

Oregon Department of Land Conservation and Development 635 Capitol Street N.E. Salem, Oregon 97301 2011-2013 Grant Contract		Date November 6, 2012
		Type of Grant Technical Assistance
Grantee Name Rogue Valley Council of Governments (RVCOG)		Grant No. TA-COG-13-176
Street Address 155 N. 1st Street Central Point, Oregon 97502		DLCD Share of Cost \$350,000.00
State General Fund X	Closing Date June 28, 2013	Grantee Share of Cost (if applicable) Not Required
Last Legal Date to Amend Grant per Standard Condition 16:		Amendments Deadline No later than April 1, 2013 Total Cost \$350,000.00
Project Title Southern Oregon Regional Pilot Program in Douglas, Jackson, and Josephine Counties		
Grantee Representative Michael Cavallaro, Executive Director Phone: 541.664.6674 mcavallaro@rvcog.org		DLCD Representative Josh LeBombard, DLCD Grant Manager Phone: 541.414.7932 josh.lebombard@state.or.us

This State of Oregon grant Contract herein referred to as **Contract**, is by and between the **Department of Land Conservation and Development**, herein referred to as **DLCD**, and the **Rogue Valley Council of Governments (RVCOG)** herein referred to as **Grantee**.

This Contract, approved by the Director of the Department of Land Conservation and Development, acting on behalf of the Land Conservation and Development Commission, is issued in duplicate and constitutes an obligation of funds in return for the work described herein. By signing the two documents, Grantee agrees to comply with the grant provisions checked below and attached. Upon acceptance by Grantee, the two signed complete documents shall be returned to DLCD.

Grantee shall sign both copies of this Contract and return both signed copies to DLCD within thirty (30) days of the date at the top of this page. If not signed and returned without modification by Grantee within thirty (30) days of receipt, the DLCD Grant Program Manager may unilaterally terminate the grant award. Upon receipt of the signed Contract the DLCD Grant Program Manager shall sign and return one copy to Grantee.

The Effective Date of this Contract is the latest date on which all parties have signed this Contract and all necessary approvals have been obtained by the "Effective Date."

Funds provided under this Contract can only be used for expenditures incurred on or after the Effective Date and on or before the Closing Date specified above.

This grant may be amended according to the policies and procedures of DLCD, and with the Contract of all parties to the Contract, but the Closing Date cannot go beyond June 28, 2013.

This Contract consists of the required signatures and attachments listed and checked below. The attachments are listed in descending order of precedence. In the case of any conflict among the documents, the document with the higher precedence shall control.

Components of the Contract and required signatures are below.

- Department of Land Conservation and Development Special Award Conditions
- Department of Land Conservation and Development Standard Award Conditions
- Attachment A: Grantee Grant Application and Narrative
- Attachment B: Contact Names and Addresses identified in Attachment B
- Attachment C: Request for Reimbursement Form and Instructions
- Attachment D: Office of the Governor State of Oregon Executive Order No. 12-07
- Attachment E: Regional Solutions Team Names

Approved for Legal Sufficiency, Oregon Department of Justice Steven W. Marlowe, by email on file with DLCD	Title Assistant Attorney General	Date 12/05/2012
Print Name of Authorized Official For the Grantee Michael Cavallaro	Title Executive Director	Date 12/11/12
Signature of Authorized Official For the Grantee 		
Print Name of DLCD Grant Program Manager Rob Hallyburton	Title Community Services Division Manager	Date 12/13/12
Signature of DLCD Grant Program Manager 		

DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT SPECIAL AWARD CONDITIONS

Subject to any applicable debt limitation set forth in Article XI, Section 10, of the Oregon Constitution, by city charter or otherwise, and contingent upon funds being appropriated by the Legislative Assembly and sufficient allotment authority therefore, Grantee agrees to the provisions below.

1. Grantee agrees that this grant, number EO-COG-13-176, to Rogue Valley Council of Governments supports the work described in the Grantee's grant application (the "Project" or the "Work"), which is incorporated into this Contract as Attachment A-Grantee Grant Application and Narrative. Where the terms of the other Contract documents and Attachment A differ, the Contract will be given the priority set forth and these special award conditions shall prevail.
2. Grantee agrees that all reports, studies, and other documents produced under this scope of work must indicate on the cover or the title page an acknowledgement of the financial assistance provided by DLCD and bears the following legend: "This project is funded by Oregon general fund dollars through the Department of Land Conservation and Development. The contents of this document do not necessarily reflect the views or policies of the State of Oregon."
3. Grantee agrees to identify the location of the originals of any Product(s) or "Work Product(s)", if the copy is submitted to DLCD or if the "Product(s)" or "Work Products" is one-of-a-kind document.
4. Grantee agrees to produce and submit to DLCD those Product(s) as specified in this Contract, including but not limited to those Products further described in Grantee's Grant Application Narrative or Scope of Work (SOW).
5. Grantee agrees that the term digital media means a compact disc (CD), digital video disc (DVD), USB flash drive, or an e-mail submittal authorized by the Grant Administrative Specialist.
6. Grantee agrees to complete the following by February 15, 2013:
 - a. Identify by name, address, telephone, and email address, those person(s) who will be performing the Project Work and which tasks listed under the Scope of Work for this Contract ("Work Tasks") they will work on.
 - b. Provide a specific and descriptive explanation of each "Product" or "Work Product" to be delivered under a Work Task.
 - c. Identify the Steering Committee and Technical Assistance Committee Members by name, address, telephone, and email address, of those person(s) who are appointed to each committee.
7. Grantee agrees that the Regional Partners will include Douglas County, Jackson County, and Josephine County. Grantee will serve as the project's administrative coordinator.
8. Grantee agrees that any notice issued by Grantee, which is eligible for reimbursement under ORS 227.186 – Notice to City Property Owners, for costs incurred for Measure 56 – Land Owner Notification are not reimbursable under this Contract.

9. Grantee agrees that any notice issued by Grantee which is eligible for reimbursement under ORS 215.503 – Notice to County Property Owners, for costs incurred for Measure 56 – Land Owner Notification are not reimbursable under this Contract.
10. Grantee agrees to coordinate and provide notice to DLCD, Regional Partners, other agencies, and organizations listed in Attachment A of public meeting(s), workshop(s), work session(s), and/or hearing(s) to develop, review or approve products prepared under this Contract.
11. Grantee agrees to, in consultation with the DLCD Grant Manager and Regional Partners provide timely review of all draft copies of Work Product(s), and non-related Draft Work Product(s) to DLCD, affected agencies and organizations for review and comment.
12. Grantee agrees to submit a written report at the request of the DLCD Grant Manager, at any time outside of the payment schedule, in addition to the reports submitted with Attachment C.
13. Grantee agrees that DLCD will provide one payment of \$110,000.00 with the submittal of Attachment C: Request for Reimbursement Form upon execution of the contract, with the Products for Tasks 1–3 due no later than February 15, 2013.
14. Grantee agrees that DLCD will provide two additional payments after the first payment described in Department of Land Conservation and Development Special Award Conditions No. 12: an interim payment and a final payment by the Closing Date, and agrees the payments in this condition will be made only upon submittal of qualifying product(s) and progress report(s) in accordance with the terms of Attachment C: Request for Reimbursement Form to this Contract. The report(s) must describe the progress to date on each Work Task(s) or Product(s) undertaken during the billing period. Other written or verbal progress reports will be provided upon reasonable request by the DLCD Grant Manager.
15. Grantee agrees that the total reimbursement request for Work Task(s) or Product(s) 1–3 shall not exceed \$110,000.00, and for Work Task(s) or Product(s) 4 and 5 shall not exceed \$110,000.00, and for Work Task or Product(s) 6–8 shall not exceed \$130,000. The total reimbursement of all Work Task(s) or Product(s) shall not exceed \$350,000.00.
16. Grantee agrees and understands that payments under this Contract will be reduced if Work Task(s) or Product(s) or both Work Task(s) and Product(s) scheduled to be completed are not completed by the Consultant and Planning Department. The total grant payments under this Contract will not be reduced under this paragraph by more than 20 percent rounded up to the near dollar amount which equals \$70,000.00. Grantee further understands and agrees that DLCD's payment obligations under this Contract are conditioned upon DLCD's receiving funding, appropriations, limitations, allotments or other expenditures authority sufficient to allow DLCD in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Contract.
17. Grantee agrees that if a new comprehensive map or zoning map is created, or an existing map is revised or updated, the Product(s) need to be submitted in an electronic form compatible with the Environmental Systems Research Institute's (ESRI) ArcGIS (coverage, shapefile and geodatabase).

18. Grantee agrees GEO/GIS data should be free of topological errors and Metadata compliant with the current State of Oregon Metadata Standards accessible at <http://www.oregon.gov/DAS/EISPD/GEO/standards/standards.shtml> under file name Introduction to Oregon Metadata Standard (metadata_Opportunity [1].pdf). The Projection of the data may be determined by the jurisdiction. All data should have the projection defined with the dataset and must be documented in the metadata.
19. Grantee agrees that DLCD may display appropriate Product(s) on its web interface or corporate GIS data generated under this Contract and any additional data provided that is not specifically restricted into state agency databases, acknowledging that Grantee and agents of Grantee are not responsible for the accuracy of such data. DLCD may also share the data specifically generated under this Contract with other agencies and organizations, as this is data that DLCD owns as Work Product(s) under Standard Award Conditions No. 5.
20. Grantee agrees that, while Grantee has entered into Intergovernmental Agreements with the Regional Partners for the Regional Partners to perform some of the Project, the Grantee is solely responsible to the Grantor for timely completion of the Project. Grantee shall require the Regional Partners to perform those parts of the Project related to the Regional Partner. Grantee shall monitor the Regional Partner's continued compliance with the Project. Grantee shall incorporate appropriate provisions in the subcontracts permitting it to enforce the Regional Partners Compliance with the Project's requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the Project is in full force or pursuing legal action to enforce the requirements.

Scope of Work

Project Purpose Statement

Introduction

Utilizing the direction provided in Attachment D: Office of the Governor State of Oregon Executive Order No. 12-07, the Regional Partners, consisting of Douglas County, Jackson County and Josephine County, 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. Grantee will provide administrative coordination and grant related support. The program consists of three major phases.

Phase 1

Analysis of regional definitions and criteria for farm and forest lands, to explore:

- a. Alternative forest land designation, including revised methods for the authorization of dwellings;
- b. Alternative farm parcel size opportunities; and
- c. Designating non-resource lands.

Phase 2

This phase will be:

- a. The identification of mapping errors made in the acknowledgement process; and
- b. 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 Attachment D: Office of the Governor State of Oregon Executive Order No. 12-07.

Phase 3

Preparation of a petition for rulemaking to LCDC or a project summary report if information necessary to prepare a petition is not completed.

Project Overview and Management

Overall administrative coordination of the Project will be the responsibility of the Grantee as assisted by the DLCDD Grant Manager. The specific duties of the Grantee will include:

- a. Providing general administrative support to the Regional Partners, especially in terms of ensuring consistency with the requirements and timeline of Executive Order 12-07 and its implementation plan as agreed upon by DLCDD and the Regional Partners;
- b. Setting up and maintaining a listserv or other appropriate list with the help of each county. The list(s) will contain the name, mailing address, city, state, email address to send notice of meetings and pertinent information to the public;
- c. Establishing and maintaining a central website for the project, incorporating specific information and work products from each county on an ongoing basis; and
- d. Serving as the project grant administrator, submitting reimbursement requests and work products to DLCDD, and providing the individual counties with their scheduled reimbursements.

Advisory Committees

The Project will employ a Steering Committee (SC) comprised of at least one County Commissioner and Planning Director from each county and a technical advisory committee (TAC) composed of local government staff, state agency staff and others identified by the SC and TAC.

See Task 3 on page 9 of this contract for more details on the advisory committees. Additional representatives from other affected agencies and organizations may serve as recommended by the Planning Directors.

The SC and TAC will meet on a regular basis to review technical analysis and recommendations prepared by the Regional Partners. Individual TAC members will be responsible for communicating with officials from their respective jurisdictions and to assure that policy issues are incorporated into technical work at the appropriate time and in the most effective way.

Agency Role

DLCDD will provide financial, administrative and technical assistance. DLCDD supports the collaborative, regional approach envisioned in the Project and agrees to work equally and fairly with each jurisdiction to help assure that state and local interests are optimized. DLCDD recognizes the Regional Pilot Program Project will inform, but will not bind, future land use decisions of the cooperating jurisdictions.

Grantee Role

The project will use Grantee's services to perform technical analysis related to identifying any issues that are not being resolved among the three jurisdictions and Grantee is expected to make sure the project is on time and will be completed as planned. If necessary, and if requested by a Regional Partner, Grantee may attend meetings of the SC, TAC, or other project-related meetings. Grantee will establish and maintain a website (*see* subtask 3.d, page 9 for more details).

Project Meeting Materials

Any written materials prepared by Grantee shall be provided to each of the Regional Partners in electronic format (PDF and Word) one week prior to any scheduled SC or TAC meetings or both. All written materials and pertinent information for each SC, TAC or county meeting shall be provided to Grantee for upload to the regional Grantee-maintained website. Minutes or summaries from these meetings shall be provided by Regional Partners to Grantee in electronic format within a reasonable time period for upload to the regional website.

Each of the Regional Partners shall prepare meeting agendas and summaries for each SC or TAC or county meeting. The county where the meeting is held shall distribute, where appropriate, meeting materials electronically to project committee members at least five (5) days prior to any scheduled meeting.

Project Deliverables Schedule

The deliverables or "Products" or "Work Products" schedule identified throughout this scope of work will have a specific due date by month day and year started after the Contract's Effective Date.

Expectations about Written and Graphic Deliverables

Grantee shall provide one CD copy of the final Products to DLCD Salem Office and the Regional Partners. Grantee will distribute a final copy of this signed contract to each of the Regional Partners. Grantee and Regional Partners will share data, reports, agendas, minutes, GIS and other media with each other.

Work Program and Timeline

Task PI Interim Payment 1

Reimbursement up to \$110,000.00 upon submittal of a signed Attachment C: DLCD Interim Reimbursement Form request acceptable to DLCD.

Send Attachment C – Interim Reimbursement Form, with the two original signed contracts to the Grant Administrative Specialist. Payment will not be made until all copies are received in the Salem Office and counter signed by DLCD. Payment will be sent separately from original signed contract.

Phase 1

Task 1 Initial Public Information and Participation

Regional Partners and, when appropriate, Grantee will hold meetings either jointly or separately to do the following:

- a. Inform each board of commissioners and planning commission about project activities through staff briefings and reports according to established practices for the individual county.
- b. Conduct at least one opportunity in each county, prior to entering into this grant agreement or within 2 weeks after the contract is finalized by DLCD, for the public to provide comment regarding the Pilot Program to the board of commissioners.
- c. 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

- 1-1 Summary of oral public comment and copies of written materials delivered at initial public meeting regarding the Pilot Program.
- 1-2 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 Timeline: To be completed by Grantee by December 31, 2012

Task 1 Budget: \$50,000.00

Task 2: Project Organization

Grantee and Regional Partners shall, in collaboration with the Oregon Department of Land Conservation and Development, Oregon Department of Agriculture and Oregon Department of 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 Products

- 2-1 Report on the review of the current statutory and administrative rule provisions regarding farm and forest protection relevant to the Pilot Program. What was decided, how does it fit, and any other observations?
- 2-2 Report from the Regional Partners regarding state farm and forest definitions.

Task 2 Timeline: To be completed by Grantee by January 15, 2013

Task 2 Budget: \$30,000.00

Task 3: Ongoing Project Administration and Oversight.

Grantee and Regional Partners shall:

- a. Maintain regular communication with the Grantee, the Regional Partners, DLCD, other state agencies, and each other during the course of organizing and carrying out the Pilot Program.
- b. Establish and maintain Steering Committees 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 by February 1, 2013.
- c. Maintain a consistent message regarding the progress and content of the Pilot Program.
- d. 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.
- e. 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 DLCD, members from the Oregon Departments of Agriculture, Fish and Wildlife, Forestry, Land Conservation and Development, Transportation, and Water Resources; and affected Indian Tribes. DLCD will ensure participation by other State Agencies.
- f. Develop a uniform method and format to create and disseminate data and information generated by the Regional Partners.

Task 3 products

- 3-1 Regional Partners provide evidence that steering and technical committees were established and documentation of their participation during the process of developing data, analysis, and program deliverables.
- 3-2 Website 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.
- 3-3 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 Timeline: Effective Date of Contract through February 15, 2013

Task 3 Budget: \$30,000.00

Task 4 Data Acquisition - Mapping and associated data

Each Regional Partner using GIS as described in Special Conditions nos. 18–20 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

Maps showing the following for the entire counties of Douglas, Jackson and Josephine:

- a. Soils capability for farm use
- b. Forest productivity
- c. High-value soils as defined in ORS 195
- d. Groundwater resources
- e. Goal 5 inventory areas
- f. The most recent wildlife mapping with GIS data from ODFW
- g. Fire protection districts
- h. Parcelization and existing development
- i. Current farm, forest, non-resource, and exception-area plan and zone designations
- j. Level of utilization of existing rural residential lands
- k. Areas of natural hazards and other development constraints

Task 4 Timeline: To be completed by Grantee by March 8, 2013

Task Budget: \$55,000.00

Task 5 Assessment of Resource Lands

Using technical studies and GIS data, the Regional Partners shall, in consultation with appropriate state agencies, analyze lands currently designated for farm and forest use to:

- a. Explore establishing regional criteria or factors for designating:
 1. 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.
 2. Alternative farm parcel size opportunities characteristic to Southern Oregon agricultural lands management and emerging agricultural practices while protecting other farm values.
- b. Explore establishing regional criteria or factors for determining which lands should not be designated under Goals 3 or 4, consistent with the requirements this Grant Contract Attachment D: Office of the Governor State of Oregon Executive Order No. 12-07.
- c. Using GIS data from Task 4 and GIS guidelines as described in Special Conditions Nos. 18–20. Map all of 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.
- d. Each Regional Partner shall conduct at least one noticed public meeting, at which public comment is allowed.

Task 5 products

- 5-1 Technical Study Report identifying any criteria or methods established in items 5.a.1 and 5.a.2 above.
- 5-2 Maps as described in subtask 5.c.
- 5-3 Agenda, signup sheets, minutes, and results of required meeting(s).

Task 5 Timeline: To be completed by Grantee by April 15, 2013

Task 5 Budget: \$55,000.00

Task P2 Interim Payment 2

Reimbursement on or after April 15, 2013, of up to \$110,000.00 upon submittal of Work Product(s) listed in Tasks 4 and 5; and a signed Attachment C: DLCDC Interim Reimbursement Form request acceptable to DLCDC.

Submit: one (1) copy each of the work product(s) in a hard copy and one (1) CD to the Grant Manager, and one (1) copy of each product(s) in a hard copy CD to the Grant Administrative Specialist to addresses listed in Attachment B – DLCDC Contact Information.

Send Attachment C – Interim Reimbursement Form, and accompanying Work Product(s) to the Grant Administrative Specialist. Payment will not be made until all copies are received in the Salem Office and approved by DLCDC.

Phase 2**Task 6 Assessment of Mapping Errors**

Participating counties shall, in consultation with appropriate state agencies, using GIS guidelines as described in Special Conditions Nos. 18–20 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 GIS data for all mapping errors identified in Douglas County, Jackson County and Josephine counties.

Task 6 Timeline: To be completed by Grantee by May 31, 2013

Task 6 Budget: \$50,000.00

Task 7 Carrying Capacity Analysis

Regional Partners shall:

- a. Using GIS guidelines as described on page 5 of this contract in Special Conditions No. 18-20 establish common factors or criteria, in accordance with Attachment D: Office of the Governor State of Oregon Executive Order No. 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.
- b. Prior to Task 7 product submittal, conduct at least one noticed public meeting in Douglas County, Jackson County, and Josephine County, at which public comment is allowed.

Task 7 products

- 7-1 Maps, data, and narrative showing the results of the carrying capacity analysis on the identified sample areas.
- 7-2 Minutes of required meeting.

Task 7 Timeline: To be completed by Grantee by May 31, 2013

Task 7 Budget: \$50,000.00

Phase 3

Task 8 Preparation of Petition for Rulemaking or A Detailed Project Summary Report

Regional Partners shall:

- a. Utilize products from prior tasks to prepare a petition to the Land Conservation and Development 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.
- b. 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(s): Draft petition for rulemaking or Project summary report as listed above

Task 8 Timeline: To be completed by Grantee no later than June 28, 2013

Task 8 Budget: \$30,000.00

Task FP Final Payment

Reimbursement on or before June 28, 2013, of up to \$130,000.00 and the balance of the previously unused grant funds from P2 for this grant award upon submittal of Work Products listed in Tasks 6, 7, and 8 (Petition or Report); and a signed Attachment C: DLCD Final Reimbursement Form request acceptable to DLCD.

Submit, no later than July 12, 2013 (14 days after the closeout): one (1) copy each of the work product(s) in a hard copy and one (1) CD to the Grant Manager, and one (1) copy each product(s) in a hard copy and One (1) CD to the Grant Administrative Specialist to addresses listed in Attachment B – DLCD Contact Information.

Send Attachment C: Final Reimbursement Form and the accompanying product(s) to the Grant Administrative Specialist. Payment will not be made until all copies are received in the Salem office and approved by DLCD.

Budget Summary

Task 1 – Initial Public Information and Participation	\$ 50,000
Task 2 – Project Organization	\$ 30,000
Task 3 – Ongoing Project Administration and Oversight	\$ 30,000
Task 4 -- Data Acquisition - Mapping and associated data	\$ 55,000
Task 5 – Assessment of Resource Lands	\$ 55,000
Task 6 - Assessment of Mapping Errors	\$ 50,000
Task 7 – Carrying Capacity Analysis	\$ 50,000
Task 8 - Petition for Rulemaking or Project Summary Report	<u>\$ 30,000</u>
TOTAL	\$ 350,000

DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT STANDARD AWARD CONDITIONS

Subject to any applicable debt limitation set forth in Article XI, Section 10, of the Oregon Constitution, by city Charter or otherwise, and contingent upon funds being appropriated by the Legislative Assembly and sufficient allotment authority therefore, Grantee agrees to the provisions below.

1. **DLCD Funds:** DLCD certifies that on the Effective Date of this grant sufficient funds are authorized, available, and set-aside, Subject to the provision of ORS 291.261.
2. **Reporting:** At any time before the Closing Date, when requested by the DLCD Grant Manager, Grantee shall provide a written report on the status and progress of Work performed under this Contract within a mutually agreed time frame.
3. **Payments:** DLCD payments to Grantee under this Contract shall be made in accordance with the grant payment schedule described in the "Special Award Conditions Product(s), Activities, or Payments Table or Scope of Work" of this Contract. Payment is contingent upon DLCD's acceptance of the Product(s) or Work Product(s) produced under the Contract. Grantee agrees that reimbursement of all amounts requested by Grantee is contingent upon compliance with all the terms and conditions of this Contract.
4. **Penalty:** Payments to Grantee may be withheld or reduced if DLCD determines that work performed under this Contract is unsatisfactory, based on the best professional judgment of the DLCD Grant Manager, or if one or more terms or conditions of this Contract have not been met to the extent required by law.
5. **Ownership of Work Product(s).**
 - a. **Definitions.** As used in this Paragraph 5 and elsewhere in this Contract, the following terms have the meanings set forth below:
 - i. **"Grantee Intellectual Property"** means any intellectual property owned by Grantee and developed independently from the Project.
 - ii. **"Third Party Intellectual Property"** means any intellectual property owned by parties other than DLCD or Grantee.
 - iii. **"Product(s)" or "Work Product(s)"** means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that Grantee is required to deliver to DLCD pursuant to the Project and this Contract, including but not limited to any Product(s) or Work Product(s) described in Special Award Conditions Number 1.

- b. **Original Works.** All Product(s) or Work Product(s) created by Grantee pursuant to the Project and this Contract, including derivative works and compilations, and whether or not such Work Product(s) is considered a work made for hire or an employment to invent, shall be the exclusive property of DLCD. DLCD and Grantee agree that such original works of authorship are "work made for hire" of which DLCD is the author within the meaning of the United States Copyright Act. If for any reason the original Product(s) or Work Product(s) created pursuant to the Project is not "work made for hire," Grantee hereby irrevocably assigns to DLCD any and all of its rights, title, and interest in all original Product(s) or Work Product(s) created pursuant to the Project, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine.
- c. **Upon DLCD's reasonable request,** Grantee shall execute such further documents and instruments necessary to fully vest such rights in DLCD. Grantee forever waives any and all rights relating to original Product(s) or Work Product(s) created pursuant to the Project, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- i. **In the event that Product(s) or Work Product(s)** created by Grantee under this Contract is Grantee Intellectual Property or is a derivative work based on Grantee Intellectual Property is a compilation that includes Grantee Intellectual Property, Grantee hereby grants to DLCD an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Grantee Intellectual Property employed in the Product(s) or Work Product(s), and to authorize others to do the same on DLCD's behalf.
- ii. **In the event that Product(s) or Work Product(s)** created by Grantee under this Contract is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Grantee shall secure on DLCD's behalf and in the name of DLCD an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Third Party Intellectual Property employed in the Product(s) or Work Product(s), and to authorize others to do the same on DLCD's behalf.
- d. **Grantee Intellectual Property.** In the event that Product(s) or Work Product(s) is Grantee Intellectual Property, Grantee hereby grants to DLCD an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Grantee Intellectual Property, and to authorize others to do the same on DLCD's behalf.
- e. **Third Party Works.** In the event that Product(s) or Work Product(s) is Third Party Intellectual Property, Grantee shall secure on DLCD's behalf and in the name of DLCD, an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property, and to authorize others to do the same on DLCD's behalf.

6. **Indemnity.**

- a. **General Indemnity. Subject to Limitation of State of Oregon Constitution and State of Oregon Tort Claims Act.** Grantee shall defend, save, hold harmless, and indemnify the State of Oregon and DLCD and their Officers, Employees, Agents from and against all Claims, Suits, Actions, Losses, Damages, Liabilities, Costs and Expenses of any Nature whatsoever, including Attorney Fees, resulting from, arising out of, relating to the Activities of Grantee or its Officers, Employees, Subcontractors, or Agents under Contract.
- b. **Indemnity for Infringement Claims. Subject to Limitation of State of Oregon Constitution and State of Oregon Tort Claims Act. Without limiting the generality of section 6.a,** Grantee Expressly agrees to Defend, Indemnify, and hold DLCD, the State of Oregon and their Agencies, Subdivisions, Officers, Directors, Agents, and Employees harmless from any and all Claims, Suits, Actions, Losses, Liabilities, Costs, Expenses, including Attorney's Fees, and Damages arising out of or related to any claims that the Product(s) or Work Product(s) or Work Task(s) or any other tangible or intangible items delivered to DLCD by Grantee that may be the subject of protection under any State or Federal Intellectual Property Law or Doctrine, or DLCD's use thereof, infringes any Patent, Copyright, Trade Secret, Trademark, Trade Dress, Mask Work, Utility Design, or Other Proprietary Right of any Third Party; provided, that State shall provide Grantee with prompt written notice of any infringement claim.
- c. **Control of Defense and Settlement.** Grantee shall have control of the Defense and Settlement of any claim that is subject to sections 6.a or 6.b; however, neither Grantee nor any Attorney engaged by Grantee shall defend the claim in the name of the State of Oregon or any Agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its Agencies, without first receiving from the Oregon Attorney General, in a form and manner determined appropriate by the Attorney General, Authority to Act as Legal Counsel for the State of Oregon, nor shall Grantee settle any claim on behalf of the State of Oregon without the Approval of the Attorney General. the State of Oregon may, at its election and expense, assume its own defense and settlement in the event that the State of Oregon determines that grantee is prohibited from defending the State of Oregon, or is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue and the State of Oregon desires to assume its own defense.

7. **Termination:**

- a. **DLCD's Right to Terminate at its Discretion.** At its sole discretion, DLCD may terminate this Contract:
 - i. **For its convenience** upon thirty (30) days' prior written notice by DLCD to Grantee;
 - ii. **Immediately upon written notice** if DLCD fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow DLCD, in the exercise of its reasonable administrative discretion, pay for the Product(s) or Work Product(s) or Work Task(s) hereunder; or
 - iii. **Immediately upon written notice** if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the DLCD's financial assistance under this Grant Contract is prohibited or DLCD is prohibited from paying for the Product(s) or Work Product(s) or Work Task(s) hereunder from the planned funding source.

- b. **DLCD's Right to Terminate for Cause.** In addition to any other rights and remedies DLCD may have under this Contract, DLCD may terminate this Contract immediately upon written notice by DLCD to Grantee, or at such later date as DLCD may establish in such notice, or upon expiration of the time period and with such notice as provided below, upon the occurrence of any of the following events:
- i. **Grantee is in default** because Grantee institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
 - ii. **Grantee is in default** because Grantee commits any material breach or default of any covenant, warranty, obligation or Contract under this grant Contract, fails to perform any of its obligations under this grant Contract within the time specified herein or any extension thereof, or so fails to pursue its work hereunder as to endanger Grantee's performance under this grant Contract in accordance with its terms, and such breach, default or failure is not cured within fourteen (14) calendar days after DLCD's notice, or such longer period as DLCD may specify in such notice.
- c. **Grantee's Right to Terminate for Cause.** Grantee may terminate this grant Contract with written notice to DLCD upon the occurrence of the following events:
- i. **DLCD is in default** because DLCD fails to pay Grantee any amount due pursuant to the terms of this Contract, and DLCD fails to cure such failure within thirty (30) calendar days after Grantee's notice or such longer period as Grantee may specify in such notice; or
 - ii. **DLCD is in default** because DLCD commits any material breach or default of any covenant, warranty, or obligation under this Contract, fails to perform its commitments hereunder within the time specified or any extension thereof, and DLCD fails to cure such failure within thirty (30) calendar days after Grantee's notice or such longer period as Grantee may specify in such notice.
- d. **Return of Property.** Upon termination of this Contract for any reason whatsoever, Grantee shall immediately deliver to DLCD all of DLCD's property (including without limitation any Product(s) or Work Product(s) or Work Task(s) for which DLCD has made payment in whole or in part) that is in the possession or under the control of Grantee in whatever stage of development and form of recordation such property is expressed or embodied at that time. Upon receiving a notice of termination of this Contract, Grantee shall immediately cease all activities hereunder, unless DLCD expressly directs otherwise in such notice of termination. Upon DLCD's request, Grantee shall surrender to anyone DLCD designates, all documents, research or objects or other tangible things needed to complete the Product(s) or Work Product(s) or Work Task(s).
- e. **Termination** under Paragraph 7 shall be without prejudice to any claims, obligations, or liabilities either party may have incurred prior to such termination.
8. **Failure to Comply:** If a party fails to comply with any of the requirements or conditions of this Contract, the other may, without incurring liability, refuse to perform further pursuant to this Contract. DLCD shall make no further reimbursement to Grantee and Grantee shall upon demand by DLCD promptly repay DLCD all unexpended grant funds and grant funds expended in breach of this Contract.

9. **Accounting and Fiscal Records:** Using standard accepted accounting and fiscal records, the Grantee shall maintain records of the receipt and expenditure of all funds subject to this Contract for a period of six (6) years after the Closing Date, or for such longer period as may be required by applicable law or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later. Accounting records related to this Contract will be separately maintained from other accounting records.
10. **Closeout report:** The Grantee shall submit a closeout report to DLCDC within thirty (30) days after termination of the grant or the Closing Date of this Contract whichever is earlier.
11. **Closeout Payment:** Reimbursement up to the total amount of remaining grant funds will be made upon submittal of all required Product(s) or Work Product(s), up to and including those required for the final reimbursement, and a signed DLCDC closeout form acceptable to DLCDC. DLCDC shall authorize payment to the Grantee within ninety (90) days of such submittal for all required Product(s) or Work Product(s) or Work Task(s) that are accepted by the DLCDC Grant Manager after review for compliance with the Contract.
12. **Closeout Penalty:** DLCDC reserves the right to reduce or withhold final payment if a closeout report is submitted to DLCDC after the thirty (30) days, as referenced in Standard Condition Number 10.
13. **Subsequent funding:** Eligibility for subsequent funding to the Grantee is contingent upon receipt of the closeout report as referenced in Standard Condition Number 10.
14. **Audit:** The Oregon Secretary of State, Attorney General of the State of Oregon and the Director of DLCDC or any other duly authorized representative of DLCDC shall have access to and the right to examine any records of transactions related to this Contract for six (6) years after the final reimbursement under this Contract is authorized by DLCDC.
15. **Appropriate use of funds:** Grant funds cannot be used for any purpose other than for the Project and Product(s) or Work Product(s) or Work Task(s) done in accordance with the Work Program and Timeline described in the Scope of Work.
16. **Amendments:** Amendments must be facilitated by the DLCDC Grant Manager. An amendment to this Contract may be initiated at any time during the grant period, and must be in writing on the jurisdiction's letterhead with original signature of authorized personnel, but must be received at the DLCDC Salem Office at least ninety (90) days prior to the Closing Date and be signed by all parties on or before sixty (60) days prior to the Closing Date.