

LANDOWNER AGREEMENT
Colfax Collaborative Wildland Urban Interface (CCWUI) Project

THIS AGREEMENT is between the Cimarron Watershed Alliance, Inc. ("CWA"), a 501(c)(3) nonprofit, and the undersigned property owner ("Landowner"), including Landowner's designated Agent ("Agent") who has decision-making and signatory authority, collectively referred to as the "Parties."

A. WHEREAS, the CWA has received a \$8,048,150 grant from the USDA Forest Service under the Fiscal Year 2022 Community Wildfire Defense Grant Program for the Colfax Collaborative Wildland Urban Interface ("CCWUI") Project. This project aims to reduce wildfire risk by implementing defensible space, forest thinning, and fuel reduction work in nine designated communities within Southwest Colfax County. The Project and Project funds are being managed and administered by the New Mexico EMNRD Forestry Division.

B. WHEREAS, The Goals and Objectives of the CCWUI Project are to: 1) create defensible space near structures and values at risk, thin forests, and reduce fuel loadings to reduce wildfire risk in the wildland urban interface, communities, and the overall landscape within the Project Area; and 2) thin forests and reduce fuel loadings to improve forest health, create more resilient forests and watersheds, restore natural forest conditions, and promote wildlife habitat and biodiversity.

C. WHEREAS, the CCWUI Project is a significant initiative that requires external consultants and contractors (each a "Partner") to perform services on private lands within the Project Area.

D. WHEREAS, the Landowner, possessing legal ownership of private property within the CCWUI Project Area, agrees to allow CWA and its Partners to carry out specified work on their property, as detailed in this Agreement, any accompanying Practice Plans, and further documented agreements.

LANDOWNER'S NAME: _____

PHYSICAL ADDRESS OF PROPERTY: _____

COMMUNITY: _____ LOT #s: _____

LATITUDE: _____ LONGITUDE: _____ APPROXIMATE ACRES: _____

MAILING ADDRESS: _____

PHONE #: _____ EMAIL: _____

INSURANCE CO.: _____ POLICY #: _____

By signing this Agreement, the Landowner consents to:

The implementation of defensible space, forest thinning, and fuels reduction work by CWA and its Partners on the specified property, adhering to the conditions outlined in this Agreement and any related documents.

The understanding that the Landowner will not manage CCWUI Project funds directly. Cooperation in the development and approval of a Practice Plan and any additional documentation is required for project execution.

This Agreement encapsulates the mutual understanding and commitments of the Parties concerning the CCWUI Project and sets forth the legal authority of the Landowner to engage with the CWA for the described property improvements.

NOW, THEREFORE, the Parties agree as follows:

1. Eligibility for CCWUI Project Services. To qualify for forest thinning and fuel reduction services under the CCWUI Project, Landowners must:

- A. Hold legal ownership and authority to enter into this agreement for conducting the specified work on the specified private property, which must be located within one of nine specified unincorporated communities in Colfax County, NM (Black Lake, Black Lake East, Elk Ridge, Hidden Lake, Idlewild, Lakeview Pines, Taos Pines, Ute Park, Val Verde, including smaller related communities and subdivisions).
- B. Commit to implementing defensible space, fuels reduction, and forest thinning according to the CCWUI Project Goals and Objectives, Defensible Space Guidelines, and Forest Thinning Guidelines.
- C. Formally agree, through this Landowner Agreement, to allow CWA to conduct the outlined work.

2. Selection Criteria. Given limited funding, not all properties within the Project Area can be treated. Properties will be prioritized based on the following criteria:

- A. Early engagement in the project.
- B. Authorization for using heavy forestry equipment.
- C. Proximity to overhead powerline corridors.
- D. Fuel breaks (clear cut -or- shaded) located on the outer boundary of the Project Area
- E. Fuel breaks (clear cut -or- shaded) located on the outer boundary of a community
- F. Located along a road that is a major evacuation or access route.
- G. Located in larger blocks of treatment areas at least 80 acres in size.
- H. Properties located on the outer boundary of the Project Area.
- I. Properties located on the outer boundary of a community.
- J. Properties in Ponderosa Pine or Mixed Conifer Forest Types.
- K. Landowners willing to implement patch cuts in Spruce-Fir Forest Type.

These criteria help in allocating limited resources effectively to properties that align with the CCWUI Project Goals and Objectives. Properties meeting more criteria and higher priority criteria will be given priority over those meeting fewer. The Letters and total number of Selection Criteria that a property meets will be documented in the Practice Plan.

3. Scope of Work. CWA commits to carrying out defensible space, fuels reduction, and forest thinning on the Landowner's property as outlined in this agreement, the Practice Plan, and any further agreed-upon documentation.

4. Practice Plan. The comprehensive plan for the activities on the Landowner's property will be detailed and documented in a Practice Plan, agreed upon by all Parties. This plan will outline treatments to be applied, methods to be used, and areas to be treated. Landowners must ensure compliance with regulations and homeowner association rules. The Practice Plan may include:

- A. Property Details and Assessment: Details and an assessment of the property.
- B. Treatment Plan: Specifies what work will be done, including the types, sizes, and species of vegetation to be managed. It also outlines the methods and equipment to be used.

- C. Tree Marking Guidelines: Where necessary, "**CUT TREES**" to be removed or "**LEAVE TREES**" to be preserved will be individually marked with **ORANGE** and **BLUE** paint or flagging respectively.
- D. The Practice Plan will be developed during the site visit between the Landowner / Agent and a trained CWA Representative and will be tailored to site conditions and Landowner preferences.

5. Adherence to Practice Plan. The Landowner acknowledges that CWA and its Partners will follow the Practice Plan for defensible space, forest thinning, and fuels reduction efforts. However, it is recognized that occasionally a "**LEAVE TREE**" might be inadvertently damaged and need removal.

6. Collaboration on Practice Plan. CWA, alongside the Landowner or their Agent, will create the Practice Plan, marking trees to be cut or preserved. The Landowner (or Agent) will have final approval on the Practice Plan and the marking of **CUT TREES** and **LEAVE TREES**. Participation in the Project requires that the Practice Plan and work planned comply with the CCWUI Project Goals and Objectives, Defensible Space Guidelines, and Forest Thinning Guidelines.

7. Quality of Work. CWA and its Partners commit to executing all tasks to a professional standard, ensuring work is completed with care, skill, and diligence reflective of industry norms. This includes adhering to or surpassing the New Mexico EMNRD Forestry Division's Forest Practices Guidelines in NMAC 19.20.4. CWA guarantees it is fully equipped, qualified, and unencumbered by external obligations that could hinder fulfilling this agreement.

8. Modifications and Amendments. This Agreement, including the Scope of Work, Practice Plan, and related documents, is based on the current understanding of the Landowner's needs. Adjustments may be necessary as work progresses or upon mutual agreement between parties. Any changes will be formalized through amendments to this Agreement or the Practice Plan.

9. Communication. Notices related to this agreement should be directed to the listed contacts for both the Landowner (or their Agent) and the CWA. Changes to principal contacts must be communicated in writing. CWA Contact Information:

Craig Sime, Assistant Project Manager
Cimarron Watershed Alliance, Inc.
PO Box 626, Cimarron, NM 87714
Email: cimarronwater@gmail.com
Phone: 575-595-5115

10. Independence of Parties. CWA and its Partners operate independently from the Landowner and their Agent. They are not agents or employees of the Landowner.

11. CWA's Responsibility. CWA, along with its consultants and subcontractors, will provide all necessary resources for the project, including labor, equipment, and materials, funded by the Project.

12. Landowner Contributions. Landowner may contribute financially to the project. Financial contributions must be directed to CWA's contractors or contractors chosen by the Landowner, with a separate agreement for such work, and payment made by the Landowner directly to the contractor. Notice of the separate work, including work completed and Landowner's separate payment amount, should be shared with the CWA to avoid duplicate payments for the same work.

13. Insurance Requirements. The CWA and its Partners shall maintain the following insurance for the Term of this Agreement:
- A. **Workers' Compensation** protection that complies with the requirements of the Workers' Compensation Act, NMSA 1978, Sections 52-1-1 et seq., if applicable. Employer's liability: minimum **\$1,000,000**.
 - B. **Commercial General Liability** protection covering the damages that become due in case of bodily injury, property damage and personal or advertising injury with limits no less than: **\$1,000,000** for each occurrence; **\$1,000,000** for personal and advertising injury limits; **\$2,000,000** for general aggregate; and **\$2,000,000** for products/completed operations aggregate.
 - C. **Automobile Liability** protection covering any owned, hired, leased, borrowed, and non-owned autos, with limit no less than **\$1,000,000** per accident for bodily injury and property damage.

The CWA is to be named as an additional insured on all Partner policies, which must state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

14. Indemnification. CWA and its partners agree to indemnify and hold harmless the Landowner and their representatives from all claims arising from personal injury, property loss, or damage due to CWA's performance under this agreement, except when such claims result from the negligence or misconduct of the Landowner, including without limitation, liability for any unsafe working conditions at the property known to the Landowner.

15. Condition of Property. The Landowner provides the property in its current state without guarantees or warranties of condition. CWA waives any claims related to property conditions and accepts it "AS IS."

16. Site Visit. CWA will coordinate with the Landowner or Agent to arrange a site visit for discussing and planning defensible space, forest thinning, and fuels reduction work. Following the visit, to proceed, the Landowner or their Agent must agree to this Agreement and the related Practice Plan.

17. Hazard Trees and Stumps. The CCWUI Project and the CWA does not cover the cost of removing hazard trees or stump removal/grinding, which may pose a risk to structures or require specialized removal methods. This includes any trees that would require the use of tree climbing personnel or arborists, bucket truck(s), and/or crane(s) for removal.

18. Treatment Areas. The Landowner and CWA will define and agree on the treatment areas, ensuring sensitive regions are avoided. When required, a map outlining these areas will guide the subcontractors and will be incorporated into the Agreement and Practice Plan.

19. Wood Fiber and Donations. Landowner retains the right to any wood fiber produced but may donate unwanted wood fiber to CWA. The CWA may sell donated wood fiber to support project costs, adhering to regulations. Any income generated must not profit the Landowner, Agent, or CWA, ensuring compliance with grant requirements.

20. Marking Boundaries. Landowner or Agent must mark property boundaries using paint or flagging, documented in the Practice Plan. Alternative landmarks can serve as boundaries if agreed upon. Buried utilities must be marked visibly, following APWA guidelines, and noted in the Practice Plan. The Landowner or Agent is responsible for accurate markings and communication with the CWA.

21. Planning. The CWA and Landowner/Agent will coordinate on the work schedule. The Landowner/Agent should be prepared for flexibility due to the dynamic nature of subcontractor scheduling.

22. Property Access. The CWA gains written permission to access and work on the property. The Landowner/Agent will provide access details, including any codes or keys needed for entry. The Landowner/Agent ensures the CWA can use the property for necessary work stages, with specific access routes detailed in the Practice Plan.
23. Usage. Existing private roads within the project area may be used by the CWA and its Partners for access. New roads or unnecessary upgrades will not be implemented. Road maintenance or repair due to project operations will be undertaken as needed.
24. Equipment Removal. Except for decked saw logs, slash piles, and treated wood fiber intended to remain onsite, all equipment will be removed from the property within 30 days after work completion, weather permitting. Decked wood fiber and saw logs will be removed within 60 days, weather permitting. Slash piles will be burned by the CWA and its Partners during the winter once cured when conditions are safe for burning.
25. Maintenance. The Landowner agrees to maintain defensible space and forest conditions for a minimum of ten years. This includes regular removal of growth and debris, maintenance of defensible space, and possible thinning of trees every 5-20 years to maintain proper stand densities, as per CCWUI Guidelines.
26. Implementation Methods. Work will be done using hand crews, light equipment, and/or heavy equipment based on site conditions and Landowner preferences. Wood fiber may be hauled offsite, mulched, or piled, with the method chosen based on material size and Landowner's choice. Equipment use will avoid causing excessive ground damage, with any such damage repaired by the subcontractor.
27. General Terms.
- A. Assignment: Neither Party shall transfer this Agreement without explicit written consent from the other Party.
 - B. Authority: CWA cannot act on behalf of the Landowner or Agent beyond the scope of this Agreement.
 - C. Partnership: This Agreement does not establish a partnership between CWA and the Landowner.
 - D. Modifications: Any changes to this Agreement must be in writing and agreed upon by both CWA and the Landowner or Agent.
 - E. Waiver: A waiver for one breach does not waive any future breaches.
 - F. Legality: If any part of this Agreement is found invalid or unenforceable, the remainder remains in effect. Overly broad provisions will be narrowed to the extent required by law.
 - G. Entire Agreement: This document, including any attached Practice Plans and maps, represents the full Agreement between CWA and the Landowner, superseding all prior negotiations or discussions.
 - H. Governing Law: Governed by New Mexico law, without regard to conflict of law principles.
 - I. Execution: This Agreement can be signed in multiple parts, each considered equally original.
28. Default. If either Party commits a breach of this Agreement which is not remedied within 30 days after receipt of written notice of the breach by the other Party, or if a bankruptcy or receivership proceeding, voluntary or involuntary, should be commenced against a party, or if assignment of a party's property shall be made for the benefit of creditors, then in any of such event the party shall be deemed in default and the other party may, by written notice to the defaulting party, terminate this Agreement, effective upon delivery of the notice to the defaulting party. Termination shall not relieve a defaulting party from liability for any damages for breach of this Agreement accruing prior to or as a result of termination. Notwithstanding any other provision of this agreement, neither party shall be liable for indirect or consequential damages, lost profits, or punitive damages.

29. Right to Refuse Service. The CWA reserves the right to refuse service to any Landowner or Agent that engages in the following behaviors: aggression, cursing, yelling, harassment, defamation, or inappropriate implications towards CWA Representatives or Partners; and negotiating outside of or breaching the terms of the executed Agreement, the Practice Plan, or any other additional documents.

30. Termination. Either party may terminate this Agreement for convenience upon 30 days prior written notice to the other party. This Agreement shall terminate upon sale of the property by the Landowner.

By signing, the Landowner or Agent acknowledges:

A meeting with a CWA Representative has occurred or is planned for discussing defensible space, forest thinning, and fuel reduction work and for formulating the Practice Plan. Landowner may opt to proceed without an in-person site visit by submitting a written waiver confirming review and acceptance of the Agreement and Practice Plan. Execution of this Agreement and Practice Plan does not assure project work on the property due to funding constraints. Selection for work is based on project priorities, selection criteria and available funding. All income from selling wood fiber generated by the project will be used to offset project costs, in line with state and federal guidelines. The Landowner and Agent agree not to profit from or sell any project-generated wood fiber. The Landowner commits to maintaining the property's defensible space and forest conditions for at least ten years as per CCWUI Guidelines, including regular removal of growth and debris, maintenance of defensible space, and possible thinning of trees every 5-20 years to maintain proper stand densities, as per CCWUI Guidelines. This Agreement, along with the Practice Plan and any additional documents, authorizes CWA and its Partners to start the agreed-upon work on the Landowner's property.

_____ By initialing here, the Landowner or Agent agrees to donate Wood Fiber from thinning work to CWA, with the option to keep any desired amount. Remaining Wood Fiber will be treated and/or removed by the CWA and its Partners. Proceeds from sold Wood Fiber will generate Project Program Income.

BY SIGNING BELOW, the Landowner or Agent and the CWA execute this Agreement effective from the last signature date. This Agreement expires on November 12, 2028. Signatures can be original, faxed, scanned, digital, or electronic, all considered equally valid.

LANDOWNER/AGENT

CWA

Signed X: _____

Signed X: _____

Printed Name: _____

Printed Name: _____

Landowner: _____ Agent: _____ (Check 1)

Title: _____

Date: _____

Date: _____