

GRANT AGREEMENT

Title: 2023 OSFM Oregon Fire Service Capacity Program ("OFSCP") Grant

Agreement Number: 2023-OFSCP-016

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 Alfalfa Fire District ("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 May 31, 2026 (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 General Funds were appropriated to OSFM for distribution to Oregon Fire Agencies to provide resources to augment firefighting and fire prevention staffing. OSFM then allocated from the appropriation funds to support the 2023 OFSCP by requesting OFSCP Grant funds to small or medium Oregon fire agencies to encourage an increase of permanent local firefighters and fire prevention staffing. This Agreement sets forth the terms and conditions of Recipient's receipt of a OFSCP Grant moneys and includes the following exhibits:

- Exhibit A: Project Description
Exhibit B: 2022 OSFM OFSCP Grant Application and Manual

SECTION 1 – GRANT

OSFM shall provide Recipient, and Recipient shall accept from OSFM, a grant in the amount of \$294,594 (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) Requirements outlined in OFSCP Grant Application and Manual.
- (3) 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 any 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 at the conclusion of the grant period, 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. The Grant Report link to the electronic report shall be emailed to the Local Fire Chief by November 2025. The recipient shall supply any related reports and information as Agency may reasonably require.

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 April 30, 2026, 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 funds 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.
- C. No Remedy Exclusive; Waiver; Notice. No remedy available to OSFM is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Agreement will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. OSFM is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 7 of this Agreement.

SECTION 8 – MISCELLANEOUS

- A. Time is of the Essence. Recipient agrees that time is of the essence under this Agreement.
- B. Relationship of Parties; Successors and Assigns; No Third-Party Beneficiaries.
- (1) The parties agree that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265.
 - (2) Nothing in this Agreement gives, or is to be construed to give, directly or indirectly, to any third persons any rights and benefits greater than those enjoyed by the general public.
 - (3) This Agreement will be binding upon and inure to the benefit of OSFM, Recipient, and their respective successors and permitted assigns.
 - (4) Recipient may not assign or transfer any of its rights or obligations or any interest in this Agreement without the prior written consent of OSFM. OSFM may grant, withhold or impose conditions on such consent in its sole discretion. In the event of an assignment, Recipient shall pay, or cause to be paid to OSFM, any fees or costs incurred because of such assignment, including but not limited to attorneys' fees of OSFM's counsel. Any approved assignment is not to be construed as creating any obligation of OSFM beyond those in this Agreement, nor does assignment relieve Recipient of any of its duties or obligations under this Agreement.
- C. Disclaimer of Warranties; Limitation of Liability. Recipient agrees that:
- (1) OSFM makes no warranty or representation.
 - (2) In no event are OSFM or its agents liable or responsible for any direct, indirect, incidental, special, consequential or punitive damages in connection with or arising out of this Agreement.
- D. Notices and Communication. Except as otherwise expressly provided in this Agreement, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Recipient or OSFM at the addresses set forth below, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.

Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's confirmation of

receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

If to OSFM: Shaun Parkman, OFSCP Grant Manager
Office of State Fire Marshal
3565 Trelstad Ave. SE
Salem, OR 97317
Ph: 503-779-8364
Email: Shaun.Parkman@osp.oregon.gov

If to Recipient: Chad LaVallee
Fire Chief
Alfalfa Fire District
25889 Alfalfa Market Rd
Bend, OR 97701
Ph: 541-382-2333
Email: clavallee@afdist.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

ALFALFA FIRE DISTRICT

By: Mariana Ruiz-Temple

By: (C. L. W.) Vallee - Fire Chief

Date: 5/15/2023

Date: 5-15-2023

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

Approved via email by Kristen Gallino dated 10/28/22

Senior Assistant Attorney General

EXHIBIT A -- PROJECT DESCRIPTION

I. Purpose and Scope

The purpose of this Grant is to provide funding to support additional resources to augment firefighting and fire prevention staffing too small to medium Oregon fire agencies. These agencies protect Oregon communities and play a pivotal role in the prevention and suppression of wildfires. See the 2022 OSFM OFSCP Grant Application and Manual for more information.

- (a) If you have 5 or less staff as an agency, then no local match required.
- (b) Reconcile project budget to ensure the administrative costs, including management, payroll and supplies, associated with payment of salaries are only 10% of the grant award.

II. Key documents

Exhibit B- 2022 OSFM OFSCP Grant Application and Manual

Exhibit C- Accepted Application

EXHIBIT B – REQUESTED 2022 OSFM OFSCP GRANT APPLICATION AND MANUAL



2022 OSFM OFSCP
Grant Application ar

EXHIBIT C – ACCEPTED APPLICATION

Recipient shall implement the following over three years. Full Application incorporated by reference.

- A. (Enhance Agency): These funds will greatly increase capacity. As of writing this we rely heavily on a PT Fire Chief for response. With an all-volunteer Agency, volunteers respond when they can. Increased staffing would allow for our station to be staffed 24 hours a day. Increasing response times, and adequate personnel. This would also allow for us to staff EMT's Ft. Medical response is our biggest need and having appropriate personnel for critical calls is needed due to our next incoming mutual aid being 20 plus minutes out depending on weather. Without the needed personnel we run the risk of shutting our doors a few days a week to not burn out the Chief who already works 80 plus hours a week for part-time pay.

Regionally this would allow for us to add personnel for wildfire response, mutual aid, and to increase staffing county wide to help with a shortage of available bls medics to help with transport. Thus, increasing revenue to our dept to use to help retain personnel. Fire Prevention personnel would allow for a broader approach to community outreach. Increasing fire danger awareness, increased capacity for fire prevention and mitigation work in the community. Working towards a more fire adapted community. Increasing awareness of fire danger, smoke detector awareness, and code enforcement.

- B. (Underserved): Given our current response profile, our community would benefit from the increased response personnel. Given our nearest medic right now is 20 minutes away depending on their call load, having increased personnel to provide critical services would greatly increase public awareness of dept needs. Staffing right now is one PT Chief in an all-volunteer dept. Daytime response can vary based on available personnel but is most of the time the Chief responding to every call. This takes away from admin duties. Increased FF/EMT's would allow for appropriate response from trained personnel, as well as increasing community outreach for drug and opioid addiction and overdose. Fire response is greatly increased as it puts the appropriate amount of FF's on an engine. Critical calls like MVA's and Cardiac arrest will get increased personnel increasing the chance of survival or loss.
- C. (Strategic Vision): As we currently have no Fire Prevention personnel, our vision is to provide one person ft that can lead outreach for the community. Expanding on current work to build a fire adapted community, loss prevention, increased ordinance, enforcement, fuels reduction, and community education. We are in a community that is seeing growth, and prevention/enforcement is a critical need that is done by the current Chief. Extra personnel would allow for the workload to be shared, alleviating burnout.
- D. Approved costs associated (a) 1 FF, (b) 3-year match, (c) training, (d) equipment, (e) administrative costs.
- E. Agencies receiving prevention staff will be required to be part of the OSFM Defensible Space Program and as part of their duties conduct defensible space assessments upon request of the OSFM or their public.