

11/20/2012

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made and entered into by and between the Rogue Valley Council of Governments, hereinafter referred to as RVCOG, and Douglas County, hereinafter referred to as the COUNTY, both of which are hereinafter referred to collectively as the PARTIES;

WITNESSETH

WHEREAS, RVCOG is a voluntary association of local governments serving Jackson and Josephine Counties, Oregon; and

WHEREAS the COUNTY has been invited to participate in the Governor's Executive Order 12-07, entitled "A Pilot Program for Regional Farm and Forest Land Conservation," a regional planning effort hereinafter referred to as the PROJECT, with Jackson and Josephine counties; and

WHEREAS, the PROJECT is to be funded by monies allocated to DLCD by Senate Bill 5701, and available to the COUNTY as a state grant; and

WHEREAS, RVCOG has been asked by the COUNTY and by the Oregon State Department of Land Conservation and Development (DLCD) to assist with providing professional grant administration services; and

WHEREAS, the purpose of this agreement is to make provisions for RVCOG to perform professional grant administration services for the COUNTY, and to provide for compensation to the COUNTY for the COUNTY's project-related work from DLCD.

NOW THEREFORE, in consideration of the mutual terms, conditions, stipulations and covenants herein contained, the PARTIES do hereby agree to the following:

A. **ENGAGEMENT OF RVCOG**

The COUNTY hereby agrees to engage RVCOG and RVCOG hereby agrees to perform the services set forth in the scope of services.

B. **SCOPE OF SERVICES**

RVCOG shall perform certain tasks (described in Section F), in a legal and proper manner, to support the work to be performed by the three participant counties and DLCD as listed in Attachment A, which is attached hereto, and by this reference incorporated herein.

C. **TIME OF PERFORMANCE**

This agreement is effective upon the date of the signing of a grant agreement between DLCD and RVCOG, which will include Attachment A and this agreement, and shall

DOUGLAS COUNTY OREGON
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PATRICIA K. HITT, COUNTY CLERK

remain in effect until terminated by either party, in writing, per section D of this Agreement or until June 30, 2013, whichever event occurs first.

D. AMENDMENTS AND TERMINATION

1. This document constitutes the entire agreement between the PARTIES and no other agreement exists between them, either stated or implied. Any amendments or changes to the provisions of this agreement shall be reduced to writing and signed by both PARTIES.
2. Either party may cancel this agreement at any time with or without cause by giving thirty (30) days notice in writing and delivered in person or by certified mail to the other party.
3. If any contemplated funding from DLCD is not obtained or continued at levels sufficient to allow for full performance herein, this Agreement may be modified or terminated to accommodate such reduction in funds provided that if the PARTIES are unable to reach agreement on a modification of this Agreement due to a reduction in funding from DLCD within 30 days of the date both PARTIES are notified by DLCD of the reduction in funding, this Agreement shall automatically terminate. If for any other reason DLCD terminates the project for which this agreement has been created, this agreement becomes null and void once final grant administration duties are completed.
4. This agreement will cease to be in effect beyond June 30, 2013, although pending reimbursements for work already accomplished may be processed beyond that date.

Such termination shall be without prejudice to any claims, obligations, or liabilities either party may have incurred prior to such termination.

E. PAYMENTS

1. Per the schedule and conditions in Attachment A, and upon authorization from DLCD, RVCOG will distribute payments to the COUNTY. Under no circumstance will RVCOG be responsible for any payment to the COUNTY until adequate funds are received from DLCD.
2. Senate Bill 5701 appropriated \$350,000 for the participating counties to carry out Executive Order 12-07. Counties are eligible for payments, per Attachment "A", equal to one-third of the total appropriation less RVCOG's administrative costs.
3. Payment to RVCOG for expenditures incurred as Grant Administrator shall be the responsibility of DLCD, and shall be subject to a separate agreement between DLCD and RVCOG. Payment for RVCOG's services will not exceed \$43,750.

F. RESPONSIBILITIES

1. The COUNTY shall assist RVCOG in its role as Grant Administrator by maintaining regular communication with RVCOG; helping to resolve differences that may arise between the PARTIES and between the PARTIES and DLCD; providing background and current information as necessary; and by adhering to the conditions and requirements of the attached scope of work.
2. RVCOG shall assist the COUNTY in fulfilling its role in the PROJECT by completing the following work tasks:
 - I. Project Administration – RVCOG will be responsible for the disbursement of funds from DLCD to the COUNTY, progress reporting, work scope compliance, and ensuring a uniform methodology of disseminating data.
 - II. Project Website – RVCOG will be responsible for creating and maintaining a website to serve as the project's centralized site of project-related information for Jackson, Josephine, and Douglas counties.
 - III. Regional Hearings – RVCOG will be responsible for conducting three regional hearings on the COUNTY's draft petition.
 - IV. Other Tasks as Assigned – Other work may be assigned to RVCOG without modification of this agreement as long as approval is obtained from all three participating counties and DLCD and funding is available.

G. INDEMNIFICATION

1. Subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260–30.300, the Oregon Constitution, Article XI, Section 7 and the terms of any applicable policies of insurance, the parties agree to save, hold harmless and indemnify each other, including their officers, agents and employees, from any loss, damage, injury, claim, or demand by a third party against either party to this agreement arising from the activities of the other party in connection with this Agreement. Neither party shall be liable for any loss, damage, injury, claim, or demand against each other arising from their respective activities in connection with this agreement, except as otherwise expressly set forth herein.
2. RVCOG shall comply with all applicable laws, ordinances and codes of the federal, state and local governments in its performance under this Agreement.
3. RVCOG, its subcontractors, if any, and all employees providing work, labor or materials under this agreement are subject employees under the Oregon Workers' Compensation law and shall comply with ORS 656.017 which requires them to provide Workers' Compensation coverage for all their employees.

H. INDEPENDENT CONTRACTOR

RVCOG is an independent contractor under this Agreement, and neither RVCOG, its subcontractors, nor its employees are employees of the COUNTY. RVCOG is responsible for all federal, state and local taxes and fees applicable to payments for services of its employees under this agreement.

I. LIMITATIONS

This agreement in no way restricts RVCOG or the COUNTY from participating in similar agreements with other public or private agencies, organizations, or individuals with regard to any aspect of this agreement, so long as the same do not unreasonably interfere with each parties' performance herein.

J. REPORTS AND RECORDS

All COUNTY work products required in Attachment A will be made available for DLCD review.

IN WITNESS WHEREOF, RVCOG AND THE COUNTY have caused this agreement to be executed by their authorized representatives as of the date of the last signature affixed below:

PARTIES TO THE AGREEMENT

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY

Douglas County

By [Signature]
Chair

By [Signature]
Commissioner

By [Signature]
Commissioner

Authorized Signature

Date NOVEMBER 7, 2012

Rogue Valley Council of Governments

[Signature]
Authorized Signature

Executive Director
Title

11/15/12
Date

REVIEWED AS TO FORM

By [Signature]
Office of County Legal Counsel

Date: 11/2/12

ATTACHMENT A

Regional Pilot Program Grant Agreement Work Program

Introduction. Utilizing the direction provided in Executive Order (EO) 12-07, the Regional Partners will analyze identified strategies that may allow appropriate variation in what lands must be planned and managed as farm and forest lands in Douglas, Jackson, and Josephine counties. The program consists of three major phases.

Phase 1 will be an analysis of regional definitions and criteria for farm and forest lands to explore:

1. An alternative forest land designation, including revised methods for the authorization of dwellings.
2. Alternative farm parcel size opportunities.
3. Designating non-resource lands.

Phase 2 will be:

1. The identification of mapping errors made in the acknowledgement process; and
2. An analysis of the appropriate level and types of uses on the carrying capacity of the land of pursuing the approaches listed above, as outlined in EO 12-07.

Phase 3 will be preparation of a petition for rulemaking to LCDC or a project summary report if information necessary to prepare a petition is not completed.

Phase 1

Payment 1. Upon execution of this grant agreement, the Department shall distribute to the Grantee a sum of \$110,000 to complete the products required under Tasks 1 and 2. Grantee shall, at the time Task 1, 2, 3, and 4 products are submitted to the Department as complete, provide an affidavit that the costs to the Regional Partners and Grantee to complete the products equaled or exceeded the amount of Payment 1 or reimburse unexpended grant funds.

Task 1: Initial Public Information and Participation. Regional Partners shall:

1. Inform each board of commissioners and planning commission about project activities through staff briefings and reports according to established practices for the individual county.
2. Conduct at least one opportunity in each county, prior to entering into this grant agreement, for the public to provide comment regarding the Pilot Program to the Board of Commissioners.
3. Maintain a listserv or other appropriate means for the public and other interested parties to subscribe to receive meeting notices and other pertinent information.

Task 1 products:

1. Summary of oral public comment and copies of written materials delivered at initial public meeting regarding the Pilot Program.

2. Evidence that the boards of commissioners and planning commissions in each of the Regional Partner counties has received at least one briefing regarding the intent and progress of the Pilot Program.

Task 1 product submittal: November 15, 2012.

Task 2: Project Organization. Regional Partners shall:

In collaboration with the Department and the Oregon departments of Agriculture and Forestry, review current statutory and administrative rule provisions regarding farm and forest lands protection under the statewide planning program relevant to carrying out the Pilot Program.

Task 2 product:

Educational materials regarding state farm and forest land definitions.

Task 2 product submittal: December 15, 2012.

Task 3: Ongoing Project Administration and Oversight. Regional Partners shall:

1. Maintain regular communication with the Grantee, the Department, other state agencies, and each other during the course of organizing and carrying out the Pilot Program.
2. Establish and maintain a Tri-County Ad Hoc Steering Committee comprised of one county commissioner and the planning director from each county to oversee the progress of the Pilot Program and report to respective boards of commissioners.
3. Maintain a consistent message regarding the progress and content of the Pilot Program.
4. Establish and maintain information available via the Web regarding the progress of the Pilot Program, public participation opportunities, and data and materials developed under this grant.
5. Establish a technical advisory committee for its respective county to review data and information and provide comments and recommendations to the County and Regional Partners regarding the completeness and accuracy of data and other tasks as the Regional Partner County assigns. To present a balanced approach, the committee shall include, but not be limited to, local members with expertise in the following fields: farming, ranching, forestry, special districts, mining/aggregate, economic development, land use, and city government. The committee shall also include ex-officio members from the Department; the Oregon departments of Agriculture, Fish and Wildlife, Forestry, Transportation, and Water Resources; and affected Indian Tribes. The Department will ensure participation by the Oregon departments.
6. Develop a uniform method and format to create and disseminate data and information generated by the regional Partners.

Task 3 products:

1. Evidence that steering and technical committees were established and documentation of their participation during the process of developing data, analysis, and program deliverables.
2. Web site accessible from the Grantee's and each Regional Partner County's current site containing information pertinent to the public, state agencies, and stakeholders regarding the Pilot Program.
3. Examples of methods and format Regional Partners will employ in the generation and communication of data, maps and information as part of the Pilot Program.

Task 3 product submittal:

Committees shall be established by February 1, 2013.

Task 4: Data Acquisition. Each Regional Partner shall develop maps and associated data regarding issues pertinent to subsequent analysis identified in Tasks 5, 6, and 7. The maps shall be consistent and compiled using existing data and methodology and shall be displayed in a uniform format across the region.

Task 4 products: GIS maps showing the following for the entire county:

1. Soils capability for farm use
2. Forest productivity
3. High-value soils as defined in ORS 195
4. Groundwater resources
5. Goal 5 inventory areas
6. The most recent wildlife mapping from ODFW
7. Fire protection districts
8. Parcelization and existing development
9. Current farm, forest, non-resource, and exception-area plan and zone designations
10. Level of utilization of existing rural residential lands
11. Areas of natural hazards and other development constraints

Task 4 product submittal: February 28, 2013

Payment 2. The Department shall distribute a sum of \$55,000 upon submittal of Task 4 products to complete the products required under Task 5. Grantee shall, at the time Task 5 products are submitted to the Department as complete, provide an affidavit that the costs to the regional Partners and Grantee to complete the products equaled or exceeded the amount of Payment 2 or reimburse unexpended grant funds.

Task 5: Assessment of Resource Lands. Regional Partners shall, in consultation with appropriate state agencies, analyze lands currently designated for farm and forest use to:

1. Explore establishing regional criteria or factors for designating:
 - o An alternative forest land designation, including revised methods for the authorization of dwellings. This also includes providing additional tools to

- manage interface areas with non-commercial forest characteristics and to protect other forest values.
 - Alternative farm parcel size opportunities characteristic to Southern Oregon agricultural lands management and emerging agricultural practices while protecting other farm values.
2. Explore establishing regional criteria or factors for determining which lands should not be designated under Goals 3 or 4, consistent with the requirements of EO 12-07.

Each Regional Partner shall conduct at least one public meeting prior to Task 5 product submittal.

Task 5 products:

1. Identification of any criteria or methods established in items 1 and 2 above.
2. Maps of all the land in each county in the region that will be under consideration for alternative forest land designation, alternative farm parcel size opportunities, or to be re-designated to non-resource land. The maps shall be compiled using consistent data and methodology and shall be displayed in a uniform format across the region. The criteria or methods shall be consistent across the region.
3. Minutes of required meeting.

Task 5 product submittal: April 15, 2013.

Payment 3. The Department will distribute \$55,000 upon submittal of Task 5 products. If the Regional Partners cannot complete Task 5 with Payments allocated for this Task, then with approval from the Department, money from Payments 4 and 5 may be reallocated to this Task. Regional Partners will provide an affidavit that the costs to the regional Partners and Grantee to complete the products exceeded or will exceed the amount of Payments 2 and 3 in order to qualify for reallocation of the Payments. Additionally, Regional Partners shall identify the amount of reallocation necessary to complete Task 5. In the event of reallocation of Payments, the Department and Regional Partners will jointly request from the legislature additional funds to complete the remaining work for the Pilot Program.

Phase 2

Task 6: Assessment of Mapping Errors. Regional Partners shall, in consultation with appropriate state agencies, analyze lands currently designated for farm and forest use to identify any mapping errors made in the acknowledgement process consistent with ORS 215.788-791.

Task 6 product:

Maps and data for all mapping errors identified in each county.

Task 6 product submittal: May 31, 2013.

Task 7: Carrying Capacity Analysis. Regional Partners shall:

1. Establish common factors or criteria, in accordance with EO 12-07, section 5, to determine the appropriate level and types of uses for lands eligible for consideration for alternative forest land designation, alternative farm parcel size opportunities, or to be re-designated to non-resource land. The factors or criteria shall be applied to sample areas in each county. The number, size, and location of the sample areas shall be representative of all land identified for consideration in Task 5.
2. Conduct at least one public meeting in each county prior to Task 7 product submittal.

Task 7 products:

1. GIS maps, data, and narrative showing the results of the carrying capacity analysis on the identified sample areas.
2. Minutes of required meeting.

Task 7 product submittal: May 31, 2013.

Payment 4. The department will distribute \$100,000 upon submittal of Tasks 6 and 7 products, unless money for this Payment has been reallocated to Task 5 as described above.

Phase 3

Task 8: Preparation of Petition for Rulemaking or Project Summary Report. Regional Partners shall:

1. Utilize products from prior tasks to prepare a petition to the Commission for rulemaking. The petition for rulemaking shall contain all products identified in the previous tasks as well as a summary of additional local/regional tasks necessary to implement new rules.
2. If a petition for rulemaking is not complete, then a project summary report will suffice. The project summary shall contain all products identified in the previous tasks as well as a summary of additional local/regional tasks necessary to complete a petition for rulemaking and to implement new rules.

Task 8 product: Draft petition for rulemaking or project summary report as listed above.

Task 8 product submittal: June 30, 2013.

Payment 5. The department will distribute \$30,000 upon submittal of Task 8 products, unless money for this Payment has been reallocated to Task 5 as described above.