the award, NRCS will have the unilateral right to make the correction and to make an appropriate adjustment in the NRCS share of the award to align with the Federal amount authorized.

IX. MISREPRESENTATION AND SCHEME OR DEVICE

A participant who is determined to have erroneously represented any fact affecting a determination with respect to this agreement, adopted any scheme or device which tends to defeat the purposes of this agreement, or made any fraudulent representation with respect to this agreement, will not be entitled to payments or any other benefits made under this agreement. The participant must refund to NRCS all payments received plus interest. In addition, NRCS may terminate the participant's interest in all agreements. The provisions of this paragraph of the attachment shall be applicable in addition to any other criminal and civil fraud statutes.

X. APPEAL RIGHTS

Lead partners and nonlead partners under partnership or supplemental agreements.

1. A lead partner or nonlead partner may obtain a review of any administrative determination concerning eligibility as a partner under the program or eligibility for financial assistance payments under an agreement that obligated financial assistance funds utilizing the administrative appeal regulations provided in 7 CFR parts 11 and 614.
2. NRCS provision of technical assistance funds under a programmatic partnership agreement (PPA) or supplemental agreement are not subject to administrative review as the provision of such funds are to assist NRCS with its implementation of the program consistent with 16 U.S.C. 3842 and are not program payments or benefits to a lead partner or nonlead partner.

XI. 2 CFR 200 EXCEPTION

Consistent with authorities includes in the Supplemental Agreement or herein, as well as provisions of 2 CFR 200.102, Exceptions, this supplemental agreement is subject to audit provisions of 2 CFR 200 and those provisions of 2 CFR 200 referenced herein. Where supplemental agreement language conflicts with 2 CFR 200, the terms of this agreement and the RCPP program authorities shall prevail.