

RESOURCE MANAGEMENT COOPERATIVE AGREEMENT  
Between  
THE NATURE CONSERVANCY  
NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL  
RESOURCES/DIVISION OF PARKS AND RECREATION  
And  
THE NORTH CAROLINA WILDLIFE RESOURCES COMMISSION

This cooperative agreement between The Nature Conservancy, hereinafter collectively referred to as the "Conservancy", the North Carolina Department of Environment and Natural Resources/Division of Parks and Recreation, hereinafter referred to as "NC State Parks" and the North Carolina Wildlife Resources Commission, hereinafter referred to as the "Commission", is hereby entered into to facilitate cooperation between these parties in the use of prescribed fire and other stewardship strategies to maintain or restore wildlife habitats, ecosystems, and endangered or threatened species. The agreement provides for the limited interchange of personnel, equipment, and information to obtain this goal.

WITNESSETH

WHEREAS, the Conservancy's mission is to preserve plants, animals, and natural communities that represent the diversity of life on earth by protecting the lands and water they need to survive; and

WHEREAS, the NC State Parks' mission is to conserve and protect representative examples of the natural beauty, ecological features, and recreational resources of statewide significance; to provide outdoor recreational opportunities in a safe and healthy environment; and to provide environmental education opportunities that promote stewardship of the state's natural heritage.

WHEREAS, the Commission's mission is to conserve North Carolina's wildlife resources and their habitats and provide programs and opportunities that allow hunters, anglers, boaters, and other outdoor enthusiasts to enjoy wildlife-associated recreation.

WHEREAS, the NC State Parks manages a statewide system of State Parks, State Trails, State Recreation Areas, and State Natural Areas; and

WHEREAS, the Conservancy owns and manages the largest private system of nature sanctuaries in the world; and

WHEREAS, the Commission manages a statewide system of game lands for the State of North Carolina; and

WHEREAS, the Conservancy, NC State Parks, and Commission have expertise in prescribed burning, fire management, and the stewardship of natural resources; and

WHEREAS, the Conservancy, NC State Parks, and Commission have problems with invasive non-native species of plants and animals, and have expertise in dealing with these problems; and

WHEREAS, the parties currently employ or have under contract personnel and equipment capable of performing prescribed burning; and

WHEREAS, proper management of many Conservancy, NC State Parks, and Commission lands requires the use of prescribed burning; and

WHEREAS, it will be to the mutual benefit of all parties to combine resources on certain prescribed burn projects,

NOW, THEREFORE, in consideration of the above premises, the parties hereto agree as follows:

1. Personnel, equipment, and other resources may be provided by the Conservancy, NC State Parks, and Commission to each other for assistance in conducting prescribed fire and exotic species management, as requested and if available. Release of personnel and equipment will be at the discretion of the affected party depending on station workloads, priorities, and fire danger. Personnel, equipment and resources may be used for:

- a. technical assistance including preparation or review of fire management plans and prescribed burn plans.
- b. pre-burn preparations including vegetation and fuel load sampling, control line construction and maintenance, environmental monitoring, and fuels manipulation.
- c. burn implementation including project supervision, ignition, holding, fire behavior and weather monitoring, and mop-up.
- d. post-burn monitoring and evaluation.
- e. training of staff and volunteers in fire management, invasive species control and other areas of natural resource management and stewardship.
- f. planning and implementation of invasive species control programs.

2. The prescribed burn boss will be provided by, and the prescribed burn plan completed by, that party mutually agreed to by the parties. All parties will be given an opportunity to assist in the development and review of individual prescribed burn plans. Contingency planning in the event of an escaped fire will be an essential element of each plan.

3. A chief-of-party will be designated for the assisting party's employees and equipment. The chief-of-party will work closely with the prescribed burn boss. Prior to the burn, if the chief-of-party determines that the proposed burn is unsafe or has serious concerns about the advisability of burning, and is unable to reach a satisfactory agreement with the burn boss to rectify the situation, he or she retains the option of withdrawing the assisting party's resources.

4. Normally, each party will provide for salary or wage costs of its own employees and operation and maintenance of its own equipment. However, nothing in this agreement will prevent Conservancy, NC State Parks, or Commission representatives from exchanging funds or services. Provisions for exchange of funds, or services not covered under this agreement, will be agreed to in writing by the parties in separate addenda to this agreement.

5. Each party will honor the prescribed burn qualifications standards of the cooperating party for that party's employees. Conservancy employees will adhere to Conservancy standards (PMS

310-1); NC State Park employees will adhere to NC State Park standards and procedures and Commission employees will adhere to Commission standards and procedures.

6. It is understood that for the purpose of the Conservancy's worker's compensation coverage, employees of the Conservancy assisting in prescribed burns or other joint stewardship projects on state lands are to be considered as employees of the Conservancy and not the state government.

7. It is understood that for purposes of the NC State Park's and Commission worker's compensation coverage, employees of the NC State Parks and the Commission assisting in prescribed burns or other joint stewardship projects on Conservancy lands are to be considered as employees of state government and not the Conservancy.

8. Each party to this agreement will appoint a project officer responsible for implementation of this agreement.

## LIABILITY

1. Each party agrees that it will be responsible for any and all risks of personal injury and property damage attributable to the negligent acts or omissions of itself and its officers, employees, and agents acting within the scope of their employment to the extent provided by law. Each party agrees that it will not be responsible for the acts of the other party and the results thereof. Nothing in this agreement shall be construed as an indemnification by one party of the other for liabilities to third persons for property loss or damage or personal injury arising out of and during the performance of this agreement, or arising from any other action that may arise as a result of this agreement. Any claims or any liabilities or claims for property loss or damage or personal injury by a party or its officers, employees, and agents, arising out of and during the performance of this agreement shall be resolved according to applicable law.

2. No party will be liable to any other party, or to any other person, for failing to respond or failing to respond in a timely manner to any request for assistance, except as set forth in this paragraph. Each party of this agreement waives all claims against the other parties for compensation of any loss, damage, personal injury, or death occurring in consequence of performance of this agreement. Services rendered under the terms of this agreement will be provided without reimbursement of either party.

3. Each party agrees that it will be responsible for repairs to its own equipment which may become damaged through negligent acts or normal wear and tear during the course of a prescribed burn or other land management activities.

4. No party just by entering into this agreement shall create or increase its liability. This provision is solely for the benefit of all parties signing and shall not confer any rights to any persons not signing.

## REQUIRED CLAUSES

1. During the performance of this agreement, the participants will not discriminate against any person because of race, color, religion, sex or national origin.

The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, religion, sex or national origin.

2. All activities pursuant to the agreement will be in compliance with the requirement of Executive Order 11246, as amended: Title VI of the Civil Rights Act of 1964 (78 Stat. 252:42 US 200d); and with all other federal laws and regulations prohibiting discrimination on grounds of race, color, national origin, handicap, religion, or sex in employment and in providing facilities and services to the public.

## ENACTMENT AND DURATION:

This agreement will be effective from signature date by all parties and will continue in effect for five years. The agreement will be reviewed every two years and may be amended or extended as needed with the written agreement of all parties. The agreement may be terminated by any party 30 days following written notification to the other parties.

## MISCELLANEOUS:

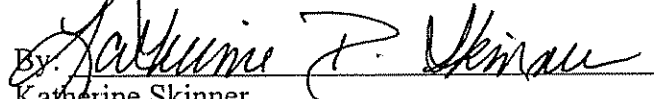
1. This MOU shall be interpreted, construed and governed by the laws of the State of North Carolina and such laws of the United States as may be applicable. In the event of any litigation over the interpretation or application of any of the terms or provisions of this MOU, the Parties agree that litigation shall be conducted in the State of North Carolina.

2. If any provision of this MOU is held invalid by a court of competent jurisdiction, the other provisions shall not be deemed invalid as a result, and the Parties shall revise this MOU as necessary consistent with the intent of the Parties.

3. This MOU may be executed in counterparts, each of which when executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the said parties hereunto subscribe their names:

THE NATURE CONSERVANCY

By:   
Katherine Skinner

Executive Director

North Carolina Chapter

Date: Sept. 14, 2010

NC DIVISION OF PARKS AND RECREATION

By: Lewis R. Ledford  
Lewis R. Ledford

Director, Division of Parks and Recreation

Date: 10/18/10

NC WILDLIFE RESOURCES COMMISSION

By: Gordon S. Myers  
Gordon S. Myers

Executive Director

Date: October 6, 2010