

GRANT AGREEMENT

Title: 2022 OSFM Wildfire Season (“WFS”) Staffing Grant

Agreement Number: 2022-WFS-017

This grant agreement (“Agreement”), dated as of the date the Agreement is fully executed, is made by the State of Oregon, acting by and through its Department of State Police, for the benefit of its Office of State Fire Marshal (“OSFM”), and Coos Bay Fire and Rescue (“Recipient”). This Agreement becomes effective only when fully signed and approved as required by applicable law (the “Effective Date”) and, unless earlier terminated, expires on October 31, 2022 (the “Expiration Date”). The period from the Effective Date through the Expiration Date is hereinafter referred to as the “Grant Term.”

Pursuant to the Oregon Legislative Regular Session, Senate Bill 762 (“SB762”) dated 2021 appropriated \$55,000,000 General Funds to OSFM for wildfire response. OSFM then allocated from the appropriation funds to support the 2022 WFS by requesting WFS Staffing Grant Applications from local fire agencies to request funding to support additional firefighters and to cover overtime costs for existing paid firefighters for the 2022 WFS. This Agreement sets forth the terms and conditions of Recipient’s receipt of a WFS Staffing Grant and includes the following exhibits:

- Exhibit A: Project Description
- Exhibit B: Sample- 2022 OSFM WFS Staffing Grant Final Report
- Exhibit C: 2022 OSFM WFS Staffing Grant Application
- Exhibit D: 2022 OSFM WFS Staffing Grant Application Manual

SECTION 1 – GRANT

OSFM shall provide Recipient, and Recipient shall accept from OSFM, a grant in the amount of \$35,000.00 (the “Grant”).

Conditions Precedent. OSFM’s obligations are subject to the receipt of the following items, in form and substance satisfactory to OSFM and its counsel:

- (1) This Agreement duly signed by an authorized officer of Recipient; and
- (2) Such other certificates, documents, opinions and information as OSFM may reasonably require.

SECTION 2 - DISBURSEMENT

- A. Full Disbursement. Upon satisfaction of all condition’s precedent, OSFM shall disburse the full Grant to Recipient.
- B. Condition to Disbursement. OSFM has no obligation to disburse funds unless, in the reasonable exercise of its administrative discretion, it has sufficient funding, appropriations, limitations, allotments and other expenditure authority to make the disbursement.
- C. Remaining Funds. If Recipient has any remaining moneys not spent OSFM reserve the right to determine if agency can keep them or return them for OSFM to reinvest in other projects.

SECTION 3 - USE OF GRANT

- A. Use of Grant Moneys.

Recipient shall use the Grant only for the activities described in **Exhibit A.**

- B. RESERVED.

SECTION 4 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

Recipient represents and warrants to OSFM:

A. Organization and Authority.

- (1) Recipient is a unit of local government validly organized and existing under the laws of the State of Oregon.
- (2) Recipient has all necessary right, power and authority under its organizational documents and under Oregon law to (a) execute and deliver this Agreement, (b) incur and perform its obligations under this Agreement, and (c) receive the Grant funds.
- (3) This Agreement has been authorized by an ordinance, order or resolution of Recipient's governing body.
- (4) This Agreement has been duly executed by Recipient, and when executed by OSFM, is legal, valid and binding, and enforceable in accordance with their terms.

B. Full Disclosure. Recipient has disclosed in writing to OSFM all facts that materially adversely affect its ability to perform all obligations required by this Agreement. Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Agreement is true and accurate in all respects.

C. Pending Litigation. Recipient has disclosed in writing to OSFM all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the ability of Recipient to perform all obligations required by this Agreement.

D. No Defaults. No Defaults or Events of Default exist or occur upon authorization, execution or delivery of this Agreement.

E. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Agreement will not: (i) cause a breach of any agreement or instrument to which Recipient is a party; (ii) violate any provision of the charter or other document pursuant to which Recipient was organized or established; or (iii) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient or its properties or operations.

SECTION 5 - COVENANTS OF RECIPIENT

Recipient covenants as follows:

A. Notice of Adverse Change. Recipient shall promptly notify OSFM of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient related to the ability of Recipient to perform all obligations required by this Agreement.

B. Compliance with Laws. Recipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Agreement.

C. Grant Report. Recipient must submit to OSFM a final report ("Sample- 2022 OSFM WFS Staffing Grant Final Report") by November 15, 2022. The Grant Report shall include the information in **Exhibit B** attached.

D. Insurance.

- 1) The parties acknowledge and agree Recipient is a unit of local government as defined in ORS 190.003, and in order to meet the requirements of ORS 30.272 and ORS 30.273 may be commercially insured or self-insured.
 - 2) Recipient shall obtain, and at all times keep in effect, comprehensive liability insurance and property damage insurance covering its own acts and omissions under this Agreement. Recipient may satisfy these requirements in any manner allowed by ORS 30.282. Such liability insurance, whatever the form, shall be in an amount not less than the limits of public body tort liability specified in ORS 30.271. In the event of unilateral cancellation or restriction by the insurance company of Recipient's insurance policy referred to in this paragraph, Recipient, as applicable, shall immediately notify OSFM verbally and in writing. Recipient's coverage limits shall not be less than \$100,000 for any single claimant and \$200,000 for multiple claimants.
 - 3) All employers, including Recipient, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Worker's Compensation coverage, unless such employers are exempt under ORS 656.126.
- E. Books and Records. Recipient shall keep accurate books and records of the uses of the Grant and maintain them according to generally accepted accounting principles.
- F. Inspections; Information. Recipient shall permit OSFM and any party designated by OSFM to inspect and make copies, at any reasonable time, of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, agreements, investments and any other related matters. Recipient shall supply any related reports and information as OSFM may reasonably require.
- G. Records Maintenance. Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement for a minimum of six years beyond the later of the final and total expenditure or disposition of the Grant. If there are unresolved issues at the end of such period, Recipient shall retain the books, documents, papers and records until the issues are resolved.
- H. Notice of Default. Recipient shall give OSFM prompt written notice of any Event of Default as soon as any senior administrative or financial officer of Recipient becomes aware of its existence or reasonably believes an Event of Default is likely.
- I. Contribution.
- 1) If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.
 - 2) With respect to a Third Party Claim for which the State is jointly liable with Recipient (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of Recipient on the other hand in

connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of Recipient on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

- 3) With respect to a Third Party Claim for which Recipient is jointly liable with the State (or would be if joined in the Third Party Claim), Recipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

- J. Return of Unexpended Grant Funds. No later than October 31, 2022, Recipient shall return to OSFM all Grant funds not expended by the Expiration Date if OSFM has determined they are to be returned per Section 2, C above.

SECTION 6 - DEFAULTS

Any of the following constitutes an "Event of Default":

- A. Any false or misleading representation is made by or on behalf of Recipient, in this Agreement or in any document provided by Recipient related to this Grant.
- B. Recipient fails to perform any obligation required under this Agreement, other than those referred to in subsection A of this section 6, and that failure continues for a period of 10 business days after written notice specifying such failure is given to Recipient by OSFM. OSFM may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 7 - REMEDIES

- A. Remedies. Upon any Event of Default, OSFM may pursue any or all remedies in this Agreement and any other remedies available at law or in equity to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to any one or more of the following:
 - (1) Terminating OSFM's commitment and obligation to make the Grant.
 - (2) Barring Recipient from applying for future awards.
 - (3) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Agreement.
 - (4) Requiring repayment of the Grant and all interest earned by Recipient on those Grant funds.
- B. Application of Moneys. Any moneys collected by OSFM pursuant to section 7.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by OSFM; then, as applicable, to repay any Grant proceeds owed; then, to pay other amounts due and payable under this Agreement, if any.

3565 Trelstad Ave. SE
Salem, OR 97317
Ph: 503-779-8364
Email: Shaun.Parkman@osp.oregon.gov

If to Recipient: Mark Anderson
Fire Chief
Coos Bay Fire & Rescue
450 Elrod Ave
Coos Bay, Oregon 97420
Ph: 1-541-217-4030
Email: jguenther@coosbay.org

- E. No Construction against Drafter. This Agreement is to be construed as if the parties drafted it jointly.
- F. Severability. If any term or condition of this Agreement is declared by a court of competent jurisdiction as illegal, invalid or unenforceable, that holding will not invalidate or otherwise affect any other provision.
- G. Amendments, Waivers. This Agreement may not be amended without the prior written consent of OSFM (and when required, the Department of Justice) and Recipient. This Agreement may not be amended in a manner that is not in compliance with the Authorization. No waiver or consent is effective unless in writing and signed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.
- H. Attorneys' Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Agreement is entitled to recover its reasonable attorneys' fees and costs at trial and on appeal. Reasonable attorneys' fees cannot exceed the rate charged to OSFM by its attorneys.
- I. Choice of Law; Designation of Forum: Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.
- Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.
- Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.
- J. Integration. This Agreement (including all exhibits, schedules or attachments) constitutes the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Agreement.

K. Survival. The following provisions survive expiration or termination of this Agreement: Sections 5.E., 5.F., 5.G., 5.I., 5.J., 7 and 8.

L. Execution in Counterparts. This Agreement may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

Recipient, by its signature below, acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

STATE OF OREGON
acting by and through its
Oregon State Police on behalf of Oregon State
Fire Marshal's office

COOS BAY FIRE AND RESCUE

By: _____

By: _____

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

Lisa Gramp approved via email dated 5/27/2022

Senior Assistant Attorney General

EXHIBIT A - PROJECT DESCRIPTION

I. Purpose and Scope

The purpose of this Grant is to provide funding to support additional paid firefighting staff or cover overtime costs for existing paid firefighting staff through 2022 WFS. Additional paid staff may include current volunteer firefighters. Grant funds may be used to cover administrative costs up to 10% of the total grant award. See the 2022 OSFM WFS Staffing Grant Application Manual for more information.

II. Key documents

Exhibit B- Sample- 2022 OSFM WFS Staffing Grant Final Report

Exhibit C- 2022 OSFM WFS Staffing Grant Application

Exhibit D- 2022 OSFM WFS Staffing Grant Application Manual

2022 OSFM Wildfire Season Staffing Grant Application

The 2022 Wildfire Season Staffing Grant is intended for all Oregon fire agencies to increase availability of local firefighters through October 1, 2022. Grant funds may be used to cover administrative costs up to 10% of the total grant award. See the 2022 OSFM Wildfire Season (“WFS”) Staffing Grant Manual for more information.

FDID/DCIN	
Fire Agency Name	
Fire Chief	
Grant Contact Name	
Grant Contact Phone	
Grant Contact Email	
Mailing Address	
Employer Identification Number	
Number of Firefighters	Paid: _____ Volunteer: _____
Annual Operating Budget	

Your agency may use WFS Grant funds to pay student interns, pay volunteers or pay career firefighters for extra shifts or overtime.

Please identify how the WFS Grant funds will be used by your agency (check all that apply):

- Student Interns
- Volunteers
- Extra shifts and overtime for Career Firefighters
- Other (please explain): _____

Total Firefighter Cost Funds Requested:	
Administrative Expense (up to 10% of Total Funds Requested):	
TOTAL GRANT REQUEST (NTE \$35,000):	
Additional Comments:	

SIGNATURE AND CERTIFICATION

Signatory below must have the authority to obligate funds (e.g., Fire Chief, Treasurer, or Board Member). The applicant certifies to the best of their knowledge, that the information on this application is true and correct, and if awarded a WFS grant, the applicant agrees to use those funds for the sole purpose described on this application. The applicant also certifies they will comply with the guidance, procedures, and rules identified in the 2022 OSFM Wildfire Season Staffing Grant Application Manual.

G. <u>Signature</u>		H. <u>Date</u>	
I. <u>Print Name</u>		J. <u>Title</u>	

Application review will begin June 6, 2022. Applications may be considered through August 12, 2022, subject to availability of funds.

Choose ONE of the submission options below:

Email: _____

Mail: Shaun Parkman
WFS Grant Coordinator
Oregon Office of State Fire Marshal
3565 Trelstad Ave SE
Salem, OR 97317

EXHIBIT C – REQUESTED 2022 OSFM WFS STAFFING GRANT APPLICATION

Application submitted and approved via 2022 WFS Staffing Grant Smartsheet system.

EXHIBIT D – 2022 OSFM WFS STAFFING GRANT APPLICATION MANUAL



2022 OSFM WFS
Grant_Award Manua