

AGENDA ITEM # II.

MEMORANDUM OF AGREEMENT

THIS AGREEMENT is made and entered into on the 1st day of October, 2016, by and between the Five County Association of Governments, hereinafter designated as "FCAOG", and Beaver County, Garfield County, Iron County, Kane County, and Washington County, for the purpose of funding and assigning administration duties for Community Fire Planning to the FCAOG.

A. WITNESSETH:

WHEREAS, FCAOG has been duly constituted under the authority of Title 11, Chapter 13, Utah Code Annotated, 1953, as amended (the Inter-local Cooperation Act), and pursuant to Section 3, Executive Order of the Governor of the State of Utah, dated 27 May 1970, with the authority to enter into this agreement and act on behalf of its constituent agencies, and

WHEREAS, the FCAOG represents that it was formally established in 1972 under the provisions of the Inter-local Cooperation Act of 1965, and the Association serves as an official Economic Development District, and

WHEREAS, the FCAOG has the capability to assist communities and administer funds made available through the National Fire Plan (NFP), National Cohesive Strategy (NCS) and the Utah Catastrophic Wildfire Reduction Strategy Plan, and

WHEREAS, it is in the best interests of the State of Utah, Beaver County, Garfield County, Iron County, Kane County, Washington County, and local communities to take action to reduce the threat of devastating fires and reduce threats of same;

NOW, THEREFORE BE IT RESOLVED, that the parties hereto, the FCAOG and Beaver County, Garfield County, Iron County, Kane County, Washington County, do mutually resolve and agree as follows:

B. PURPOSE

This agreement is to utilize the professional services of the FCAOG to provide consultation services to develop local Community Fire Plans intended to identify potential emergency conditions in a defined area and prescribe procedures to be followed to eliminate loss of life and minimize property damage. This agreement also provides an understanding between the parties for assigning funding and responsibilities to conduct these community fire planning efforts within the Five County AOG Area.

C. GOALS

1. To work cooperatively in a comprehensive manner, to encourage fire-wise activities within the private lands of Beaver, Garfield, Iron, Kane and Washington Counties.
2. To utilize and share expertise between the respective cooperators for revising and/or creating community fire plans.

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3. Motivate private landowners to identify hazardous fuel reduction areas and provide permission forms to allow Utah Division of Forestry, Fire & State Lands (FFSL) to mitigate the fire hazard.
4. In order to achieve the purpose and goals stated above, the FCAOG and FFSL agree to work collaboratively with each other, and to work with all other appropriate public and private agencies, organizations or individuals. Recognizing that these groups have different responsibilities and missions, this agreement promotes, whenever feasible, efforts to: coordinate data collection, surveys, share resource expertise, develop essential plans to direct hazard fuel reduction, and identify potential sources of funding to support projects initiated under this agreement.

D. OBJECTIVES

In recognition of the preceding conditions and limitations of each party's authority, the parties Agree to coordinate the projects and programs in a manner consistent with the respected responsibilities and authorities as governed by the State of Utah, individual counties and FCAOG Articles of Incorporation and Bylaws. The parties agree to work together to achieve maximum benefits from available resources, reduce duplication of efforts where possible, and achieve maximum effectiveness between the parties in the use of funds and personnel.

E. RESPONSIBILITIES AND PROCEDURES

1. Mutual Understanding

- a) Whenever possible, include other parties in data collection efforts, recommend best practices and potential solutions in decisions made.
- b) Inform each other, as far in advance as possible, of anticipated plans and proposed activities that might affect the other party.
- c) Make available, within legal, budgetary and personnel constraints, the training and guidance needed for performing the agreement items contained herein.
- d) Resolve controversies through alternative dispute resolution methods that are mutually acceptable. Methods may include fact-finding, mediation, and/or non-binding arbitration.

2. Beaver, Garfield, Kane, Iron, and Washington Counties agree to:

- a) Provide information/updates as appropriate to FCAOG that affect the identified projects.
- b) For each of the individual 5 counties: Beaver, Garfield, Iron, Kane and Washington: Provide funding in the amount of \$15,000.00 per year for a two year period (calendar years 2017 and 2018). The FCAOG will receive four quarterly payments of \$3,750.00 per county payable within five days of the first business day of each quarter.
- c) Provide local project coordination.
- d) Assist in identifying project areas (Approximately 43 areas existing and 12 new areas, which may include cities).
- e) Review and approve Community Fire Plans and identify fire threat reduction projects.

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3. Five County Association of Governments agrees to:
 - a) Designate a person authorized by FCAOG to make binding decisions on its behalf as the official contact for the projects and program within this agreement. Nothing contained herein shall be construed as prohibiting direct contract between the FFSL with the communities/agencies etc. participating in projects and programs facilitated by FCAOG.
 - b) Facilitate the development or revision of community fire plans written by the communities using the FFSL recommended outline as a minimum. This plan should describe the community, wildfire hazard risks, community resources, preferred mitigation actions with identified responsible individual or group, time lines, and should include acceptance signatures of appropriate community leadership and other affected groups.
 - c) Provide electronic data in a mutually agreed format to keep FFSL linked to project activities.
 - d) Advise and direct FCAOG entities, when appropriate, to develop cooperative agreements supplemental to this agreement with participating entities in FCAOG projects and programs. FCAOG will provide copies of any such agreements to FFSL.
 - e) Advise FFSL concerning the development and/or revision of guidelines, rules and regulations affecting the projects and programs on which the parties are collaborating.
 - f) Submit quarterly expenditures and activity reports to FFSL.
 - g) Track the time and other resources provided by the planning committees, communities and other parties in the development of each fire plan. This is required to provide the minimum percent match required under this grant. Provide documented records of the match requirement for each quarterly request for payment.
 - h) Provide community fire planning assistance to those communities that have been identified by the Color Country Fuels Committee and approved by FFSL.
 - i) Provide hard copies of completed community fire plans with original signatures as they are completed.
 - j) To the fullest extent permitted by law, the FCAOG shall defend, indemnify and hold harmless FFSL, the State of Utah and the Department of Natural Resources, its agents and employees from and against all claims, damages, losses and expenses relating to, arising out of, resulting from, or alleged to have resulted out of any fire prevention or suppression activity conducted pursuant to this agreement, except in the event FFSL is alleged to be the only party liable for the alleged claims, losses, damages and expenses.

F. LIMITS

1. Amendments: This agreement may be modified only by a written amendment signed by all parties. However, if mutually agreed, the parties may enter into specific supplemental, written agreements, subject to approval by the authorized representatives of the parties, to accomplish the goals of this agreement and to carry out its terms and conditions.

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2. Obligations: Nothing herein shall be considered as obligating the parties to expend funds, or to involve the Five County AOG in any contract or other obligations for the future payment of money, in excess of funding approved and made available for payment under this agreement and modifications thereto.
3. Cancellation: FCAOG may, in its sole discretion, cancel this contract without penalty for further obligation. Individual counties may terminate this agreement by written notice given to FCAOG thirty (30) days in advance of the effective date of such termination.
4. Nondiscrimination: FCAOG agrees that, in all matters concerning or related to this agreement, it shall not discriminate as to race, color, creed, sex, or national origin.
5. Notices: All notices required by this agreement shall be in writing delivered to the person and address specified below or to such other persons or addresses as either party may designate from time to time by written notice to the other party.
6. Term: The agreement shall become effective October 15, 2016 shall remain in effect until August 15, 2019 or completion of the projects outlined within this agreement, at the end of which period it will expire unless canceled or extended. If a request for records exists on the date this agreement is set to terminate, and the requested party has not yet responded to the request, the agreement will be extended until required work is completed.
7. No Third Party Beneficiaries: There are no third party beneficiaries to this Agreement.

G. PRINCIPAL CONTACTS: The principal contacts for this instrument are:

Beaver County

Mike Dalton
County Commission Chair
105 E. Center Street
Beaver, UT 84713
Phone: 435-438-1450

Garfield County

Leland Pollock
County Commission Chair
55 South Main Street
Panguitch, UT 84759
Phone: 435-676-1162

Iron County

Alma Adams
Iron County Commission Chair
68 S. 100 East
Parowan, UT 84761
Phone: 435-477-8300

Kane County

Dirk Clayson
County Commission Chair
76 N. Main
Kanab, UT 84741
Phone: 435-616-1128

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Washington County
Alan Gardner
County Commission Chair
197 East Tabernacle
St. George, UT 84770
Phone: 435-634-5700

Five County Association of Government
Bryan Thiriot
Executive Director
P.O. Box 1550
St. George, UT 84771
Phone: 435-673-3548

H. SIGNATURES

Beaver County Commission
Mike Dalton, Chair

Garfield County Commission
Leland Pollock, Chair

Iron County Commission
Alma Adams, Chair

Kane County Commission
Dirk Clayson, Chair

Washington County Commission
Alan Gardner, Chair

Five County Association of Governments
Bryan Thiriot, Executive Director

AGENDA ITEM # II. (Continued)

Cooperative Agreement between the Utah Division of Forestry, Fire and State Lands and the Five County Association of Government

This cooperative agreement is entered into between the Five County Association of Governments, herein referred to as the FCAOG, and the Utah Division of Forestry, Fire and State Lands (FFSL).

A. WITNESSETH:

WHEREAS it is in the best interest of the State of Utah to cooperative with the Five County Association of Government for community fire planning.

WHEREAS the FCAOG has the capability to assist communities and administer funds made available through the National Fire Plan (NFP), National Cohesive Strategy (NCS) and the Utah Catastrophic Wildfire Reduction Strategy Plan;

WHEREAS the FCAOG represents that it was formally established in 1972 under the provisions of the Inter-local Cooperation Act of 1965, and the Association serves as an official Economic Development District;

WHEREAS it is in the best purpose of FFSL and FCAOG to enter into agreement to allow work to be completed in a timely manner under the above plans;

WHEREAS the Utah Division of Forestry, Fire and State Lands utilizes the principles of stewardship and ecosystem management to assist non-federal landowners in management of their natural resources; provides wildland fire protection for non-federal landowners; and optimizes the benefits from ecosystem based, multiple-use management of resources held in public trust;

WHEREAS it is in the best interests of the State, County and local communities to take action to reduce the threat of devastating fires and reduce threats of same;

NOW THEREFORE, the parties to this agreement do hereby agree as follows:

B. PURPOSE

1. To utilize the professional services of the FCAOG to provide consultation services to develop local Community Fire Plans intended to identify potential emergency conditions in a defined area and prescribe procedures to be followed to eliminate loss of life and minimize property damage.

C. GOALS

1. To work cooperatively in a comprehensive manner, to encourage firewise activities within the private lands of Beaver, Garfield, Iron , Kane and Washington Counties.
2. To utilize and share expertise between the respective cooperators for revising and/or creating community fire plans.
3. Motivate private landowners to identify hazardous fuel reduction areas and provide permission forms to allow FFSL to mitigate the fire hazard.

AGENDA ITEM # II. (Continued)

4. In order to achieve the purpose and goals stated above, the FCAOG and FFSL agree to work collaboratively with each other, and to work with all other appropriate public and private agencies, organizations or individuals. Recognizing that these groups have different responsibilities and missions, this agreement promotes, whenever feasible, efforts to: coordinate data collection, surveys, share resource expertise, develop essential plans to direct hazard fuel reduction, and identify potential sources of funding to support projects initiated under this agreement.

D. OBJECTIVES

1. In recognition of the preceding conditions and limitations of each party's authority, the parties Agree to coordinate the projects and programs in a manner consistent with the respected responsibilities and authorities as governed by the State of Utah and FCAOG Articles of Incorporation and Bylaws. The parties agree to work together to achieve maximum benefits from available resources, reduce duplication of efforts where possible, and achieve maximum effectiveness between the parties in the use of funds and personnel.

E. RESPONSIBILITES AND PROCEDURES

1. Mutual Understanding
 - a) Whenever possible, include other parties in data collection efforts, recommend best practices and potential solutions in decisions made.
 - b) Inform each other, as far in advance as possible, of anticipated plans and proposed activities that might affect the other party.
 - c) Make available, within legal, budgetary and personnel constraints, the training and guidance needed for performing the agreement items contained herein.
 - d) Resolve controversies through alternative dispute resolution methods that are mutually acceptable. Methods may include fact-finding, mediation, and/or non-binding arbitration.
2. The Utah Division of Forestry, Fire and State Lands agrees to:
 - a) Provide information/updates as appropriate to FCAOG that affect the identified projects.
 - b) Provide funding in conjunction with the Utah Catastrophic Wildfire Reduction Strategy Plan for the position of Community Fire Planner in an amount not to exceed \$75,000.00. The FCAOG will receive four quarterly payments of \$18,750.00. The first payment will be delivered upon signed agreements from counties to FCAOG for the additional two years. The additional two years of this agreement will be provided by the individual 5 counties: Beaver, Garfield, Iron, Kane and Washington in the amount of \$15,000 per year for each county for a two year period.
 - c) Provide project oversight.
 - d) Provide technical assistance.
 - e) Advise and provide information to FCAOG concerning the development and revision of State CWPP's, guidelines, rules and regulations affecting FCAOG projects and programs within this agreement.
 - f) Identify project areas (Approximately 43 areas existing and 12 new areas, which may include cities).

AGENDA ITEM # II. (Continued)

- g) Review and approve Community Fire Plans and identify fire threat reduction projects.
 - h) Submit quarterly and annual reports to support the National Cohesive Strategy as required.
3. Five County Association of Governments agrees to:
- a) Designate a person authorized by FCAOG to make binding decisions on its behalf as the official contact for the projects and program within this agreement. Nothing contained herein shall be construed as prohibiting direct contract between the FFSL with the communities/agencies etc. participating in projects and programs facilitated by FCAOG.
 - b) Facilitate the development or revision of community fire plans written by the communities using the FFSL recommended outline as a minimum. This plan should describe the community, wildfire hazard risks, community resources, preferred mitigation actions with identified responsible individual or group, time lines, and should include acceptance signatures of appropriate community leadership and other affected groups.
 - c) Provide electronic data in a mutually agreed format to keep FFSL linked to project activities.
 - d) Advise and direct FCAOG entities, when appropriate, to develop cooperative agreements supplemental to this agreement with participating entities in FCAOG projects and programs. FCAOG will provide copies of any such agreements to FFSL.
 - e) Advise FFSL concerning the development and/or revision of guidelines, rules and regulations affecting the projects and programs on which the parties are collaborating.
 - f) Submit quarterly expenditures and activity reports to FFSL.
 - g) Track the time and other resources provided by the planning committees, communities and other parties in the development of each fire plan. This is required to provide the minimum percent match required under this grant. Provide documented records of the match requirement for each quarterly request for payment.
 - h) Provide community fire planning assistance to those communities that have been identified by the Color Country Fuels Committee and approved by FFSL.
 - i) Provide hard copies of completed community fire plans with original signatures as they are completed.
 - j) To the fullest extent permitted by law, the FCAOG shall defend, indemnify and hold harmless FFSL, the State of Utah and the Department of Natural Resources, its agents and employees from and against all claims, damages, losses and expenses relating to, arising out of, resulting from, or alleged to have resulted out of any fire prevention or suppression activity conducted pursuant to this agreement, except in the event FFSL is alleged to be the only party liable for the alleged claims, losses, damages and expenses.

F. LIMITS

1. Amendments: This agreement may be modified only by a written amendment signed by both parties. However, if mutually agreed, the parties may enter into specific supplemental, written agreements, subject to approval by the authorized representatives of the parties, to accomplish the goals of this agreement and to carry out its terms and conditions.

AGENDA ITEM # II. (Continued)

2. Obligations: Nothing herein shall be considered as obligating the parties to expend funds, or to involve the State of Utah in any contract or other obligations for the future payment of money, in excess of funding approved and made available for payment under this agreement and modifications thereto.
3. Cancellation: FFSL may, in its sole discretion, cancel this contract without penalty for further obligation. The FCAOG may terminate this agreement by written notice given to FFSL thirty (30) days in advance of the effective date of such termination.
4. Nondiscrimination: FCAOG agrees that, in all matters concerning or related to this agreement, it shall not discriminate as to race, color, creed, sex, or national origin.
5. Notices: All notices required by this agreement shall be in writing delivered to the person and address specified below or to such other persons or addresses as either party may designate from time to time by written notice to the other party.
6. Term: The agreement shall become effective August 15, 2016 shall remain in effect until August 15, 2019 or completion of the projects outlined within this agreement, at the end of which period it will expire unless canceled or extended. If a request for records exists on the date this agreement is set to terminate, and the requested party has not yet responded to the request, the agreement will be extended until required work is completed.
7. No Third Party Beneficiaries: There are no third party beneficiaries to this Agreement.

G. PRINCIPAL CONTACTS: The principal contacts for this instrument are:

Division of Forestry, Fire and State Lands

John Schmidt
Southwest Area WUI Coordinator
646 N. Main
Cedar City, UT 84721
Phone: 435-586-4408
Fax: 435-586-2789

Five County Association of Government

Bryan Thiriot
Executive Director
P.O. Box 1550
St. George, UT 84771
Phone: 435-673-3548
Fax: 435-673-3540

H. SIGNATURES

Utah Division of Forestry, Fire & State Lands
Brian Cottam, State Forester/Director

Five County Association of Governments
Bryan Thiriot, Executive Director