

FS Agreement No. 10MU-11100500-056
Cooperator Agreement No. _____

MEMORANDUM OF UNDERSTANDING
between the
ORGANIZED VILLAGE OF KAKE
and the
USDA, FOREST SERVICE, TONGASS NATIONAL FOREST

This MEMORANDUM OF UNDERSTANDING (MOU) is hereby made and entered into by and between the Organized Village of Kake, a Federally recognized Tribal government, hereinafter referred to as OVK, and the USDA, Forest Service, Tongass National Forest, hereinafter referred to as the U.S. Forest Service.

Title: Collaboration about projects on Petersburg Ranger District

I. PURPOSE: The purpose of this Memorandum of Understanding (MOU) is to establish a general framework for cooperation, exchange of information, establish regular and meaningful consultation and collaboration with OVK and District officials concerning actions and projects on the Petersburg Ranger District (District), and identification of common goals between the Forest Service and OVK recognizing the unique relationship and obligations the United States Government has with Alaska Native and Native American Tribal Governments.

II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

The Forest Service recognizes that a trust responsibility with American Indians and Alaska Natives derives from the historical relationship between the Federal government and Tribal governments as expressed in treaties, statutes, Executive Orders, Federal Indian case law, and inherent rights of Alaska Native peoples. Nothing listed in this MOU or attachments infringes or lessens the inherent rights of either party. Using these underpinnings, the Forest Service and OVK will work in a mutually cooperative relationship building on trust, mutual respect and enhanced communications by both parties to further a Government-to-Government relationship.

The Forest Service manages National Forest System lands. OVK manages its Tribal affairs across ecosystem boundaries which they have historically used and occupied. OVK and the Forest Service have information and resources that may be of mutual interest, concern and benefit to both parties.

It is the intent of both parties to cooperate and share information, whenever appropriate, regarding implementation of programs and projects in which both parties have mutual interest and/or concern.



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

III. OVK SHALL:

- A. Explore opportunities to provide mutually beneficial cultural, historical, local traditional knowledge and experiences across the ecosystem that was historically and continues to be inhabited by Tribal citizens and their families, for the enhancement of agreed upon programs and projects.
- B. Seek ways to provide advice and/or recommendations, as appropriate, to the Forest Service for OVK needs and concerns regarding management of National Forest System lands.
- C. Subject to the applicable laws and regulations, enter into possible separate agreements or contracts with the Forest Service and/or other parties, as appropriate, to accomplish agreed upon, Tribal Council approved, programs and projects.
- D. Designate the Tribal Council President as the primary point of contact for OVK. The President is responsible for signing official correspondence and has authority to make decisions for OVK.
- E. Assign a Tribal liaison officer as a secondary point of contact who shall be responsible for the coordination of the routine communications and activities between OVK and the Forest Service.
- F. Provide a list of Tribal Council members, Tribal Committee members, and work phone numbers and email addresses to the Forest Service. Provide updates to these lists as a result of new elections or job transfers.
- G. Provide an annual summary report of joint activities and project accomplishments, with any specific proposals and priorities for the coming fiscal year.

IV. THE U.S. FOREST SERVICE SHALL:

- A. Explore opportunities to make Forest Service knowledge, information, lands, and professional and technical expertise available for the furtherance of the agreement, subject to the applicable Federal laws, regulations, and Forest Plan direction for the affected area and subject to approval by the Forest Supervisor or designated representative.
- B. Whenever possible, cooperate with OVK in the planning, developing, implementation, and monitoring of mutually beneficial projects and programs,



sharing of information, and coordination of joint endeavors through possible separate agreements, subject to Federal laws and regulation.

- C. Designate the Petersburg District Ranger as the primary point of contact for the Forest Service. The Ranger shall be responsible for the coordination of routine communications and activities between the Forest Service and OVK. The Ranger is responsible for signing official correspondence. Decision authority will reside with the District Ranger or the Forest Supervisor, depending on the nature of the project decision.
- D. Provide a list of Forest Service Interdisciplinary Team leaders (IDT) by project, their work phone numbers and email addresses to OVK. Provide updates to these lists as a result of new employees, assignment changes or job transfers.
- E. Communicate with OVK early and throughout the year regarding activities, projects, and programs on National Forest lands that are of interest and concern to OVK.
- F. Strive to provide OVK with notice of projects at least 30 days before general public scoping commences. This may not always be possible with some projects due to legal timelines or other authorities.

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

- A. Lines of communication, the scheduling of meetings and the review of this MOU will meet the elements below:
 - Meetings will be scheduled during times that allow the greatest opportunity for attendance by the target audience. The primary points of contact will meet to discuss limitations of time, day, and conflicting event schedules of their respective agencies.
 - The Primary Points of Contact will call for agenda items one week before scheduled meetings, including types of information needing to be presented at the meeting.
 - The Primary Points of Contact will provide meeting agendas to the appropriate members of their organizations three days prior to the meeting.
 - The Primary Points of Contact will arrange meeting facilities to accommodate the group size two weeks prior to a meeting.
 - The meeting host will be identified and will be responsible for facilitating the execution of the meeting and agenda topics. Meeting hosts will identify a meeting recorder who will compile notes, capturing decision elements and recommendations made during the meeting. These notes will be distributed through the primary points of contact for clarification and edits. Final notes will be placed into the project planning record and given to OVK and Forest



Service.

- Changes to the meeting agenda can be made if the District Ranger and Tribal Council agree.
- The meetings will be cordial and respectful to all persons in attendance.
- In the event of the need to cancel a meeting due to unforeseen events, strive to provide at least one day prior notice.
- The primary and secondary points of contact meet at least annually to review and evaluate this MOU and determine whether amendments are necessary. Mutually agreeable modifications to this MOU can be made at this time if both parties are in agreement on such changes. A recording secretary will be provided by OVK on even years and the Forest Service on odd years.

B. The parties shall work collaboratively to pool knowledge and information using the following guidelines. These guidelines include, but are not limited to:

- Providing the District and OVK with laws, regulations, policies, and direction that the District should work under. Both parties should be made aware of limitations that would restrict or define areas that we can collaborate on.
- The District will provide the best available information to be used in project analysis. Both parties must realize that data does change as a result of new information.
- Some collaboration should be expected to take place in working meetings with designated staff, committees, tribal membership, interdisciplinary teams, and decision makers.
- The District and OVK agree to provide subject matter experts to address issues raised during public meetings. Data presented will need to be made available for project planning records in agreed upon formats.
- Both parties will agree to work to meet timelines set for projects.
- Enhancement of Native employment and training opportunities.
- Recognize and abide by sacred sites policy, application, consultation language, and protective clauses for sacred sites.
- Share the extent of the heritage inventory, knowledge, and previous work with OVK.

C. Notification shall be given of activities on National Forest System lands at sites of traditional harvesting, cultural and religious activities, and other gathering activities. The following steps will describe our agreed upon consultation process:

Step 1: The District identifies and describes the projected activities that fall under the National Environmental Policy Act (NEPA) such as Environmental Impact



Statements (EIS) or an Environmental Assessment (EA), and requests if this project has tribal implications and if there is a need for tribal consultation with OVK.

Step 2: OVK will review the EIS or EA proposal and inform the District whether or not they wish to enter into consultation on the project or continue to be informed as the project progresses. This review and response should be accomplished by the end of the public scoping period. This means that OVK would have at least 60 days to consider a project (notice at least 30 days before public scoping and then 30 days during public scoping.) If the District does not receive a written response through a letter or email from OVK within this timeframe, the District would assume there is no interest in project consultation. OVK may request additional meetings to clarify information during this project proposal review.

If during the life of the EIS or EA additional new substantive information is made known, Steps 1 and 2 would be repeated offering 30 days to respond to the new information.

Step 3: Formal consultation will involve a face-to-face meeting between the decision maker from OVK and the project deciding officer. These officers will discuss how the project has incorporated the existing information and why, determine the future direction of the project analysis, and make clear what can and cannot be agreed upon. The deciding officers may redirect their sub-staffs to conduct additional collaborative work.

The deciding officers may mutually agree to have other agency authorities review and try to reconcile disputes.

- D. If OVK declines consultation, they will continue to have the same opportunities to comment as the general public. The intent is to not over burden OVK with meetings over projects that have no special interest to OVK. Declination of consultation does not infringe on any rights of either party.
- E. The following are roles of decision officers and the decision authority delegation:
- OVK will identify a person who will be empowered to inform the District of a decision that reflects OVK's stance on a project, action, or request for a decision.
 - The District will identify the deciding officer for all projects that have the potential for tribal implications. For most situations this will be the District Ranger or the Forest Supervisor. This officer will have final decision authority to render a decision on a project or action.
 - Decision officers may empower their heads of staff to have some decision



authority while working collaboratively on projects. This authority will be put in writing and made available to counterpart sub-staffs. This will avoid sub-staffs from asking for decisions which people are not empowered to make.

- Decision officers may also delegate decision authority to another person in their absence.

F. The following are agreed upon definitions of terms for this MOU:

Collaboration: Working together to share information, points of view in a joint, trusting, intellectual effort on District matters of tribal implication. Collaborative information is held in confidence between the District and OVK and is generally not shared with the public other than the decisions agreed upon.

Meaningful: To have it be made clear that the shared information, points of view, staff work and meetings have been fully considered in the rendering of a decision on a project that has tribal implications within the constraints of existing law, policy and regulation. Meaningful may not mean complete agreement on an issue or decision.

Consultation: A process that enables OVK to provide and receive meaningful, early and timely input and as appropriate, exchange views, information and recommendations on District actions that may affect interests by OVK prior to a decision. This process involves effective two-way communication throughout the project.

Timely: Timeliness includes the knowledge of the project timeline, and how to collect OVKs concerns during most appropriate time for consideration to maintain the project timeline.

G. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this instrument.

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Gary Williams, Executive Director P.O. Box 316 Kake, Alaska 99830 907-785-6471 FAX: Email:	Roy Acevedo, Tribal Council President P.O. Box 316 Kake, Alaska 99830 907-785-6471 FAX: Email:



Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Contact	U.S. Forest Service Administrative Contact
<p>Chris Savage, District Ranger P.O. Box 1328 Petersburg, Alaska 99833 907-772-5900 Fax: 907-772-5995 csavage@fs.fed.us</p>	<p>Betty Wilt, Agreements Specialist Alaska Region Agreement Service Center US Forest Service 648 Mission Street Ketchikan, Alaska 99901 907-228-6343 FAX: 907-228-6216 bwilt@fs.fed.us</p>

H. NON-LIABILITY. The U.S. Forest Service does not assume liability for any third party claims for damages arising out of this MOU.

I. NOTICES. Any communications affecting the operations covered by this agreement given by the U.S. Forest Service or Cooperator is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the U.S. Forest Service Program Manager, at the address specified in the MOU.

To Grantee/Cooperator, at Grantee's /Cooperator's address shown in the MOU or such other address designated within the MOU.

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

J. PARTICIPATION IN SIMILAR ACTIVITIES. This MOU in no way restricts the U.S. Forest Service or Cooperator's from participating in similar activities with other public or private agencies, organizations, and individuals.

K. ENDORSEMENT. Any of the Cooperator's contributions made under this MOU do not by direct reference or implication convey U.S. Forest Service endorsement of Cooperator's products or activities, and does not by direct reference or implication convey the Cooperator's endorsement of the Forest Service's products or activities.

L. NONBINDING AGREEMENT. This MOU creates no right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity. The parties shall manage their respective resources and activities in a separate, coordinated and mutually beneficial manner to meet the purposes(s) of this MOU. Nothing in this MOU authorizes any of the parties to obligate or transfer funds. Specific projects or activities that involve the transfer of funds, services, or property among the parties require execution of separate agreements and are contingent upon the availability of appropriated funds. These activities must be independently authorized by statute. This MOU does not provide that authority. Negotiation, execution, and



administration of these agreements must comply with all applicable law. Each party operates under its own laws, regulations, and policies, subject to the availability of appropriated funds. Nothing in this MOU is intended to alter, limit, or expand the agencies' statutory and regulatory authority.

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

N. FREEDOM OF INFORMATION ACT (FOIA). Public access to MOU 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).

O. TERMINATION. Any of the parties, in writing, may terminate this MOU in whole, or in part, at any time before the date of expiration.

P. DEBARMENT AND SUSPENSION. Cooperator shall immediately inform the U.S. Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should Cooperator or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the U.S. Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary. *This list is maintained by GSA and located at www.epls.gov*

Q. MODIFICATIONS. Modifications within the scope of this MOU 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 30 days prior to implementation of the requested change.

R. COMMENCEMENT/EXPIRATION DATE. This MOU is executed as of the date of the last signature and is effective through **September 30, 2014** at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.



S. 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 MOU. In witness whereof, the parties hereto have executed this MOU as of the last date written below.

ROY ACEVEDO, Tribal Council President Organized Village of Kake	Date
FORREST COLE, Forest Supervisor U.S. Forest Service, Tongass National Forest	Date

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


 MECHELE M. MACDONALD
 U.S. Forest Service Agreements Specialist


 Date

Burden Statement

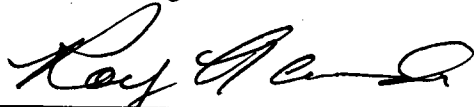
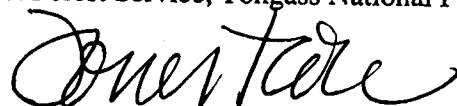
According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).


To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.



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ROY ACEVEDA, Tribal Council President Organized Village of Kake 	Date 5-25-10
FORREST COLE, Forest Supervisor U.S. Forest Service, Tongass National Forest 	Date 5.25.10

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


5/20/10

 MECHELE M. MACDONALD Date
 U.S. Forest Service Agreements Specialist

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