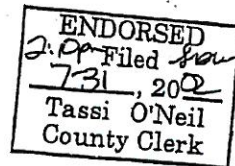


**INTERGOVERNMENTAL AGREEMENT
REGARDING WETLAND ACQUISITION PROJECT**



This agreement is made and entered into the 31st day of July 2002, by and between Tillamook County, by and through its Board of Commissioners, hereinafter COUNTY; the State of Oregon, by and through its Department of Fish and Wildlife, hereinafter ODFW; and the Tillamook County Soil and Water Conservation District, by and through its Board of Directors, hereinafter SWCD, referred to collectively as "the parties."

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RECITALS

- A. COUNTY, through its Performance Partnership secured a \$1,025,000 grant for the acquisition of private lands at the confluence of Wilson and Trask Rivers and the development of such lands for wetland (hereinafter "the site").
- B. Funds for county acquisition of said properties were provided as a grant from the Oregon Watershed Enhancement Board using funds from the Trust for Public Lands using funds from U.S. Fish and Wildlife services. Oregon Watershed Enhancement Board provided funds from the Coastal Wetlands Planning, Protection and Restoration Act dedicated for the purpose of protecting and restoring coastal wetlands.
- C. A management plan has been developed for the site that provides the overarching framework for development and management of the wetlands, floodways, flood control structures, and other resource uses.
- D. Prior to COUNTY's acquisition of title or floodway/conservation easements to the site, COUNTY through its consultants undertook engineering analysis and design alternatives for site development, including a determination of offsite flood impacts associated with the selected alternative.
- E. ODFW desires to manage habitat values on existing wetlands and remnant upland forests at the site and such additional wetlands as might be created by the project alternative selected in the management plan.
- F. SWCD desires to manage the agricultural lands remaining at the site after project implementation for purposes of generating revenues to be used for reimbursement of its costs and contribute to maintaining flood control structures and other project work at the site as set forth herein.
- G. The parties intend to carry out the management activities set forth herein only to the extent that such actions do not increase off site flood elevations or reduce off site flood discharge characteristics.
- H. COUNTY, ODFW and SWCD have authority to enter into intergovernmental agreements pursuant to ORS Chapter 190.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants, promises and undertakings hereinafter set forth, the parties agree as follows:

I. Statement of Project

1.1 The project work identified in the attached Exhibit "A" Management Plan, incorporated herein by reference will be undertaken at the site.

1.2 An annual work plan will be developed between the parties for any additional work and project maintenance at the site taking into consideration the recommendations of the committee described in paragraph 5.3.1 of this agreement.

1.3 This agreement is also subject to the reservations, covenants, conditions, limitations and restrictions contained in the following documents, incorporated herein by reference:

1.3.1 That certain deed from Wilson to COUNTY as recorded in Deed Book 432 at Page 660, deed records, Tillamook County, Oregon.

1.4 This agreement and the management of the subject parcels is limited to the purpose and conditions described in the conservation easement dedicated by the county as required by the terms of the federal grant.

1.5 Except as limited by paragraphs 1.1 and 1.3 above, reasonable public access to the site is allowed. No public access or use will be allowed that will result in adverse impacts to wildlife, the reduction of habitat or other values for which the site is managed. Nothing in this paragraph limits the authority or ability of any party to manage the site for wildlife viewing, lawful hunting, fishing, public safety, wildlife habitat conservation, or to preserve and protect agricultural uses.

1.6 Annually the parties will each give a status report on the project to the Board of County Commissioners.

2. Rights, Duties and Obligations of COUNTY

2.1 COUNTY will undertake all bid procurements and public contracts for the project work described in the attached management plan using grant funds available for the project.

2.2 COUNTY will provide construction management for the project to ensure the project achieves the desired wetland values and flood reduction benefits identified in Exhibit A.

2.3 COUNTY will make payments for all expenditures of grant funds for the acquisition and development of the site and for all fund expenditures as described in paragraph 5.4 of this agreement.

2.4 In consideration of One Dollar (\$1.00) and other good and valuable consideration COUNTY hereby grants to SWCD a ground lease on those portions of the former Wilson property that are East of the new setback levy and suitable for agricultural using accepted farming practices.

2.5 COUNTY will coordinate and provide for routine maintenance of the levies, dikes and other flood control structures at the site. COUNTY will include within its annual budget proposal to the budget committee such amounts as might be required to perform this work.

2.6 COUNTY expressly retains the right to grant easements, rights of way, licenses or permits on, across and over the site consistent with the management plan and reserves unto itself all other incidents of property ownership.

2.7 COUNTY shall not approve any project described in paragraph 3.3 of this agreement without verification from FEMA that such project will not cause any increase in flood insurance premiums or jeopardize such premiums.

2.8 COUNTY hereby grants to ODFW, its contractors, licensees and invitees a right of entry on, over and across the premises for the purpose of carrying out its work at the site.

3. Rights, Duties and Obligations of ODFW

3.1 ODFW will assist COUNTY with construction management for the project to ensure the project achieves the desired wetland values identified in Exhibit A.

3.2 ODFW will manage habitat values on those portions of the site that consist of remnant freshwater wetlands, and isolated portions of upland forests as well as resulting low salt marsh, high salt marsh and salt water wetlands which were created or enhanced by the project identified in Exhibit A, or as hereafter might be created in accordance with paragraph 3.3 below.

3.3 ODFW shall not undertake any project that would expand the wetlands described in paragraph 3.2 without first:

3.3.1 Providing an engineering certificate that certifies that the proposed project will not increase off site flood elevations or reduce off-site flood discharge characteristics.

3.3.2 Receiving approval from COUNTY.

3.4 ODFW will assist COUNTY in complying with NEPA for the project and in preparing biological assessments required for any state or federal permits.

3.5 ODFW will regulate hunting and fishing activities at the site in consultation with COUNTY.

4. Rights, Duties and Obligations of SWCD.

4.1 SWCD may manage for agricultural uses those portions of the property described in paragraph 2.4 to the extent that such uses not interfere with or limit the habitat and flood values sought to be developed and protected by this agreement. Such agricultural uses may include, but are not limited to, pasture, feed or forage crops, grazing and aquaculture.

4.2 In undertaking its uses described in paragraph 4.1, SWCD may sublease, license or grant permits to other persons, firms or corporations, for such agricultural uses as it deems appropriate.

4.3 SWCD shall include within any sublease, license or permit granted pursuant to paragraph 4.2, provision for the person, firm or corporation to indemnify the parties to this agreement.

4.4 All proceeds derived by SWCD from the lands described in paragraph 4.1 shall be paid to COUNTY for deposit into the fund described in Section 5.0 for the uses set forth therein.

4.5 SWCD will manage the land described in paragraph 4.1 as a showcase of Best Management Practices (BMP) by protecting water quality and establishing riparian

buffers along all waterways in accordance with the Oregon Aquatic Habitat Restoration Guidelines to the extent such buffers are not contrary to flood control values sought to be developed and protected by this agreement.

5. Maintenance Fund; Advisory Committee

5.1 All proceeds from agricultural leases, other income derived from management of the site and all other funds collected for projects on the site shall be deposited into a fund maintained by COUNTY for use solely on the site: first in the reimbursement of SWCD administrative costs and thereafter for maintenance of flood control structures and other project work as set forth in an annual work plan.

5.2 All additional monies collected by COUNTY from private donations, grants, city or county agency budgeted funds designated for use on the site shall also be deposited into the fund described in paragraph 5.1 for the uses described therein.

5.3 COUNTY shall appoint a six person committee of staggered terms comprised of one representative recommended from each of the following: Tillamook County, Tillamook City, Oregon Dept. of Fish and Wildlife, Tillamook County SWCD, North Highway 101 Flood Mitigation Group (Tillamook Habitat & Estuary Improvement District), and Tillamook County Performance Partnership (Tillamook County Estuary Project) for the following purposes:

5.3.1 To recommend annual work plans, SWCD administrative costs, maintenance and other proposed budgeted items to the County Budget Committee for the fund described in paragraph 5.1.

5.3.2 To recommend annually to local cities, County agencies and other local governments amounts to be budgeted for contributions to the fund described in paragraph 5.1.

5.4 Annual expenditures from the fund described in paragraph 5.1 may be made as follows:

5.4.1 As budgeted expenditures for activities described in the annual work plan.

5.4.2 For unanticipated costs upon agreement by the parties from unexpended budgeted funds after consultation with the committee.

6. TERMINATION. This agreement and license shall terminate:

6.1 Upon the request of any party, after giving the other parties 90 days advance notice.

7. INDEMNITY. Each party agrees to be responsible for any damage or third party liability which may arise from its occupancy and use of the premises, including its officers, employees and agents, and to indemnify and hold harmless the other parties from all claims, suits, or actions of any nature resulting from the acts or omissions of its officers, contractors, employees or agents under this agreement subject to the limitations and conditions of the OREGON TORT CLAIMS ACT, ORS 30.260 through 30.300, and the OREGON CONSTITUTION, ARTICLE XI, SECTION 7.

8. GENERAL PROVISIONS.

8.1 MODIFICATION. The rights and duties under this AGREEMENT shall not be modified, delegated, transferred or assigned, except upon the written-signed consent of the parties. Prior to any modification of this agreement notice shall be provided at least 10 days in advance to the committee described in paragraph 5.3.

8.2 ATTORNEYS' FEES. Attorney fees, costs and disbursements necessary to enforce this agreement through mediation, arbitration and/or litigation, including appeals, shall be awarded to the prevailing party, unless otherwise specified herein or agreed.

8.3 LEGAL REPRESENTATION. In entering into this agreement, each party has relied solely upon the advice of their own attorney. Each party has had the opportunity to consult with counsel or now waives that right. Each party represents and warrants to the other that they are fully satisfied with the representation received from their respective attorneys.

8.4 NOTICES. Any notice required or permitted under this AGREEMENT shall be in writing and deemed given when:

8.4.1 actually delivered, or

8.4.2 three days after deposit in United States certified mail, postage prepaid, addressed to the other party at their last known address.

8.5 LANGUAGE. The headings of the contract paragraphs are intended for information only and shall not be used to interpret paragraph contents. All masculine, feminine and neuter genders are interchangeable. All singular and plural nouns are interchangeable, unless the context requires otherwise.

8.6 INTEGRATION. This AGREEMENT supersedes all prior oral or written agreements between the parties regarding this site. It represents the entire agreement between the parties. Time is of the essence in all terms, provisions, covenants, and conditions in this agreement.

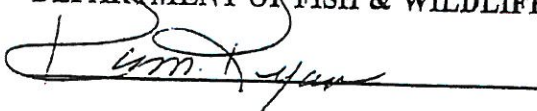
8.7 SAVINGS. Should any clause or section of this AGREEMENT be declared by a court to be void or voidable, the remainder of this AGREEMENT shall remain in full force and effect.

8.8 JURISDICTION; LAW. This AGREEMENT is executed in the State of Oregon, and is subject to Tillamook County and Oregon law and jurisdiction. Venue shall be in Tillamook County; Oregon, unless otherwise agreed by the parties.

ACKNOWLEDGMENT: EACH PARTY REPRESENTS TO THE OTHER BY THEIR SIGNATURES BELOW THAT EACH HAS READ, UNDERSTANDS, AND AGREES TO ALL COVENANTS, TERMS AND CONDITIONS OF THIS AGREEMENT. EACH PARTY REPRESENTS TO THE OTHER TO HAVE THE ACTUAL AND/OR APPARENT AUTHORITY TO BIND THEIR RESPECTIVE LEGAL PERSONS, CORPORATE OR OTHERWISE, IN CONTRACT.

DATED THIS 29 DAY OF July, 2002.

DEPARTMENT OF FISH & WILDLIFE:



DATED THIS 30 DAY OF July, 2002.

SOIL & WATER CONSERVATION DISTRICT:

Rudy Fenk
Rudy Fenk, Chair

DATED THIS 31st DAY OF July, 2002.

THE BOARD OF COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

Charles Hurliman
Charles Hurliman, Chair

Tim Josi
Tim Josi, Vice-Chair

Paul A. Hanneman
Paul Hanneman, Commissioner

Aye	Nay	Abstain/absent
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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ATTEST: Tassi O'Neil,
County Clerk

By Lorrie G. McElibbin
Special Deputy

APPROVED AS TO FORM:

William K. Sargent
William K. Sargent,
County Counsel

