



Deschutes County Board of Commissioners
1300 NW Wall St., Suite 200, Bend, OR 97701-1960
(541) 388-6570 - Fax (541) 385-3202 - www.deschutes.org

AGENDA REQUEST & STAFF REPORT

For Board Business Meeting of November 23, 2015

DATE: November 17, 2015

FROM: Ed Keith Natural Resources 541-322-7117

TITLE OF AGENDA ITEM:

Consideration of Board Signature of 2015 Pre-Disaster Mitigation Grant Program Contract with Crook County.

PUBLIC HEARING ON THIS DATE? No

BACKGROUND AND POLICY IMPLICATIONS:

Deschutes County was the lead applicant for Crook and Klamath Counties for the 2010 Pre-disaster mitigation grant program funding. As of 10/1/15 FEMA has granted funding to Oregon Emergency Management (OEM). OEM has developed an agreement with Deschutes County for that funding. This agreement formalizes the agreement between Crook and Deschutes Counties for Crook County's portion of the grant.

FISCAL IMPLICATIONS:

Funds will be requested by Crook County to Deschutes County on a reimbursable basis as work is completed. Deschutes County will submit reimbursement requests to OEM for Crook County expenditures. Once OEM issues payment to Deschutes County, Deschutes County will then reimburse Crook County for their eligible expenditures.

RECOMMENDATION & ACTION REQUESTED:

Recommend Board signature of 2015-700, Deschutes and Crook County 2015 Pre-Disaster Mitigation Grant Program Contract

ATTENDANCE: This item is for the consent agenda

DISTRIBUTION OF DOCUMENTS:

Ed Keith

DESCHUTES COUNTY DOCUMENT SUMMARY

(NOTE: This form is required to be submitted with ALL contracts and other agreements, regardless of whether the document is to be on a Board agenda or can be signed by the County Administrator or Department Director. If the document is to be on a Board agenda, the Agenda Request Form is also required. If this form is not included with the document, the document will be returned to the Department. Please submit documents to the Board Secretary for tracking purposes, and not directly to Legal Counsel, the County Administrator or the Commissioners. In addition to submitting this form with your documents, please submit this form electronically to the Board Secretary.)

Please complete all sections above the Official Review line.

Date:

Department:

Contractor/Supplier/Consultant Name:

Contractor Contact:

Contractor Phone #:

Type of Document: Grant Agreement

Goods and/or Services: Crook County was a sub-applicant with Deschutes County for funding under the Pre-Disaster mitigation grant program administered by FEMA. This grant agreement formalizes the relationship between Deschutes and Crook County for funding of treatment of hazardous fuels.

Background & History: Deschutes, Crook and Klamath County applied for funding in 2010 under the pre-disaster mitigation grant program. FEMA has obligated funding to Oregon Emergency Management who has developed a grant agreement with Deschutes County. This agreement allows funds expended by Crook County to be reimbursed by OEM through Deschutes County.

Agreement Starting Date:

Ending Date:

Annual Value or Total Payment:

Insurance Certificate Received (check box)

Insurance Expiration Date:

Check all that apply:

- RFP, Solicitation or Bid Process
 - Informal quotes (<\$150K)
 - Exempt from RFP, Solicitation or Bid Process (specify – see DCC §2.37)
-

Funding Source: (Included in current budget? Yes No)

If **No**, has budget amendment been submitted? Yes No

Is this a Grant Agreement providing revenue to the County? Yes No

Special conditions attached to this grant:

Deadlines for reporting to the grantor:

If a new FTE will be hired with grant funds, confirm that Personnel has been notified that it is a grant-funded position so that this will be noted in the offer letter: Yes No

Contact information for the person responsible for grant compliance:

Name:

Phone #:

Departmental Contact and Title: Ed Keith

Phone #: 541-322-7117

Department Director Approval:  11/17/15
Signature Date

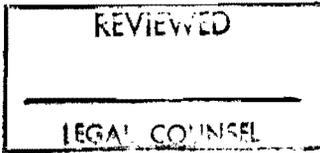
Distribution of Document: Who gets the original document and/or copies after it has been signed? Include complete information if the document is to be mailed.

Official Review:

County Signature Required (check one): BOCC Department Director (if <\$25K)
 Administrator (if >\$25K but <\$150K; if >\$150K, BOCC Order No. _____)

Legal Review _____ Date _____

Document Number 2015-700



**DESCHUTES COUNTY
And
CROOK COUNTY**

**2015
Pre-Disaster Mitigation (PDM) Grant Program Contract**

1.0 PARTIES TO THIS AGREEMENT

This Agreement is made and entered into by and between **DESCHUTES COUNTY**, hereinafter referred to as "Deschutes County" and **CROOK COUNTY**, hereinafter referred to as "Crook County".

WHEREAS the Pre- Disaster Mitigation (PDM) grant program was authorized by section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5133, as amended by section 102 of the Disaster Mitigation Act of 2000 (DMA), Public Law 93-288, as amended, to assist States and communities to implement a sustained pre-disaster natural hazard mitigation program to reduce overall risk to the population and structures, while also reducing reliance on funding from actual disaster declarations.

WHEREAS the State of Oregon applied for and successfully received funding through the FY10 PDM competitive grant program in part provided from the National Pre-Disaster Mitigation Fund under Department of Homeland Security Appropriations Act, and the PDM program under Department of Homeland Security Appropriations Act.

WHEREAS, Deschutes County will be acting as the contact for interaction by the counties with the State of Oregon, Oregon Military Department, Office of Emergency Management (OEM), the agency responsible for distribution of reimbursement funds, and submitting all requests on behalf of Deschutes County, Crook County and Klamath County (through Keno Rural Fire Protection District) for reimbursement and there is, therefore, a need to memorialize the respective responsibilities of Deschutes County, Crook County and Klamath County (through Keno Rural Fire Protection District) with respect to the PDM grant program.

WHEREAS, Deschutes County and Crook County mutually agree to the following.

2.0 PURPOSE

Federal funding is provided by the Federal Emergency Management Agency, Department of Homeland Security (FEMA) and is administered by OEM. Under the authority of section 203 of the Stafford Act, OEM is reimbursing Deschutes

County for those eligible costs and activities necessary for the implementation of the Pre-Disaster Mitigation grant project entitled **2010 Central Oregon Wildfire Mitigation (grant number PDMC-PJ-10-OR-2010-001)**, and described in the application materials submitted to OEM as the work to be performed, hereinafter referred to as the "Project". Crook County is eligible to receive up to \$1,000,000 to implement those activities to be performed in Crook County pursuant to the Project.

3.0 TIME OF PERFORMANCE

Activities reimbursable under this Agreement and to be performed by Crook County under this Agreement shall be those eligible project activities which occurred starting **October 1, 2015** and shall terminate upon completion of the Project approved by federal and state officials, including completion of close out and audit. This period shall be referred to as the "Agreement Period." Except as otherwise provided in this Section 3.0, the Project shall be completed no later than **September 30, 2018**.

4.0 FUNDING

The total estimated cost of the Project for the purpose of this Grant Agreement is \$4,000,000.00.

OEM will administer the PDM Program and reimburse any eligible costs for the Project to Deschutes County which are identified in the documentation provided by Deschutes County and approved by OEM and FEMA. Deschutes County will within 30 days of receipt submit to OEM claims for reimbursement submitted to Deschutes County by Crook County and remit any such reimbursement funds to Crook County within 30 days upon receipt. Crook County shall be fully responsible for preparation and justification of claims for reimbursement submitted to OEM and FEMA.

The Parties understand that the FEMA will contribute seventy five percent (75%) of the eligible costs for any eligible project as provided for in subparagraph 4 of Section 5.0 of this Agreement, and that no state funds are obligated for contribution under this Agreement. The 75% FEMA share for this project is \$3,000,000.00.

Deschutes County, Klamath County and Crook County will commit the required twenty five percent (25%) non-federal match to any eligible project; \$1,000,000.00 for this project.

5.0 PAYMENTS

OEM, using funds granted for purposes of the Pre-Disaster Mitigation Grant Program from FEMA, shall issue payments to Deschutes County as follows:

1. Payments will be made to Deschutes County upon submission and approval of a State of Oregon PDM Payment Request to OEM. Partial payments of funds for costs already incurred may be requested at any time during the Project. This request must include appropriate supporting documentation of the incurred costs and all other documentation, including documentation of match, as required by OEM and FEMA. Responses to claims for payments shall specify the reimbursement amounts separately for Crook County and Deschutes County.
2. Final Payment will be made upon completion of Project, completion of all final inspections by OEM, and final approval by FEMA. Final payment will also be conditioned upon a financial review by OEM or FEMA. Adjustments to the final payment may be made following any audits conducted by the Oregon Secretary of State's Audits Division or the United States Inspector General's Office.
3. All payment requests shall be made on a State of Oregon PDM Program Payment Request Form to OEM, which references the appropriate PDM grant number, FEMA FIPS Number, and appropriate documentation as required.
4. Funding shall not exceed the total federal contributions available for the approved project costs under the Pre-Disaster Mitigation Program.
5. OEM reserves the right to make any inspection prior to release of any payment or at any time during the duration of this Agreement.

6.0 COST OVERRUNS

Cost overruns are the responsibility of Deschutes County or Crook County with respect to activities performed in each respective County and will be borne fully by the County in which the activity occurs.

7.0 RECORDS MAINTENANCE

Crook County shall maintain books, records, documents, and other evidence and accounting procedures and practices that sufficiently and properly reflect all direct costs of any nature expended in the performance of this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by OEM personnel, other personnel duly authorized by OEM, the Secretary of State's Audits Division, or the United States Inspector General. Crook County will retain all books, records, documents, and other material relevant to this Agreement for three years after date of final payment or an extended period as established by FEMA in 44 CFR 13.42.

Crook County will photographically document a sample of pre-project, and completed conditions of the Project and make such documents a part of its

records. For acquisition projects, FEMA is required to track the use of real property acquired with grant funds in order to ensure that the property is maintained for open space in perpetuity.

Crook County shall retain real estate transaction and property tracking records indefinitely.

8.0 AUDITS AND RECORDS

Audits shall be in accordance with the Single Audit Act of 1984, as amended. Crook County is to procure for grant project activities occurring in Crook County, at its own cost, audit services based on the following guidelines:

If Crook County receives less than \$50,000 in federal funds in a fiscal year it is exempt from compliance with the Single Audit Act. However, records must be available for review by OEM.

If Crook County receives \$50,000 to \$750,000 in total federal funds in a fiscal year, it may choose to have an audit made in accordance with the Office of Management and Budget (OMB) Circular A-133 or a program audit.

If Crook County receives \$750,000 or more in a fiscal year in total federal funds it shall have a Single Audit made in accordance with OMB Circular A-133.

As applicable, Crook County must ensure the audit is performed in accordance with Generally Accepted Accounting Principles; Generally Accepted Government Auditing Standards developed by the Comptroller General; the OMB Compliance Supplement for Single Audits of State and Local Governments; and all state and federal laws and regulations governing the program.

Crook County must prepare a Schedule of Financial Assistance for federal funds that includes: Grantor name, program name, federal catalog number (CFDA-97.017), grantor agreement number, total award amount, beginning balance, current year revenues, current year expenditures and ending balances.

Crook County shall maintain records and accounts in such a way as to facilitate OEM's audit requirements, and ensure that Crook County's contractors and subcontractors also maintain records which are auditable. Crook County is responsible for any audit exceptions incurred by its own organization or that of its contractors. OEM reserves the right to recover from Crook County disallowed costs resulting from the final audit.

Crook County shall send the audit report to Grantee's Project Administrator as soon as it is available, but no later than nine months after the end of the Crook County's fiscal year in which any funds received by Crook County under this Agreement are received. Responses to previous management findings and disallowed or questioned costs shall be included with the audit report. Crook County will respond to OEM's requests for information or corrective action

concerning audit issues within 30 days of the request.

Crook County shall include these requirements in any contract or subcontracts.

9.0 RECOVERY OF FUNDS

In the event that Crook County fails to complete the Project(s), fails to expend, or is overpaid federal funds in accordance with federal or state Pre-Disaster Mitigation Program laws or programs, or is found by audit or investigation to owe funds to OEM, OEM reserves the right to recapture funds in accordance with federal and state laws and requirements. Repayment by Crook County of funds under this recovery provision shall occur within 30 days of demand. In the event that legal proceedings are instituted to enforce or interpret this Agreement, the prevailing party shall be entitled to its costs thereof, including reasonable attorney fees.

Crook County shall be responsible for pursuing recovery of monies paid under this Agreement against any party that might in Crook County's opinion be liable, and further, Crook County shall cooperate in a reasonable manner with the State and the United States in efforts to recover wrongful expenditures under this Agreement.

In the event Crook County obtains recovery from a responsible party, Crook County shall first be reimbursed its reasonable costs of litigation from such recovered funds. Thereafter, Crook County shall pay to OEM the proportionate federal share of all Project funds recovered in excess of costs of litigation.

10.0 CONFLICT OF INTEREST

Crook County will insure that any employee, governing body, contractor, subcontractor, or organization that has an actual or potential conflict of interest under ORS Chapter 244 will resolve that conflict in a manner consistent with the requirements of that chapter.

11.0 POLITICAL ACTIVITY

No portion of the funds provided herein shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot measure.

12.0 ASSIGNMENT

This Agreement, and any claim arising under this Agreement, shall not be assigned or delegated by Crook County either in whole or in part.

13.0 SUBCONTRACTS FOR ENGINEERING SERVICES

In the event that Crook County subcontracts for engineering services, Crook County shall require that the engineering firm be covered by errors and omissions insurance in an amount not less than the amount of the firm's contract. If the firm is unable to obtain errors and omissions insurance, the firm shall post a bond with Crook County for the benefit of Crook County of not less than the amount of its subcontract. Such insurance or bond shall remain in effect for the entire term of the subcontract. The subcontract shall provide that cancellation or lapse of the bond or insurance during the term of the contract shall be grounds for termination. Crook County shall cause the subcontractor to provide it with a thirty (30) day notice of cancellation issued by the insurance company.

14.0 GOVERNING LAW AND VENUE

This Agreement shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between Deschutes County and Crook County that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Deschutes County for the State of Oregon provided, however, if the Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively with the United States District Court for the District of Oregon.

15.0 TERMINATION; RECOVERY OF FUNDS

1. By Crook County. Crook County may terminate this contract upon thirty (30) days' notice to Deschutes County and OEM and the return of all federal funds paid to Crook County for the Project which have not been expended or irrevocably committed to eligible activities. Termination under this section shall not affect OEM's authority to recapture funds under section 9.0, which shall survive termination of this contract.
2. By Deschutes County. Deschutes County may unilaterally terminate all or part of this Agreement or may reduce its scope of work if there is a reduction in federal funds which are the basis for this Agreement and/or a material misrepresentation, error, or inaccuracy in a Crook County application.
3. Termination upon Noncompliance by Crook County
 - a) If inspections and review of Crook County support documentation reveal noncompliance in performance of the work and/or documentation of the work, Crook County will be required to correct deficiencies or variances before program closure.
 - b) If corrective actions required do not resolve variances from the approved Project, OEM will notify Crook County of such. OEM may then make the determination that Crook County variances constitute

noncompliance or nonconformance to the Pre-Disaster Mitigation Program and/or conditions. In the event of such determination, OEM will notify Crook County of such action and recover obligated funds from the Crook County and take other actions as specified under 44 CFR 13.43 (Enforcement) or 44 CFR 13.44 (Termination for Convenience).

16.0 SAVINGS

Crook County shall apply any savings, rebates, and reductions in cost to reduce the overall cost of the Project.

17.0 INDEMNIFICATION

To the extent permitted by any constitutional and statutory limitations applicable to Crook County and Deschutes County, including, but not limited to, provisions relating to debt limits, tort claims limits and workers' compensation, each County shall, as required by ORS 401.145(2), indemnify, defend, save, and hold harmless the other County and its agencies, officers, employees, agents, and members, and the State of Oregon and its agencies, officers, employees, agents, and members, from and against all claims, damages, losses, expenses, suits, or actions of any nature arising out of or resulting from the activities of the County engaging in the activities, its agencies, officers, employees, agents, members, contractors, or subcontractors under this Agreement.

18.0 COUNTY ASSURANCES

Each County represents and warrants as follows:

1. Each County is a political subdivision of the State of Oregon. Each County has full power, authority, and legal right to execute and deliver this Agreement and incur and perform its obligations hereunder.
2. This Agreement has been duly authorized, executed, and delivered on behalf of each County and constitutes the legal, valid, and binding obligation of each County, enforceable in accordance with its terms.
3. Each County hereby assures and certifies that it will comply with all applicable state and federal laws and regulations, including, but not limited to, the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC §§ 5121-5206 (Public Law 93-288, as amended; hereafter "Stafford Act"); 44 CFR Parts 7, 13, 14, 17, 18 and 206, and Subchapters B, C and D; Office of Management and Budget Circulars A-21, A-87, A-102, A-110, A-122 and A-133; the Oregon State Public Assistance Administrative Plan dated September 1993; Wages, Hours and Records Laws (ORS Chapter 652) Conditions of Employment Laws (ORS Chapter 643) and Unemployment Insurance Laws (ORS Chapter 657).

4. The emergency or disaster relief work for which federal assistance is requested herein does not or will not duplicate benefits received for the same loss from any other source.
5. Each County will operate and maintain the facilities being restored, if any, using funds provided under this Agreement in accordance with the minimum standards as may be required or prescribed by the applicable federal, state and local agencies for the maintenance and operation of such facilities.
6. Each County will, for any repairs or construction financed herewith, comply with applicable standards of safety, decency and sanitation and in conformity with applicable codes, specifications and standards, and will evaluate the hazards in areas in which the proceeds of the grant are to be used and take appropriate action to mitigate such hazards, including safe land use and construction practices. Each County will, prior to the start of any construction activity, ensure that all applicable federal, state and local permits and clearances are obtained including FEMA compliance with the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, and all other federal and state environmental laws.
7. Neither County will enter into a contract with a contractor who is on the General Services Administration (GSA) List of Parties Excluded from Federal Procurement or Non-procurement Programs.
8. Each County will comply with minimum wage and maximum hours provision of the Federal Fair Labor Standards Act.
9. Each County shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this agreement, including without limitation the provisions of ORS 2798.220, 2798.225, 2798.230, and 2798.235. Without limiting the generality of the foregoing, each County expressly agrees to comply with: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. Contractor shall, to the maximum extent economically feasible in the performance of this Contract,

use recycled paper (as defined in ORS 279A.010(1)(ee)), recycled PETE products (as defined in ORS 279A.010(1)(ff)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(gg)).

10. Each County shall utilize certified minority-owned and women-owned businesses (MWBE's) in the performance of this Agreement in accordance with applicable law.
11. Neither County must comply with the provisions of the Davis-Bacon Act for grants made under the disaster assistance program, unless otherwise required by law. However, the State of Oregon Prevailing Wage Rates of Public Works Contracts in Oregon, or BOLI (Oregon Bureau of Labor and Industries) regulations must be followed. If FEMA or any other Federal agency are a party to a contract for the repair or restoration of a public building or public facility, the contract would have to comply with the Davis-Bacon Act.
12. Each County and their contractors, subcontractors, and other employers providing work, labor, or materials as a result of the application are subject employers under the Oregon Workers' Compensation Law. All employers including either County, that employs subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Any contractor shall ensure that each of its Subcontractors complies with these requirements. This shall include Employer's Liability Insurance with coverage limits of not less than \$100,000 for each accident.

19.0 ACKNOWLEDGMENTS

Crook County shall include language which acknowledges the funding contribution of the FEMA to this Project in any information release or other publication developed or modified for, or referring to the Project.

20.0 INSURANCE

Crook County will comply with the insurance requirements of the Stafford Act, as amended, and obtain and maintain any other insurance as may be reasonable, adequate, and necessary to protect against further loss to any property which was replaced, restored, repaired or constructed with this assistance.

21.0 SEVERABILITY

If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions and applications

of this Agreement shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

22.0 HEADINGS

The section headings in this Agreement are included for convenience only, do not give full notice of the terms of any portion of this Agreement, and are not relevant to the interpretation of any provision of this Agreement.

23.0 AGREEMENT ADMINISTRATION

The parties' representatives for purposes of this Agreement are:

DESCHUTES COUNTY:

Tom Anderson
Deschutes County Administrator
1300 NW Wall St., Suite 200
Bend, OR 97703
Phone: (541) 388-6565
Fax: (541) 385-3202

For CROOK COUNTY:

Judge Mike McCabe
Crook County Court
300 NE Third St., Rm. 10
Prineville, OR 97754
Phone: (541) 447-6555
Fax: (541) 416-3891

Notices under this Agreement shall be given in writing by personal delivery, facsimile, email or by regular or certified mail to the person identified in this Section, or to such other person or at such other address as either party may hereafter indicate pursuant to this section. Any notice delivered personally shall be deemed received upon delivery. Notice by facsimile shall be deemed given when receipt of the transmission is generated by the transmitting machine. Notice by email is deemed received upon a return email or other acknowledgment of receipt by the receiver, and notice by certified or registered mail is deemed received on the date the receipt is signed or delivery is refused by the addressee.

24.0 ENTIRE AGREEMENT

This Agreement, including the agreement between Deschutes County and the Oregon Military Department, entitled: Oregon Military Department Office of Emergency Management Pre-Disaster Mitigation Grant, CFDA #97.047, attached hereto and identified as Exhibit A, sets forth the entire Agreement between the Parties with respect to the subject matter hereof. Any additional terms or conditions imposed by FEMA or OEM will be incorporated into an amendment to this Agreement. Commitments, warranties, representations, and understandings or agreements not contained, or referred to, in this Agreement or written amendment hereto shall not be binding on either party. Except as may be expressly provided herein, no alteration of any of the terms or conditions of this Agreement will be effective without the written consent of both parties.

IN WITNESS WHEREOF, Crook County and Deschutes County have executed this Agreement as of the date and year written below.

CROOK COUNTY:

DATED this 10 day of NOVEMBER, 2015

Mike McCabe
Mike McCabe, Crook County Judge

Not Available
Ken Fahlgren, Crook County Commissioner

Seth Crawford
Seth Crawford, Crook County Commissioner

Deschutes County
DATED this ____ day of _____, 20__

BOARD OF COUNTY COMMISSIONERS

Anthony DeBone, Chair

Alan Unger, Vice-Chair

Tammy Baney, Commissioner

EXHIBIT A

See attached



**OREGON MILITARY DEPARTMENT
OFFICE OF EMERGENCY MANAGEMENT
PRE-DISASTER MITIGATION GRANT
CFDA # 97.047
DESCHUTES COUNTY
CENTRAL OREGON WILDFIRE MITIGATION
Not to Exceed \$3,000,000.00
Grant No: PDMC-PJ-10-OR-2010-001**

This Agreement is made and entered into by and between the **State of Oregon**, acting by and through the Oregon Military Department, Office of Emergency Management, hereinafter referred to as "OEM," and **DESCHUTES COUNTY**, hereinafter referred to as "Subrecipient," and collectively referred to as the "Parties."

1. **Effective Date.** This Agreement shall become effective on the date this Agreement is fully executed and approved as required by applicable law. Reimbursements will be made for Project Costs incurred beginning on **October 1, 2015**, and shall terminate upon completion and approval of the Project by federal and state officials, including the completion of close-out and audit. This period shall be known as the (Grant Award Period). The Project shall be completed no later than **September 30, 2018**, (Expiration Date), unless otherwise extended as provided in this Agreement. OEM's obligation to disburse Grant Funds under this Agreement shall end as provided in Section 6.b.iv of this Agreement.
2. **Agreement Documents.** This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

- Exhibit A: **FEMA Project Description and Budget**
- Exhibit B: **Federal Requirements and Certifications**
- Exhibit C: **Subcontractor Insurance**
- Exhibit D: **Information required by 2 CFR 200.331(a)**

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Exhibit B; this Agreement without Exhibits; Exhibit A; Exhibit C; Exhibit D.

3. **Project Cost, Grant Funds.** The total estimated cost of the Project for the purpose of this Grant Agreement is **\$4,000,000.00**. In accordance with the terms and conditions of this Agreement, OEM shall provide Subrecipient an amount not to exceed 75 percent of the Project Costs or **\$3,000,000.00**, whichever is less, in Grant Funds for eligible costs described in Section 6 hereof. Grant Funds for this Program are provided by the Federal Emergency Management Agency (FEMA) and is administered by OEM. Subrecipient will commit at least twenty-five percent (25%) non-Federal match to the Project. The non-Federal match can be cash, in-kind or a combination of both. For this sub-grant, the non-Federal share contribution shall be 25 percent of the Project Costs, up to **\$1,000,000.00**. Subrecipient shall apply any savings, rebates and reductions in cost to reduce the overall cost of the Project. Subrecipient is responsible for any costs in excess of the total Project Cost.

4. **Project.** The Grant Funds shall be used solely for the Project described in Exhibit A and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by OEM by amendment pursuant to Section 11.d hereof.

5. **Reports.** Failure of Subrecipient to submit the required program, financial, or audit reports, or to resolve program, financial, or audit issues may result in the suspension of grant payments, termination of this Agreement, or both.

a. Performance and Close-Out Reports.

- i. Subrecipient agrees to submit performance reports, using a form provided by OEM, on its progress in meeting each of its agreed upon milestones.
- ii. Reports are due to OEM on or before 15 days following each calendar quarter (March 31, June 30, September 30, and December 31).
- iii. Subrecipient may request from OEM prior written approval to extend a performance report requirement past its due date. OEM, in its sole discretion, may approve or reject the request.
- iv. Subrecipient shall submit final close-out report to OEM for review to include financial performance report, construction reports (if applicable), Invention disclosure (if applicable), Federally-owned property report (if applicable), and final request for reimbursement (if applicable).

b. Financial Reimbursement Requests.

- i. To receive reimbursement, Subrecipient must submit a Pre-Disaster Mitigation Request for Reimbursement of Funds form (RIR) to OEM which references the appropriate Pre-Disaster Mitigation Project Number, FEMA Project Number, FEMA FIPS Number and DUNS Number, and appropriate documentation as required. Partial payments of funds for costs already incurred may be requested at any time during the Project. Each request must include appropriate supporting documentation of the incurred costs. A final Request must be submitted no later than 30 days following completion of the Project or the Expiration Date, whichever occurs first.
- ii. Reimbursements for expenses will be withheld if performance reports are not submitted by the specified dates or are incomplete.
- iii. Reimbursement rates for travel expenses shall not exceed those allowed by the State of Oregon. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the dates, times, and places of travel, and the actual expenses or authorized rates incurred.
- iv. Reimbursements will only be made for actual expenses incurred during the Grant Award Period provided in Section 1. Subrecipient agrees that no grant or, if applicable, match funds may be used for expenses incurred before or after the Grant Award Period.

6. Disbursement and Recovery of Grant Funds.

a. Disbursement Generally. OEM shall reimburse eligible costs incurred in carrying out the Project, up to the Grant Fund amount provided in Section 3. Reimbursements shall be made by OEM upon approval by OEM of the RIR. Eligible costs are the reasonable and necessary costs incurred by Subrecipient for the Project that are not excluded from reimbursement by OEM or FEMA either by this Agreement or by exclusion as a result of financial review or audit.

- b. Conditions Precedent to Disbursement.** OEM's obligation to disburse Grant Funds to Subrecipient is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:
- i. OEM has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow OEM, in the exercise of its reasonable administrative discretion, to make the disbursement.
 - ii. Subrecipient is in compliance with the terms of this Agreement including, without limitation, Exhibit B and the requirements incorporated by reference in Exhibit B.
 - iii. Subrecipient's representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
 - iv. Subrecipient has provided to OEM the RfR in accordance with Section 5.b of this Agreement.
- c. Recovery of Grant Funds.** Any funds disbursed to Subrecipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination or expiration of this Agreement ("Unexpended Funds") must be returned to OEM. Subrecipient shall return all Misexpended Funds to OEM promptly after OEM's written demand and no later than 15 days after OEM's written demand. Subrecipient shall return all Unexpended Funds to OEM within 14 days after the earlier of expiration or termination of this Agreement.

The Subrecipient shall be responsible for pursuing recovery of monies paid under this Agreement in providing disaster assistance against any party that might be liable, and further, the Subrecipient shall cooperate in a reasonable manner with the State and the United States in efforts to recover expenditures under this Agreement.

In the event the Subrecipient obtains recovery from a responsible party, the Subrecipient shall first be reimbursed its reasonable costs of litigation from such recovered funds. The Subrecipient shall pay to the state the proportionate Federal share of all project funds recovered in excess of costs of litigation.

- 7. Representations and Warranties of Subrecipient.** Subrecipient represents and warrants to OEM as follows:
- a. Organization and Authority.** Subrecipient is a county and political subdivision of the State of Oregon duly formed under the laws of the State of Oregon and is eligible to receive the Grant Funds. Subrecipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Subrecipient of this Agreement (1) have been duly authorized by all necessary action of Subrecipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Subrecipient is a party or by which Subrecipient or any of its properties may be bound or affected. No further authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Subrecipient of this Agreement.

- b. **Binding Obligation.** This Agreement has been duly executed and delivered by Subrecipient and constitutes a legal, valid and binding obligation of Subrecipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- c. **No Solicitation.** Subrecipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

The warranties set forth in this section are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

8. Records Maintenance and Access; Audit.

- a. **Records, Access to Records and Facilities.** Subrecipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Subrecipient acknowledges and agrees, and Subrecipient will require its contractors, subcontractors, subrecipients (collectively hereafter "contractors"), successors, transferees, and assignees to acknowledge and agree, to provide OEM, Oregon Secretary of State (Secretary), Office of Inspector General (OIG), Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), or any of their authorized representatives, access to records, accounts, documents, information, facilities, and staff. Subrecipient and its contractors must cooperate with any compliance review or complaint investigation by any of the above listed agencies, providing them access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary. The right of access is not limited to the required retention period but shall last as long as the records are retained.

Subrecipient must prepare a Schedule of Expenditures of Federal Awards (SEFA) that includes: Federal grantor name, pass-through entity name, program name, Federal catalog number, identifying number assigned by the pass-through entity and current year expenditures.

- b. **Retention of Records.** Subrecipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project until the latest of (a) six years following termination, completion or expiration of this Agreement, (b) upon resolution of any litigation or other disputes related to this Agreement, or (c) as required by 2 CFR 200.333. It is the responsibility of Subrecipient to obtain a copy of 2 CFR Part 200 and to apprise itself of all rules and regulations set forth.

c. Audits.

- i. If Subrecipient expends \$750,000 or more in Federal funds (from all sources) in its fiscal year, Subrecipient shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR 200 Subpart F. Copies of all audits must be submitted to OEM within 30 days of completion. If Subrecipient expends less than \$ 750,000 in its fiscal year in Federal funds, Subrecipient is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials as provided in Section 8.a. herein.

- ii. Audit costs for audits not required in accordance with 2 CFR part 200, subpart F are unallowable. If Subrecipient did not expend \$750,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the grant.
- iii. Subrecipient shall save, protect and hold harmless OEM from the cost of any audits or special investigations performed by the Secretary or any federal agency with respect to the funds expended under this Agreement. Subrecipient acknowledges and agrees that any audit costs incurred by Subrecipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Subrecipient and the State of Oregon.

9. Subrecipient Procurements; Property and Equipment Management and Records; Subcontractor Indemnity and Insurance

- a. **Subagreements.** Subrecipient may enter into agreements (hereafter "subagreements") for performance of the Project. Subrecipient shall use its own procurement procedures and regulations, provided that the procurement conforms to applicable Federal and State law (including without limitation ORS chapters 279A, 279B, 279C, and that for contracts for more than \$150,000, the contract shall address administrative, contractual or legal remedies for violation or breach of contract terms and provide for sanctions and penalties as appropriate, and for contracts for more than \$10,000 address termination for cause or for convenience including the manner in which termination will be effected and the basis for settlement).
 - i. Subrecipient shall provide to OEM copies of all Requests for Proposals (RFPs) or other solicitations for procurements anticipated to be for \$100,000 or more and to provide to OEM, upon request by OEM, such documents for procurements for less than \$100,000. Subrecipient shall include with its RfR a list of all procurements issued during the period covered by the report.
 - ii. All subagreements, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner that encourages fair and open competition to the maximum practical extent possible. All sole-source procurements in excess of \$100,000 must receive prior written approval from OEM in addition to any other approvals required by law applicable to Subrecipient. Justification for sole-source procurement in excess of \$100,000 should include a description of the program and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
 - iii. Subrecipient shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, or RFPs for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to OEM.
 - iv. Subrecipient agrees that, to the extent it uses contractors, such contractors shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.
 - v. In the event that Subrecipient subcontracts for engineering services, Subrecipient shall require that the engineering firm be covered by errors and omissions insurance in an amount not less than the amount of the firm's contract. If the firm is unable to obtain errors and omissions

insurance, the firm shall post a bond with Subrecipient for the benefit of Subrecipient of not less than the amount of its subcontract. Such insurance or bond shall remain in effect for the entire term of the subcontract. The subcontract shall provide that the subcontract shall terminate immediately upon cancellation or lapse of the bond or insurance and shall require the subcontractor to notify Subrecipient immediately upon any change in insurance coverage or cancellation or lapse of the bond.

- b. Purchases and Management of Property and Equipment; Records.** Subrecipient agrees to comply with all applicable federal requirements referenced in Exhibit B, Section II.C.1 to this Agreement and procedures for managing and maintaining records of all purchases of property and equipment will, at a minimum, meet the following requirements:
- i. All property and equipment purchased under this Agreement, whether by Subrecipient or a contractor, will be conducted in a manner providing full and open competition and in accordance with all applicable procurement requirements, including without limitation ORS chapters 279A, 279B, 279C, and purchases shall be recorded and maintained in Subrecipient's property or equipment inventory system.
 - ii. Subrecipient's property and equipment records shall include: a description of the property or equipment; the manufacturer's serial number, model number, or other identification number; the source of the property or equipment, including the Catalog of Federal Domestic Assistance (CFDA) number; name of person or entity holding title to the property or equipment; the acquisition date; cost and percentage of Federal participation in the cost; the location, use and condition of the property or equipment; and any ultimate disposition data including the date of disposal and sale price of the property or equipment.

For acquisition projects, Subrecipient shall retain real estate transaction and property tracking records indefinitely to enable FEMA to track the use of real property acquired with grant funds and ensure that the property is maintained for open space in perpetuity (see 44 CFR Part 80).
 - iii. A physical inventory of the property and equipment must be taken and the results reconciled with the property and equipment records at least once every two years.
 - iv. Subrecipient must develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property and equipment. Subrecipient shall investigate any loss, damage, or theft and shall provide the results of the investigation to OEM upon request.
 - v. Subrecipient must develop, or require its contractors to develop, adequate maintenance procedures to keep the property and equipment in good condition.
 - vi. If Subrecipient is authorized to sell the property or equipment, proper sales procedures must be established to ensure the highest possible return.
 - vii. Subrecipient agrees to comply with 2 CFR 200.313 when original or replacement equipment acquired with Grant Funds is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency.
 - viii. Subrecipient shall require its contractors to use property and equipment management requirements that meet or exceed the requirements provided herein applicable to all property and equipment purchased with Grant Funds.
 - ix. Subrecipient shall, and shall require its contractors to, retain, the records described in this Section 9.b. for a period of six years from the date of the disposition or replacement or transfer at the discretion of OEM. Title to all property and equipment purchased with Grant Funds

shall vest in Subrecipient if Subrecipient provides written certification to OEM that it will use the property and equipment for purposes consistent with this Agreement.

- c. **Subagreement indemnity; insurance.** Subrecipient's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless OEM and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Subrecipient's subagreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that OEM shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of OEM, be indemnified by the other party to Subrecipient's subagreement(s) from and against any and all Claims.

Any such indemnification shall also provide that neither Subrecipient's contractor(s) nor any attorney engaged by Subrecipient's contractor(s) shall defend any claim in the name of OEM or any agency of the State of Oregon (collectively "State"), nor purport to act as legal representative of the State or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Subrecipient's contractor is prohibited from defending State or that Subrecipient's contractor is not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to pursue claims it may have against Subrecipient's contractor if State elects to assume its own defense.

Subrecipient shall require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement.

10. Termination

- a. **Termination by OEM.** OEM may terminate this Agreement effective upon delivery of written notice of termination to Subrecipient, or at such later date as may be established by OEM in such written notice, if:
- i. Subrecipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Subrecipient is, for any reason, rendered improbable, impossible, or illegal; or
 - ii. OEM fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow OEM, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement; or
 - iii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement;
 - iv. The Project would not produce results commensurate with the further expenditure of funds; or
 - v. Subrecipient takes any action pertaining to this Agreement without the approval of OEM and which under the provisions of this Agreement would have required the approval of OEM.
 - vi. OEM determines there is a material misrepresentation, error or inaccuracy in Subrecipient's application.

- b. **Termination by Subrecipient.** Subrecipient may terminate this Agreement effective upon delivery of written notice of termination to OEM, or at such later date as may be established by Subrecipient in such written notice, if:
 - i. The requisite local funding to continue the Project becomes unavailable to Subrecipient; or
 - ii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- c. **Termination by Either Party.** Either Party may terminate this Agreement upon at least thirty days' notice to the other Party.
- d. **Effect of Termination.** In the event of termination of this Agreement, each party shall be liable only for project costs and allowable expenses incurred by the other party, prior to the effective date of termination, and Subrecipient will return all Federal funds paid to Subrecipient for the Project which have not been expended or irrevocably committed to eligible activities.

11. General Provisions

- a. **Indemnity.** Subrecipient shall, as required by ORS 401.178(2), indemnify, defend, save, and hold harmless the United States and its agencies, officers, employees, agents, and members, and the State of Oregon and its agencies, officers, employees, agents, and members, from and against all claims, damages, losses, expenses, suits, or actions of any nature arising out of or resulting from the activities of Subrecipient, its agencies, officers, employees, agents, members, contractors, or subcontractors under this Agreement. If legal limitations apply to the indemnification ability of Subrecipient, this indemnification shall be for the maximum amount of funds available for expenditure, including any available contingency funds, funds available under ORS 30.260 to 30.300 or other available non-appropriated funds. If requested by OEM, Subrecipient shall purchase commercial insurance covering this indemnification.
- b. **Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. Each party shall bear its own costs incurred under this Section 11.b.
- c. **Responsibility for Grant Funds.** Any recipient of Grant Funds, pursuant to this Agreement with OEM, shall assume sole liability for that recipient's breach of the conditions of this Agreement, and shall, upon such recipient's breach of conditions that requires OEM to return funds to the FEMA, hold harmless and indemnify OEM for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of the recipient of Grant Funds, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
- d. **Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
- e. **Duplicate Payment.** Subrecipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any

agency of the State of Oregon or the United States of America or any other party, organization or individual.

- f. No Third Party Beneficiaries.** OEM and Subrecipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

Subrecipient acknowledges and agrees that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to Subrecipient, contractor or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from this Agreement.

- g. Notices.** Except as otherwise expressly provided in this Section, any communications between the parties hereto or notice to be given hereunder shall be given in writing by personal delivery, facsimile, email or mailing the same by registered or certified mail, postage prepaid to the persons identified in the signature blocks or to such other persons, addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and sent by registered or certified mail shall be deemed delivered upon receipt or refusal of receipt. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. The parties also may communicate by telephone, regular mail or other means, but such communications shall not be deemed Notices under this Section unless receipt by the other party is expressly acknowledged in writing by the receiving party.
- h. Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between OEM (or any other agency or department of the State of Oregon) and Subrecipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. 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.
- i. Compliance with Law.** Subrecipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, including without limitation as described in Exhibit B. Without limiting the generality of the foregoing, Subrecipient expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

- j. Insurance; Workers' Compensation.** All employers, including Subrecipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Subrecipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.

The Subrecipient will comply with the insurance requirements of the Stafford Act, as amended, and obtain and maintain any other insurance as may be reasonable, adequate, and necessary to protect against further loss to any property which was replaced, restored, repaired or constructed with this assistance.

- k. Independent Contractor.** Subrecipient shall perform the Project as an independent contractor and not as an agent or employee of OEM. Subrecipient has no right or authority to incur or create any obligation for or legally bind OEM in any way. OEM cannot and will not control the means or manner by which Subrecipient performs the Project, except as specifically set forth in this Agreement. Subrecipient is responsible for determining the appropriate means and manner of performing the Project. Subrecipient acknowledges and agrees that Subrecipient is not an "officer", "employee", or "agent" of OEM, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- l. Headings.** The section headings in this Agreement are included for convenience only, do not give full notice of the terms of any portion of this Agreement, and are not relevant to the interpretation of any provision of this Agreement.
- m. Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.
- n. Counterparts.** This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- o. Integration and Waiver.** This Agreement, including all Exhibits and referenced documents, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Subrecipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

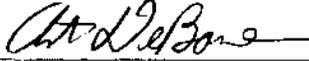
THE PARTIES, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

SIGNATURE PAGE TO FOLLOW

Deschutes County

Dated this 19 of October, 2015

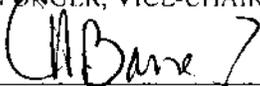
BOARD OF COUNTY COMMISSIONERS



ANTHONY DEBONE, CHAIR

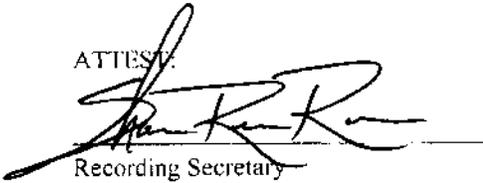


ALAN UNGER, VICE-CHAIR

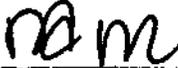


TAMMY BANEY, COMMISSIONER

ATTEST:


Recording Secretary

APPROVED AS TO LEGAL SUFFICIENCY
(If required for Subrecipient)

By 
Subrecipient's Legal Counsel, David Doyle

Date 10/14/15

Subrecipient Program Contact:

Name Ed Keith
Title County Forester
Agency Deschutes County
Address 1 61150 SE 27th St
City, State, Zip Bend, OR 97702
Phone 541-322-7117
Email ed.keith@deschutes.org

Subrecipient Fiscal Contact:

Name Susan Bailey
Title Administrative Analyst
Address 1 61150 SE 27th St
City State Zip Bend, OR 97702
Phone 541-322-7119
Email susan.bailey@deschutes.org

OEM

By _____

Clint Fella
Mitigation and Recovery Services Section Manager, OEM

Date _____

APPROVED AS TO FORM

By Cynthia C. Byrnes via email
Assistant Attorney General

Date September 3, 2015

OEM Program Contact:

Dennis Sigrist
State Hazard Mitigation Officer
Oregon Military Department
Office of Emergency Management
PO Box 14370
Salem, OR 97309-5062
503-378-2911 extension 22247
dennis.sigrist@state.or.us

OEM Fiscal Contact:

Christine O'Day
Grants Program Accountant
Oregon Military Department
Office of Emergency Management
PO Box 14370
Salem, OR 97309-5062
503-378-2911 extension 22244
christine.oday@state.or.us



FEMA

September 30, 2015

Andrew J. Phelps, Director
Office of Emergency Management
Oregon Military Department
P.O. Box 14370
Salem, Oregon 97309-5062

RE: Pre-disaster Mitigation Competitive Grant Program (PDMC) FY 2010
DHS-FEMA award number: EMS-2013-PC-0001, Amendment 01
Approval of subawards

Dear Mr. Phelps:

Attached please find a fully executed Obligating Document for Awards/Amendments (FF 76-10A) awarding your PDMC grant and subgrants. The performance period for award number EMS-2013-PC-0001 begins October 1, 2013 and ends on September 30, 2018. Please reference EMS-2013-PC-0001 on your quarterly financial reports, performance reports and all related correspondence.

Payment requests for allowable costs are conducted using the Federal Emergency Management agency's Payment and Reporting System (PARS), using vendor identification number 936001775. The PARS account for the total funding provided by this award is as follows:

<u>PARS account number</u>	<u>Federal Amount</u>
EMS-2013-PC-0001	\$3,564,412.50

Please note: This amendment contains additional requirements and three special conditions placing holds on Federal funds totaling \$3,300,000.00. Please refer to the Grant Agreement Articles regarding the additional requirements and the actions necessary to release the holds on Federal funds.

If you have any programmatic questions, please contact Brandon Sweeza at (425) 487-2022. I can be reached at (425) 487-4583 should you have any financial or grants management questions.

Respectfully,

ROBERT W LITTLE

Digitally signed by ROBERT W LITTLE
DN: c=US, ou=U.S. Government, ou=Department of Homeland Security,
ou=FEMA, ou=People, email=ROBERT.W.LITTLE,
09214215200100.100.1.1=0527191231FEMA
Date: 2015.09.30 08:05:57 -0700

Rob Little, Grants Management Specialist
Grant Programs Division

Attachment

FY2013

PRE-DISASTER MITIGATION PROGRAM GRANT AGREEMENT
ARTICLES

CFDA#97.047

GRANTEE: Oregon Office Emergency Management
AGREEMENT NUMBER: EMS-2013-PC-0001

AMENDMENT NUMBER: 01

DESIGNATED AGENCY: FEMA

PERFORMANCE PERIOD: October 1, 2013 – September 30, 2018

GENERAL INFORMATION

The Pre-Disaster Mitigation (PDM) program provides grants to States and Indian Tribal government or territory that, in turn, provide Subgrants to local governments for cost-effective mitigation activities that are selected via a Ranking. Funds will be used to implement a sustained pre-disaster natural hazard mitigation program to reduce overall risk to the population and structures, while also reducing reliance on funding from actual disaster declarations.

ARTICLE I. FEMA AUTHORITY

The United States of America through the Department of Homeland Security's Federal Emergency Management Agency (FEMA), hereinafter referred to as "the Grantor," agrees to grant to the State/Indian Tribal government, through its designated agency named above (hereinafter referred to as "the Grantee") funds in the amount specified on the obligating document, to support the Pre-Disaster Mitigation Grant Program, authorized under 42 U.S.C. 5133, Section 203, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Public Law 93-288, as amended,

The Grantee agrees to abide by the Grant Award terms and conditions as set forth in this document.

ARTICLE II. PROJECT DESCRIPTION

The Grantee shall perform the work described in the application package and made a part of these Grant Agreement Articles.

FY2013

PRE-DISASTER MITIGATION PROGRAM GRANT AGREEMENT
ARTICLES

ARTICLE III. PERIOD OF PERFORMANCE

The period of performance shall be October 1, 2013 through September 30, 2018. All costs must be incurred during the period of performance unless pre-award costs are approved.

ARTICLE IV. AMOUNT AWARDED

This Grant Award is for the administration and completion of an approved Pre-Disaster Mitigation - Competitive project. Funds approved under this Grant Agreement may not be used for other purposes. If costs exceed the amount of FEMA funding approved, then the Grantee shall pay the costs that are in excess of the approved budget.

The approved budget for this Grant Award by category is

	Federal	Non-Federal	Total
Personnel	\$ 73,078.61	\$ 25,199.54	\$ 98,278.15
Fringe Benefit	\$ 37,591.69	\$ 12,530.16	\$ 50,121.85
Travel	\$ 7,200.00	\$ 2,400.00	\$ 9,600.00
Equipment	\$ -	\$ -	\$ -
Supplies	\$ 1,875.00	\$ 625.00	\$ 2,500.00
Contractual	\$ -	\$ -	\$ -
Construction	\$ -	\$ -	\$ -
Other	\$ 3,444,667.20	\$ 1,147,382.80	\$ 4,592,050.00
TOTAL DIRECT	\$ 3,564,412.50	\$ 1,188,137.50	\$ 4,752,550.00
Indirect Charges	\$ -	\$ -	\$ -
TOTAL BUDGET	\$ 3,564,412.50	\$ 1,188,137.50	\$ 4,752,550.00

The Grantee shall follow regulations found in Title 44 Code of Federal Regulations (CFR) Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Office of Management and Budget Circulars A-102 and A-87, and program guidance to implement this Grant Agreement.

ARTICLE V. COST SHARE

The cost-share requirement for this award is 75 % Federal and 25% non-Federal. Small, impoverished communities may receive a Federal cost-share of up to 90% of the total cost to implement eligible PDM activities. The cost-share for this program is governed by 42 USC §133, Section 203(h), of the Stafford Act.

- a. The approved budget for state and/or non-small, impoverished communities: Federal funds of \$0 (75 %) and non-Federal funds of \$0 (25 %) for a total approved amount of \$0.

PRE-DISASTER MITIGATION PROGRAM GRANT AGREEMENT
ARTICLES

b. The following small, impoverished communities have been approved for cost share less than the required 25 % non-Federal:

No small, impoverished communities are included in this Award Package.

c. The total approved budget of Federal funds is \$3,564,412.50 and non-Federal funds are \$1,188,137.50 for a total approved amount of \$4,752,550.00, which includes the combination of a. and b. above.

ARTICLE VI. FEMA OFFICIALS

FEMA officials are as follows:

The Project Officer shall be an official at the FEMA Regional Office who will be responsible for the monitoring of the activities as described in the application.

The Project Officer is: Brandon Sweeza - 425-487-2022

The Assistance Officer is the FEMA official who has full authority to negotiate, administer and execute all business matters of this Grant Agreement.

The Assistance Officer is: Rob little - 425-487-4583

ARTICLE VII. TERMS AND CONDITIONS

The specific terms and conditions of this agreement are as follows:
ASSURANCE COMPLIANCE:

- The certifications signed by the Grantee in the application relating to maintenance of a Drug-Free Workplace (44 CFR Part 17, Subpart F) and New Restrictions on Lobbying (44 CFR Part 18) apply to this grant agreement and are incorporated by reference.
- Prohibition on Using Federal Funds.
 - The recipient understands and agrees that it cannot use any Federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of FEMA.
 - Compliance with Program Guidance.
 - The recipient agrees that all use of funds under this Grant Agreement will be in accordance with the Unified Hazard Mitigation Assistance Guidance at the time of the application.

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BUDGET REVISIONS:

- The Grantee shall follow prior approval requirements for budget revisions found in 44 CFR 13.30.
- Transfer of funds between total direct cost categories in the approved budget shall receive the prior approval of FEMA when such cumulative transfers among those direct cost categories exceed ten percent (10%) of the total budget.
- If a Grantee estimates that it will have obligated funds remaining after the end of the performance period, the Grantee must report this to the FEMA Regional Office at the earliest possible time and ask for disposition instructions.
- Acceptance of Post Award Changes
 - o In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent drawdown of additional funds will indicate recipient acceptance of the changes to the award.

CLOSEOUT:

- Reports Submission: Per 44 CFR 13.50, when the appropriate grant award performance period expires, the Grantee shall submit the following documents within 90 days: (1) a final Financial Report; (2) final program performance report; (3) an inventory of equipment purchased under each grant's funds; (4) an inventory of Federally-owned property; and (5) other required documents specified by program regulation.
- Report Acceptance: FEMA shall review the Grantee reports, perform the necessary financial reconciliation, negotiate necessary adjustments between the Grantee and FEMA's records, and close out the grant in writing.
- Record Retention: Records shall be retained for 3 years (except in certain rare circumstances described in 44 CFR 13.42) from the date the final financial status report is submitted to FEMA in compliance with 44 CFR 13.42.

CONSTRUCTION PROJECT REQUIREMENTS:

- Acceptance of Federal funding requires FEMA, the Grantee and any Subgrantees to comply with all Federal, state and local laws prior to the start of any construction activity. Failure to obtain all appropriate Federal, state and local environmental permits and clearances may jeopardize Federal funding.
- Any change to the approved scope of work will require re-evaluation by FEMA for Grantee and Subgrantee compliance with the National Environmental Policy Act and other laws and Executive Orders.

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- If ground disturbing activities occur during construction, the Grantee and any Subgrantees must ensure monitoring of ground disturbance and, if any potential archeological resources are discovered, the Subgrantee will immediately cease construction in that area and notify the Grantee and FEMA.

COSTSHARE:

- The Grantee shall follow cost-sharing requirements mandated by program guidance, statute or regulation and in compliance with 44 CFR 13.24.
- Cost-share funding shall be available with the approval of each grant. Period of Performance extensions shall not be approved for delays caused by lack of cost-share funding.

ENFORCEMENT:

- FEMA enforcement remedies shall be processed as specified in 44 CFR 13.43, Enforcement when the Terms and Conditions of this Grant Agreement are not met.

PROPERTY/EQUIPMENT/SUPPLIES:

- The Grantee must comply with the regulations listed in 44 CFR 13.32, Equipment, 44 CFR 13.33 Supplies, and 44 CFR 13.36 Procurement, and must be in compliance with state laws and procedures.
- Tangible Personal Property Reports (SF 428) and Real Property Status Reports (SF 429) are required during and after this award for equipment and property acquired, in whole or in part, with federal funds provided by this award.
 - *Equipment* means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provide that such definition would at least include all the equipment defined above.
 - *Real property* means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment

FUNDS TRANSFER:

- No transfer of funds to agencies other than those identified in the approved Grant Agreement shall be made without prior approval of FEMA.

INSURANCE:

- In compliance with Public Law 103-325, Title V National Flood Insurance Reform Act of 1973, section 582 requires that any person receiving Federal assistance for the repair,

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replacement, or restoration for damage to any personal or residential property at any time must maintain flood insurance if the property is located in a Special Flood Hazard Area.

PAYMENT:

- The recipient shall be paid using FEMA's Payment and Reporting System (PARS).
- In accordance with 44 CFR 13.21 (c), the recipient is required to maintain procedures to minimize the time elapsing between the transfer and subsequent disbursement of funds. In order to request funds using the FEMA PARS, the recipient must maintain or demonstrate a willingness and ability to maintain procedures to minimize the time elapsing between the transfer of funds from DHS-FEMA and subsequent disbursement. Remedies for non-compliance include but are not limited to a temporary hold on recipient's PARS account or revocation of recipient's PARS account.
- Recipients are required to maintain documentation supporting each electronic payment request and subsequent electronic funds transfer (PARS payment request). Remedies for non-compliance include but are not limited to a temporary hold on recipient's PARS account or revocation of recipient's PARS account.
- Upon request by the DHS-FEMA, recipients are required to make available documentation supporting electronic payment requests and subsequent electronic funds transfers (PARS payment requests).
- Subgrantees must comply with the same payment requirement as the Grantee and must comply with the requirements specified in the grantee's subgrant Agreement.

INTEREST

- Interest earned on advances (funds drawn down in excess of immediate need or not disbursed in accordance with recipient's procedures to minimize the time elapsing between transfer and disbursement) will be handled in compliance with 44 CFR Part 13.21(j).

DUPLICATION OF PROGRAMS:

- FEMA will not provide assistance under its programs for activities that FEMA determines another Federal program has a more specific or primary authority to provide. FEMA also will not provide assistance for the applicant or sub-applicant's legal obligations. FEMA may disallow or recoup amounts that duplicate other authorities.

DUPLICATION OF BENEFITS:

- Hazard Mitigation Assistance (HMA) funds cannot duplicate or be duplicated by funds received by or available to Applicants, sub-applicants, or project or planning participants from other sources for the same purpose, such as benefits received from insurance claims, other assistance programs (including previous project or planning grants and subgrants from

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HMA programs), legal awards, or other benefits associated with properties or damage that are or could be subject of litigation.

- Because the availability of other sources of mitigation grant or loan assistance is subject to available information and the means of each individual applicant, HMA does not require proof that other assistance (not including insurance) has been sought. However, it is the responsibility of the property owner to report other benefits received, any applications for other assistance, the availability of insurance proceeds, or the potential for other compensation, such as from pending legal claims for damages, relating to the property. Amounts of other grants, loans or other assistance designated for the same purpose as HMA funds, if received, may be used to reduce the non-Federal cost-share.
- Where the property owner has an insurance policy covering any loss to the property which relates to the proposed HMA project, the means are available for receiving compensation for a loss or, in the case of increased cost of compliance (ICC), assistance toward a mitigation project. FEMA will generally require that the property owner file a claim prior to the receipt of HMA funds.

NON DISCRIMINATION:

- The program must be administered in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status. The program complies with Title VI of the 1964 Civil Rights Act and other applicable laws. All applicants/Grantees must comply with Title VI, including State and local governments distributing Federal assistance.
- Applicants/Grantees and sub-applicants/subgrantees will ensure that no discrimination is practiced. Applicants must consider fairness, equity, and equal access when prioritizing and selecting project subapplications to submit with their application. Sub applicants and subgrantees must ensure fairness, equity and equal access when consulting and making offers of mitigation to property owners that benefit from mitigation activities.

CHANGES IN SCOPE OF WORK:

- Requests for changes to the scope of work (SOW) after award are permissible as long as they do not change the nature or total project cost of the activity, properties identified in the sub application, the feasibility and effectiveness of the project, or the benefit cost ratio.
- Requests must be supported by adequate justification from the applicant in order to be processed. The justification is a description of the proposed change, a written explanation of the reason or reasons for the change; an outline of remaining funds available to support the change; and a full description of the work necessary to complete the activity.
- All approvals will be at FEMA's discretion, and there is no guarantee that SOW changes will be approved.

PERFORMANCE PERIODS:

- All grant award activities, including all projects and/or activities approved under each

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subgrant award, shall be completed within the time period prescribed and authorized on the obligating documents.

- All costs must be incurred within the approved performance period or be approved pre-award costs.

EXTENSIONS:

- Requests for time extensions to the performance period are not automatically approved and must be supported by adequate written justification.
- The written justification shall include:
 - Reason for the delay
 - Current status of the activity/activities
 - Approved performance period end date and requested new end date
 - Remaining available funds, both federal and non-federal
 - Budget outlining how remaining available funds will be expended to support the extended performance period
 - A plan for completing remaining work including milestones and the time frame for each milestone
 - The person responsible for implementing the plan for completion and certification by the authorized representative the activity/activities will be completed within the extended period without modification to the original Statement of Work.
- Requests must be submitted at least sixty (60) days prior to the end of the performance period.
- Requests not received at least sixty days prior to the end of the performance period will not be considered.
- Requests for a time extension will not be considered unless performance and financial reports are current.

RECOUPMENT OF FUNDS:

- FEMA will recoup mitigation planning grant funds for grants that do not meet the deliverable criteria of an adopted, FEMA-approved mitigation plan by the end of the performance period.

RECOVERY OF FUNDS:

- The Grantee will process the recovery of assistance paid to subgrantees processed through error, misrepresentation, or fraud or if funds are spent inappropriately. Recovered funds shall be submitted to FEMA as soon as the funds are collected, but no later than 90 days from the expiration date of the appropriate grant award agreement.
- All fraud identifications will be reported to the FEMA Inspector General's office. The Grantee agrees to cooperate with investigation conducted by the FEMA Inspector General's office.

REFUND, REBATE, CREDITS:

PRE-DISASTER MITIGATION PROGRAM GRANT AGREEMENT
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- The Grantee shall transfer to FEMA the appropriate share, based on the Federal support percentage, of any refund, rebate, credit or other amounts arising from the performance of this agreement, along with accrued interest, if any.
- The Grantee shall take necessary action to effect prompt collection of all monies due or which may become due and to cooperate with FEMA in any claim or suit in connection with amounts due.

REPORTS:

- Federal Financial Reports (SF-425) - Required Quarterly.
 - The recipient shall submit the Federal Financial Report (FFR, SF-425) within 30 days of the end of the first Federal quarter following the initial Grant Agreement. The recipient shall submit quarterly FFRs thereafter until the grant ends. Reports are due on January 30, April 30, July 30, and October 30. A report must be submitted for every quarter of the period of performance, including partial calendar quarters, as well as for periods where no grant activity occurs. Future awards and fund drawdowns may be withheld if these reports are delinquent. The final FFR is due 90 days after the end date of the performance period.
- Performance Report:
 - The Grantee shall submit performance reports to the FEMA Regional Office within 30 days after end of each quarter. The report shall consist of a comparison of actual accomplishment to the approved activity objectives. The Regional Administrator may waive the initial report. The Grantee shall submit quarterly performance reports thereafter until the grant ends. Reports are due January 30, April 30, July 30, and October 30. Quarterly performance report shall report the name, completion status, expenditure, and payment-to-date of each approved activity/sub-grant award under the Grant Award.

Final Reports:

- The Grantee shall submit a final FFR and Performance Report 90 days after the end date of the performance period.

TERMINATION:

- The Grantee, subgrantee, or FEMA may terminate grant award agreements by giving written notice to the other party at least seven (7) calendar days prior to the effective date of the termination. All notices are to be transmitted via registered or certified mail, return receipt requested. The Grantee's authority to incur new costs will be terminated upon the date of receipt of the notice or the date set forth in the notice. Any costs incurred up to the earlier of the date of the receipt of the notice or the date of termination set forth in the notice will be negotiated for final payment. Close out of the Grant Agreement will be commenced and processed as prescribed under Article VII.3.

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ARTICLE VIII. GOVERNING PROVISIONS

- In accordance with Homeland Security Presidential Directive 5, Management of Domestic Incidents, the adoption of the National Incident Management System (NIMS) is a requirement to receive Federal assistance, through grants, contracts, and other activities. The NIMS provides a consistent nationwide template to enable all levels of government, tribal nations, nongovernmental organizations, and private sector partners to work together to prevent against, respond to, recover from, and mitigate the effect of incidents, regardless of cause, size, location, or complexity.
- The Grantee and any sub-grantees shall comply with all applicable laws and regulations.
- Commonly Applicable Statutes and Regulations
 - Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities
 - Sections 1361(A) (42 USC 4104c), of the National Flood Insurance Act of 1968 (42 U.S.C. 4001, et seq. - "NFIA" or "the Act"), as amended by the National Flood Insurance Reform Act of 1994 (NFIRA), Public Law 103-325 and the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108-264
 - Title 44 of the Code of Federal Regulations (CFR)
 - 44 CFR Part 79-Flood Mitigation Grants
 - 44 CFR Part 50-Property Acquisition and Relocation for Open Space
 - 44 CFR Part 9-Floodplain Management and Protection of Wetlands
 - 44 CFR Part 10-Environmental Considerations
 - 44 CFR Part 13-Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
 - 31 CFR Part 205-Rules and Procedures for Efficient Federal-State Funds Transfers
 - The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. §§ 5121-5206 (Stafford Act)
 - Consolidated Security, Disaster Assistance and Continuing Appropriations Act of 2009 Public Law 110-329
 - National Environmental Policy Act
 - National Historic Preservation Act
 - Endangered Species Act
 - Clean Water Act
 - Executive Orders on Floodplains (11988), Wetlands (11990) and environmental Justice (12898).
 - Title 44 of the Code of Federal Regulations (CFR) Parts 13, 59, and 60.
 - 31 CFR 205.6, Funding Techniques

ARTICLE IX. ADDITIONAL REQUIREMENTS

As a sub awarding or pass-through entity, the OMD-OEM shall:

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- a. Ensure every participant/homeowner certification:
 1. Considers program income.
 2. Details non-Federal participation by type (cash, in-kind or third party donation).
- b. Ensure every participant/homeowner transmits a complete and signed standardized certification.
- c. Ensure every Deschutes County request for payment to OMD-OEM includes the following documents:
 - i. Contractor invoices with costs detailed by Best Management Practice(s).
 - ii. Documentation of program income (bills of sale for salvaged timber).
 - iii. Participant/homeowner in-kind/third party donation tracking sheet/certifications.
 - iv. Documentation to support Deschutes County Personnel, Fringe Benefits, Travel and other costs.
- d. Ensure Deschutes County includes a final summary sheet of in-kind contributions and third party donations at closeout.
- e. Ensure Deschutes County validates project intake, completes work and conducts final compliance reviews and/or inspections.
- f. Ensure Deschutes County performs only eligible work activities within the FEMA-approved EHP footprint areas and all conditions as stipulated by the county-by-county environmental assessment process and the approved Finding of No Significant Impact documents for Crook, Klamath and Deschutes Counties..
- g. Ensure Deschutes County management and administrative costs do not exceed the program cap, inclusive of any management and administrative costs reimbursed to Crook and Klamath Counties (excludes project management costs).
- h. Ensure the agreement with the Oregon Department of Forestry contains:
 - i. The clauses required by regulation.
 - ii. Provides details and specifications sufficient to evaluate programmatic monitoring of the wildfire mitigation project and ensure validation of work.
- i. Maintain a contract administration system which ensures the Oregon Department of Forestry performs in accordance with the terms, conditions, and specifications of the agreement for services.
- j. Ensure Oregon Department of Forestry request for payment to OMD-OEM includes documentation to support Oregon Department of Forestry Personnel, Fringe Benefits, Travel and other costs.

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ARTICLE X. SPECIAL CONDITIONS

- 1) This amendment contains a **SPECIAL CONDITION**. The special condition is hereby applied to the Oregon Office of Emergency Management's PDMC sub-award, #PDMC-PJ-10-OR-2010-001, Deschutes County. By this action, FEMA Region 10 shall withhold (in the PARS) all Federal Funds in the amount of \$3,000,000.00.

In order to have this Special Condition removed, the Oregon Office of Emergency Management demonstrate compliance with Agreement Article IX (a. through g.) through periodic transmittal of payment requests for this subaward, including all supporting documentation, to the FEMA Grants Management Specialist for review and release of funds in the PARS on or before 5:00 p.m. Pacific Standard Time, March 31, 2016.

- 2) This special condition is hereby applied to the Oregon Office of Emergency Management's PDMC sub-award, #PDMC-PJ-10-OR-2010-001, Deschutes County. By this action, FEMA Region 10 shall withhold (in the PARS) all Federal Funds in the amount of \$3,000,000.00.

In order to have this Special Condition removed, the Oregon Office of Emergency Management shall transmit to FEMA Grants Management Specialist the *Cost Share Tracking and Subrecipient Monitoring Plan Memorandum to the Grant File* on or before 5:00 p.m. Pacific Daylight Time, December 31, 2015.

- 3) This special condition is hereby applied to the Oregon Office of Emergency Management's PDMC Management Cost sub-award, #PDMC-PJ-10-OR-2010-005. By this action, FEMA Region 10 shall withhold (in the PARS) all Federal Funds in the amount of \$300,000.00.

In order to have this Special Condition removed, the Oregon Office of Emergency Management shall transmit to FEMA Grants Management Specialist a Budget Detail of the approved and funded management and administrative costs on or before 5:00 p.m. Pacific Daylight Time, December 31, 2015.

PRE-DISASTER MITIGATION COMPETITIVE GRANT PROGRAM (PDMC)
FY2010 GRANT – EMS-2013-PC-0001, AMENDMENT 01

15b:

1. This constitutes an amendment to the award of federal funds approved under the Pre-disaster Mitigation Competitive grant program number EMS-2013-PC-0001. The performance period of this grant begins on October 1, 2013 and is amended to end on September 30, 2018.
2. This amendment approves funding and performance period for the following subaward:

<u>Subaward Number</u>	<u>Subrecipient</u>	<u>Performance period</u>
PDMC-PJ-10-OR-2010-001	Deschutes County	10/01/15 to 09/30/18
PDMC-MC-10-OR-2010-005	OMD-OEM	10/01/15 to 09/30/18

3. To receive consideration, written requests to extend the performance period for the grant or any approved subaward must be received at DHS-FEMA Region X at least sixty (60) days prior to the end of the performance period identified in this document and conform to the requirements of the Pre-disaster Mitigation Grant Agreement Articles.
4. Required Financial (SF 425) and Performance Progress Reports (SF PPR) and hard copy correspondence shall be mailed to:

**Rob Little, Grants Management Specialist
DHS-FEMA Region X
130 228th Street SW
Bothell, WA 98021-9796**

Or emailed to: Robert.little2@fema.dhs.gov

5. In awarding contracts and agreements (including sub-awards) with Federal funds received under this award, the OMD-OEM shall ensure agreements include the provisions required by Federal statute and executive orders and their implementing regulations (44 CFR 13.36).
6. Federal Funding Accountability and Transparency Act requirements:

In accordance with 2 CFR §170.330 Appendix A, each action that subawards (does not include contracts) any of the funds received under this award to another entity in the amount of \$25,000 or more must be reported. Federal funds designated as Recovery funds defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 are excluded from the reporting requirement.

Each subaward action must be reported to <http://www.fsrs.gov> no later than the end of the month following the month in which the subaward was funded.

7. For subawards authorized to purchase property and equipment, Tangible Personal Property Reports (SF 428) and Real Property Status Reports (SF 429) are required during and after this award for equipment and property acquired, in whole or in part, with federal funds provided by this award.

Equipment means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provide that such definition would at least include all the equipment defined above.

Real property means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment

8. As a sub awarding or pass-through entity, the OMD-OEM shall:
- a. Ensure the subaward agreement with the subrecipient includes the clauses required by Federal statute and executive orders and their implementing regulations
 - b. Ensure the subrecipient is aware of requirements imposed upon them by Federal statute and regulation
 - c. Ensure the subaward includes a provision for compliance with 44 CFR 13.42
 - d. Conform any advances of funds made to the subgrantee to the same standards of timing and amount that apply to the cash advances by Federal agencies
 - e. Manage the day-to-day operations of the subaward support activities
 - f. Monitor subaward activities to assure compliance with applicable federal requirements and that subaward performance goals are being achieved
9. **ADDITIONAL REQUIREMENTS:** As a sub awarding or pass-through entity, the OMD-OEM shall:
- a. Ensure every participant/homeowner certification:
 1. Considers program income.
 2. Details non-Federal participation by type (cash, in-kind or third party donation).
 - b. Ensure every participant/homeowner transmits a complete and signed standardized certification.
 - c. Ensure every Deschutes County request for payment to OMD-OEM includes the following documents:
 - i. Contractor invoices with costs detailed by Best Management Practice(s).
 - ii. Documentation of program income (bills of sale for salvaged timber).

PRE-DISASTER MITIGATION COMPETITIVE GRANT PROGRAM (PDMC)

FY2010 GRANT – EMS-2013-PC-0001, AMENDMENT 01

- iii. Participant/homeowner in-kind/third party donation tracking sheet/certifications.
 - iv. Documentation to support Deschutes County Personnel, Fringe Benefits, Travel and other costs.
- d. Ensure Deschutes County includes a final summary sheet of in-kind contributions and third party donations at closeout.
 - e. Ensure Deschutes County validates project intake, completes work and conducts final compliance reviews and/or inspections.
 - f. Ensure Deschutes County performs only eligible work activities within the FEMA-approved EHP footprint areas and all conditions as stipulated by the county-by-county environmental assessment process and the approved Finding of No Significant Impact documents for Crook, Klamath and Deschutes Counties.
 - g. Ensure Deschutes County management and administrative costs do not exceed the program cap, inclusive of any management and administrative costs reimbursed to Crook and Klamath Counties (excludes project management costs).
 - h. Ensure the agreement with the Oregon Department of Forestry contains:
 - i. The clauses required by regulation.
 - ii. Provides details and specifications sufficient to evaluate programmatic monitoring of the wildfire mitigation project and ensure validation of work.
 - i. Maintain a contract administration system which ensures the Oregon Department of Forestry performs in accordance with the terms, conditions, and specifications of the agreement for services.
 - j. Ensure Oregon Department of Forestry request for payment to OMD-OEM includes documentation to support Oregon Department of Forestry Personnel, Fringe Benefits, Travel and other costs.

10. This amendment contains three (3) **SPECIAL CONDITIONS**

- a. The special condition is hereby applied to the Oregon Office of Emergency Management's PDMC sub-award to Deschutes County, #PDMC-PJ-10-OR-2010-001. By this action, FEMA Region 10 shall withhold (in the PARS) all Federal Funds in the amount of \$3,000,000.

In order to have this Special Condition removed, the Oregon Office of Emergency Management must demonstrate compliance with Agreement Article IX (a).

through g.) through periodic transmittal of payment requests for this subaward, including all supporting documentation, to the FEMA Grants Management Specialist for review and release of funds in the PARS on or before 5:00 p.m. Pacific Daylight Time, March 31, 2016.

- b. This special condition is hereby applied to the Oregon Office of Emergency Management's PDMC sub-award to Deschutes County, #PDMC-PJ-10-OR-2010-001. By this action, FEMA Region 10 shall withhold (in the PARS) all Federal Funds in the amount of \$3,000,000.00.

In order to have this Special Condition removed, the Oregon Office of Emergency Management shall transmit to the FEMA Grants Management Specialist the *Cost Share Tracking and Subrecipient Monitoring Plan Memorandum to the Grant File* on or before 5:00 p.m. Pacific Standard Time, December 31, 2015.

- c. This special condition is hereby applied to the Oregon Office of Emergency Management's PDMC Management Cost sub-award, #PDMC-PJ-10-OR-2010-005. By this action, FEMA Region 10 shall withhold (in the PARS) all Federal Funds in the amount of \$300,000.00.

In order to have this Special Condition removed, the Oregon Office of Emergency Management shall transmit to FEMA Grants Management Specialist a Budget Detail of the approved and funded management and administrative costs on or before 5:00 p.m. Pacific Daylight Time, December 31, 2015.

11. The *Pre-disaster Mitigation Standard Administrative Provisions*, the *Grant Agreement Articles*, the *Record of Environmental Consideration*, the *DHS - Standard Terms & Conditions*, and the aforementioned terms and conditions accompanying this FEMA-Form 76-10A are incorporated into the binding agreement for this award and any sub-award. All provisions contained therein must be followed.

PRE-DISASTER MITIGATION COMPETITIVE GRANT PROGRAM (PDMC)
 FY2010 GRANT – EMS-2013-PC-0001, AMENDMENT 01

Approved subawards under EMS-2013-PC-0001

Amend.	Subaward #	Subrecipient/ Project	Performance period	Federal Share	Non-federal Share	Total Project Cost
00	PDMC-PJ-10-OR-2010-004	Harney Electric Cooperative / Communication Site Mitigation	10/01/2013 To 09/30/2015	\$264,412.50	\$88,137.50	\$352,550.00
01	PDMC-PJ-10-OR-2010-001	Deschutes County/ Central Oregon Wildfire Mitigation	10/01/2015 To 09/30/2018	\$3,000,000.00	\$1,000,000.00	\$4,000,000.00
01	PDMC-MC-10-OR-2010-005	OMD-OEM/ Central Oregon Wildfire Mitigation Management Cost	10/01/2015 To 09/30/2018	\$300,000.00	\$100,000.00	\$400,000.00

FEDERAL EMERGENCY MANAGEMENT AGENCY
OBLIGATING DOCUMENT FOR AWARD/AMENDMENT

O.M.B. NO. J087-0205
Expires February 29, 2004

1. AGREEMENT NO. FMS-2013-PC-0001	2. AMENDMENT NO. 1	3. RECIPIENT NO. 93-6001775	4. TYPE OF ACTION <input checked="" type="checkbox"/> GRANT <input type="checkbox"/> CA <input type="checkbox"/> AWARD <input checked="" type="checkbox"/> AMENDMENT	5. CONTROL NO. S451967NPC13, S452001N, PC15
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6. RECIPIENT NAME AND ADDRESS Oregon Emergency Management, PO Box 14370 Salem, OR 97308-5062	7. ISSUING FEMA OFFICE AND ADDRESS FEMA Region X 130 228th Street SW Riverview, WA 98021-9766	8. PAYMENT OFFICE AND ADDRESS SAME AS 7
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9. NAME OF RECIPIENT PROJECT OFFICER Chris Folia	PHONE NO. 503-378-2911	10. NAME OF FEMA PROJECT OFFICER Brandon Sweeza	PHONE NO. 425-487-2022
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11. EFFECTIVE DATE OF THIS ACTION 09/21/2015	12. METHOD OF PAYMENT <input type="checkbox"/> FHS SMARTLINK <input type="checkbox"/> SF 270 <input checked="" type="checkbox"/> OTHER	13. ASSISTANCE ARRANGEMENT <input type="checkbox"/> COST REIMBURSEMENT <input checked="" type="checkbox"/> COST SHARING <input type="checkbox"/> OTHER	14. PERFORMANCE PERIOD From: 10/01/2015 To: 09/30/2018 BUDGET PERIOD From: 10/01/2013 To: 09/30/2018
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15. DESCRIPTION OF ACTION
a. (Indicate funding data for awards or financial changes)

PROGRAM NAME ACRONYM	CFDA NO.	ACCOUNTING DATA (ACCS CODE) XXXX-XXX-XXXXXX-XXXX-XXXX-XXXX-X	PRIOR TOTAL AWARD	AMOUNT AWARDED THIS ACTION (+ or -)	CURRENT TOTAL AWARD	CUMULATIVE NON-FEDERAL COMMITMENT
PDMC PDMC	97.047	2013-49-K112-R102-4101-D 2015-89-K112-R102-4101-D	\$264,412.50 \$0.00	\$0.00 \$3,300,000.00	\$264,412.50 \$3,300,000.00	\$88,137.50 \$1,000,000.00
TOTALS			\$264,412.50	\$3,300,000.00	\$3,564,412.50	\$1,088,137.50

b. To describe changes other than funding data or financial changes, attach schedule and check here

16a. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address) YES NO

16b. FOR DISASTER PROGRAMS: RECIPIENT IS NOT REQUIRED TO SIGN
This assistance is subject to the terms and conditions attached to this award notice or incorporated by reference in program legislation or regulation cited above

17. RECIPIENT SIGNATORY OFFICIAL (Name and Title) Dennis Signet - GRANTEE	DATE 09/23/2015
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18. FEMA SIGNATORY OFFICIAL (Name and Title) ROBERT LITTLE - Assistant Officer	DATE 09/25/2015
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FEMA PDM Program

Project Site Documentation for Wildfire Fuels Reduction Projects

Site Information

Landowner Name (print): _____
Mailing Address: _____
Mailing City/State/Zip: _____
Property Address (or taxlot): _____ Size (acres) _____
Phone: _____ eMail: _____

Pre-Mitigation Assessment

Number of acres proposed for treatment: _____

Provided photos of pre-mitigation conditions.

Type of Work Proposed	Site Characteristics Requiring Additional Protection
<input type="checkbox"/> Create defensible space: distance around structures (ft.): _____ number of structures: _____	<input type="checkbox"/> Stream
<input type="checkbox"/> Clear roof and gutters	<input type="checkbox"/> Lake
<input type="checkbox"/> Reduce fuels along driveway	<input type="checkbox"/> Wetland
<input type="checkbox"/> Ladder fuel reduction	<input type="checkbox"/> Sensitive bird site
<input type="checkbox"/> Other site work (explain below):	<input type="checkbox"/> T&E species
	<input type="checkbox"/> Other: _____
	<input type="checkbox"/> No Issues

Additional Details

Specific Site Characteristics: Provide a description of the existing site conditions in terms of fuels/vegetation, structures/improvements, and topography.

Protected Natural Resources: Use the area below to describe sensitive resources on or next to the property which require protection. Include water bodies, wetlands, wildlife sites, etc. by name or other identifiers.

Tree and Vegetation Retention/Vegetative Buffers: Describe the vegetative buffers and other trees/vegetation that will be retained during and after operations to prevent damage to any protected natural resources.

Practices

Describe the specific fuels treatment practices that will be utilized to protect the identified sensitive resources.

I certify that the above information provided in the Pre-Mitigation Assessment is true and correct:

Landowner Signature: _____ Date: _____

Subgrantee Rep.: _____ Signature: _____ Date: _____

Post-Mitigation Verification

- There were changes to the work proposed and/or site conditions and resource protections presented in the Pre-Mitigation Assessment? A description of these changes is attached or described below.
- Provided photos of post-mitigation site conditions.
- Entered into GIS database

I certify that the above information provided in the Post-Mitigation Verification is true and correct and that non-federal resources were used in performing the work described in the match valuation above:

Landowner Signature: _____ Date: _____

Subgrantee Rep.: _____ Signature: _____ Date: _____



FEMA

FINDING OF NO SIGNIFICANT IMPACT
Central Oregon Wildfire Mitigation Project – Deschutes County
FEMA-PDMC-PJ-10-OR-2010-001

Deschutes County, Oregon has applied for fiscal year 2010 funding under the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) Pre-Disaster Mitigation (PDM) grant program for a wildfire hazard mitigation project. The Central Oregon Wildfire Mitigation Project includes vegetative fuels reduction activities primarily around residential structures in the following target communities: Black Butte Ranch, Central Oregon Irrigation District (COID) Brookwood, DBLT Whychus Creek/Squaw Creek Estates, Deschutes River Woods, DRRH6, Lane Knoils, Panoramic Estates, Skyliners, TNC Stevens Canyon, and Tollgate. These communities are in the Wildland-Urban Interface and are determined to be at high to extreme risk from wildfire hazards. This grant program is administered by FEMA, through Oregon Emergency Management, to fund pre-disaster mitigation planning and projects that primarily address natural hazards, such as wildfires.

The project areas comprise approximately 6,834 acres with 4,242 lots. The Proposed Action would reduce fuels through vegetation removal and creation of defensible spaces on about 1,200 acres distributed within the target communities. Project activities would occur in the project area on properties that were developed prior to the County's existing wildfire safety land development codes. Although the focus of defensible space activities will be around residential structures, work may also occur in common areas within the target neighborhoods using the same vegetation removal methodology. Furthermore, treatment activities in Brookwood also include creating defensible space along a portion of the COID's irrigation pipe, considered critical infrastructure. The Proposed Action consists of the following components which will be implemented by Deschutes County in coordination with local fire departments or emergency service providers, utilities, neighborhood homeowners associations, and participating property owners:

- Plan, supervise, manage, and administer project activities and funding.
- Develop and adopt program criteria, policies, and operating guidelines.
- Communicate project readiness to property owners and compile a working inventory of participants.
- Conduct assessments of participating properties, determine appropriate treatment strategies, establish buffers for avoidance areas, and convey work restrictions.
- Hire contractors or use County staff to implement treatment measures where participating property owners need assistance, and to haul and dispose of curbside vegetative debris.
- Inspect treated properties for compliance.
- Administer grant funds, manage matching contributions, and authorize and monitor expenditures.
- Monitor and evaluate program effectiveness and adjust if needed to achieve treatment goals.
- Prepare and submit status reports and communicate project results to OEM.
- Explore ways to make the program self-sustaining over the long term.

Finding of No Significant Impact

Deschutes County

Page 2 of 3

The defensible space would be created consistent with Firewise Program guidelines; sponsored by the U.S. Forest Service, U.S. Department of the Interior, and National Association of State Foresters; which include the following:

- Create a defensible space zone with at least a 30-foot radius around a structure's foundation as a primary fuel break. The radius may be expanded to provide additional defensible space around structures on steep slopes.
- Plant grass and small islands of fire-resistant plants in the defensible space.
- Trim trees in the defensible space so the lowest branches are 6 to 10 feet above the ground.
- Space plants in the defensible space so the plants or plant canopies do not touch; use wider spacing along slopes.
- Plant fire- or drought-resistant plants in the defensible space.
- Do not remove all vegetation in the defensible space because doing so can increase soil erosion, especially on sloped areas, which are found in much of the project area.

These guidelines will be augmented by the County's fuels reduction requirements, intended to mirror the Oregon Forestland-Urban Interface Fire Protection Act of 1997 (Senate Bill 360) standards. The requirements also describe a secondary fuel break which would extend 20 to 70 feet depending on the risk classification and the type of roofing on the structure.

Examples of the types of vegetation to be treated are ponderosa pines (*Pinus ponderosa*), Douglas firs (*Pseudotsuga menziesii*), lodgepole pines (*Pinus contorta*), junipers (*Juniperus occidentalis*), sagebrush, bitterbrush, and invasive species. Ladder fuels and other biomass would be treated using chainsaws, clippers, brush mowers, and masticators. Vegetative debris would be chipped onsite or hauled away and disposed of at one of the Deschutes County transfer station and recycling centers in Bend, Black Butte Ranch (collection site), La Pine, Redmond, or Sisters. In DBLT Whychus Creek/Squaw Creek Estates and TNC Stevens Canyon, disposal may also include burning of slash.

Limited ground disturbance would occur during fuel-reduction activities. No work is planned in wetlands or water bodies. Per Oregon Department of Forestry (ODF) water protection rules, vegetation management activities would be restricted within riparian management areas between 10 to 100 feet from a stream's ordinary high water mark (OHWM) depending on the size of the stream and water classification. Riparian management area restrictions would include retaining understory vegetation within 10 feet of the OHWM, trees within 20 feet of the OHWM, all trees leaning over a channel, and all downed wood and snags.

The site assessment and treatment plan would be documented for each participating property using the checklist in the EA. It would also document compliance with the attached conditions and mitigation measures. Participating property owners may provide personal labor and/or materials and commit to maintain the property's defensible space once established for 5 years.

In accordance with the National Environmental Policy Act (NEPA) of 1969 and FEMA's implementing regulations, FEMA prepared an Environmental Assessment (EA) to identify and evaluate potential environmental effects resulting from the alternatives presented in the EA and to

Finding of No Significant Impact
Deschutes County
Page 3 of 4

determine whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI). Alternatives evaluated in the EA include: 1) No Action, and 2) the Proposed Action to reduce wildfire damage risks through creation of defensible space and fuels reduction around residential properties. Alternative methods to reduce wildfire risks were considered but not carried forth and are described in the EA. The Draft EA was made available for public review and comment on December 19, 2014; no substantive comments were received following a 30 day comment period. The Proposed Action is the preferred alternative because the No Action alternative would not address the purpose and need stated in the EA and no other practical alternatives were identified.

FINDINGS

Based upon the PDM grant application, final EA, and Attachment A, and in accordance with 1) FEMA's regulations in 44 CFR Part 10 for environmental consideration, including Executive Orders (EOs) addressing floodplains (EO 11988), wetlands (EO 11990), and environmental justice (EO 12898); and 2) the Council of Environmental Quality's regulations in 40 CFR Chapter 5 for implementing NEPA, FEMA determined the proposed project will not significantly affect the quality of the natural and human environment. As a result of this FONSI, an EIS will not be prepared (44 CFR Part 10.8) and the project, as described in the grant application, attached EA, and following conditions may proceed.

APPROVAL



Mark G. Eberlein
Regional Environmental Officer
FEMA Region 10

3-9-2015

Date

Finding of No Significant Impact

Deschutes County

Page 4 of 4

Attachment A:

PERMITTING, PROJECT CONDITIONS, AND MITIGATION MEASURES

Deschutes County shall implement the Proposed Action as outlined above and comply with the following project conditions and mitigation measures:

- If vegetative debris is to be disposed of through burning slash piles onsite, appropriate notification to the pertinent fire department and adherence to their burn restrictions will be required.
- Fuels reduction activities must adhere to ODF riparian management area restrictions.
- Fuels reduction activities in wetlands in the target communities will be avoided. If wetlands cannot be avoided, additional analysis and approval by FEMA of proposed activities and the potentially affected wetland on the project site will be required prior to working in the wetland.
- Work is prohibited within 100 feet of the OHWM of the Deschutes River at DRRH6, COID Brookwood, and Deschutes River Woods. The purpose of this condition is to avoid potential impacts to Endangered Species Act-listed aquatic species.
- Clearing of the project area, including the removal of vegetation, during the migratory bird nesting period between April 15 and July 31, has the potential to impact active migratory bird nests. The proposed project is still subject to the prohibitions of the Migratory Bird Treaty Act which specifically protects migratory bird nests from possession, sale, purchase, barter, transport, import, export and take. The USFWS allows empty or abandoned nests to be removed and destroyed without a permit as long as they are not taken into possession. Please see: <http://www.fws.gov/migratorybirds/mbpermits/PoliciesHandbooks/MBPM-2.nest.PDF>. The applicant is responsible for obtaining and complying with any necessary permits from USFWS and documenting it on the project site assessment/treatment plan.
- Project activities would be prohibited between March 1 and July 31 in the Skyliners project area, to avoid potential disturbance of northern spotted owl nesting activity.
- To minimize the potential for impacts to known archeological resources within the target communities (see EA), the County will be required determine if a participating property has or is close to a known site. Site locations will be provided separately and characterized as avoidance areas, details of sites must remain confidential. Fuels reduction activities must be avoided within the perimeter of the recorded site location plus a 250 feet buffer.
- The County is responsible for selecting, implementing, monitoring, and maintaining Best Management Practices to minimize ground disturbance, control erosion and sedimentation, reduce spills and pollution, and provide habitat protection. To the maximum extent practicable, vegetation removal activities beyond the immediate defensible space around a structure that involve use of mechanized equipment should be conducted in dry soil conditions, be equipped with rubber tires, and equipment staged on existing roads or previously disturbed areas.
- In the event that potentially significant cultural resources are discovered during project activities, and in compliance with State and Federal laws protecting cultural resources, including Section 106 of the NHPA, work in the immediate vicinity will cease, the area will be secured, and the SHPO and FEMA will be notified.
- Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other laws and EOs, before implementation.



FEMA

FINDING OF NO SIGNIFICANT IMPACT
Central Oregon Wildfire Mitigation Project – Crook County
FEMA-PDMC-PJ-10-OR-2010-001

Crook County, Oregon has applied through Deschutes County, for fiscal year 2010 funding under the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) Pre-Disaster Mitigation (PDM) grant program for a wildfire hazard mitigation project. The Central Oregon Wildfire Mitigation Project will be managed by Deschutes County. Crook County plans vegetative fuels reduction activities primarily around residential structures in the following target communities: Prineville-Crook County Airport (Airport), Grizzly, Juniper Canyon, Marks Creek, Millican Road, Ochoco Reservoir, Powell Butte 1, and Powell Butte 2. These communities are in the Wildland-Urban Interface and are determined to be at high to extreme risk from wildfire hazards. This grant program is administered by FEMA, through Oregon Emergency Management, to fund pre-disaster mitigation planning and projects that primarily address natural hazards, such as wildfires.

The project areas comprise approximately 11,633 acres with 4,357 lots. The Proposed Action would reduce fuels through vegetation removal and creation of defensible spaces on about 1,200 acres distributed within the target communities. Project activities would occur in the project area on properties that were developed prior to the County's existing wildfire safety land development codes. The Proposed Action consists of the following components which will be implemented by Crook County through its *Fire Ready* program in coordination with local fire and rescue departments or other local emergency service providers and participating property owners:

- Plan, supervise, manage, and administer project activities and funding.
- Develop and adopt program criteria, policies, and operating guidelines.
- Communicate project readiness to property owners and compile a working inventory of participants.
- Conduct assessments of participating properties, determine appropriate treatment strategies, establish buffers for avoidance areas, and convey work restrictions.
- Hire contractors or use County staff to implement treatment measures where participating property owners need assistance, and to haul and dispose of curbside vegetative debris.
- Inspect treated properties for compliance.
- Administer grant funds, manage matching contributions, and authorize and monitor expenditures.
- Monitor and evaluate program effectiveness and adjust if needed to achieve treatment goals.
- Prepare and submit status reports and communicate project results to OEM.
- Explore ways to make the program self-sustaining over the long term.

Finding of No Significant Impact

Crook County

Page 2 of 4

The defensible space would be created consistent with Firewise Program guidelines; sponsored by the U.S. Forest Service, U.S. Department of the Interior, and National Association of State Foresters; which include the following:

- Create a defensible space zone with at least a 30-foot radius around a structure's foundation as a primary fuel break. The radius may be expanded to provide additional defensible space around structures on steep slopes.
- Plant grass and small islands of fire-resistant plants in the defensible space.
- Trim trees in the defensible space so the lowest branches are 6 to 10 feet above the ground.
- Space plants in the defensible space so the plants or plant canopies do not touch; use wider spacing along slopes.
- Plant fire- or drought-resistant plants in the defensible space.
- Do not remove all vegetation in the defensible space because doing so can increase soil erosion, especially on sloped areas, which are found in much of the project area.

These guidelines will be augmented by the County's fuels reduction requirements, intended to mirror the Oregon Forestland-Urban Interface Fire Protection Act of 1997 (Senate Bill 360) standards. The requirements also describe a secondary fuel break which would extend 20 to 70 feet depending on the risk classification and the type of roofing on the structure.

Examples of the types of vegetation to be treated are ponderosa pines (*Pinus ponderosa*), Douglas firs (*Pseudotsuga menziesii*), lodgepole pines (*Pinus contorta*), junipers (*Juniperus occidentalis*), sagebrush, bitterbrush, and invasive species. Ladder fuels and other biomass would be treated using chainsaws, clippers, brush mowers, and masticators. Vegetative debris would be chipped onsite, with some limited burning of piles, or hauled away and disposed of at the Crook County Transfer Station and Recycling Center in Prineville.

Limited ground disturbance would occur during fuel-reduction activities. No work is planned in wetlands or water bodies. Per Oregon Department of Forestry (ODF) water protection rules, vegetation management activities would be restricted within riparian management areas between 10 to 100 feet from a stream's ordinary high water mark (OHWM) depending on the size of the stream and water classification. Riparian management area restrictions would include retaining understory vegetation within 10 feet of the OHWM, trees within 20 feet of the OHWM, all trees leaning over a channel, and all downed wood and snags.

The site assessment and treatment plan would be documented for each participating property using the checklist in the EA. It would also document compliance with the attached conditions and mitigation measures. Participating property owners may provide personal labor and/or materials and commit to maintain the property's defensible space once established for 5 years.

In accordance with the National Environmental Policy Act (NEPA) of 1969 and FEMA's implementing regulations, FEMA prepared an Environmental Assessment (EA) to identify and evaluate potential environmental effects resulting from the alternatives presented in the EA and to

Finding of No Significant Impact

Crook County

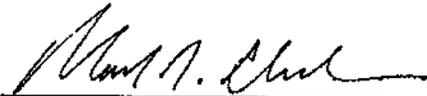
Page 3 of 4

determine whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI). Alternatives evaluated in the EA include: 1) No Action, and 2) the Proposed Action to reduce wildfire damage risks through creation of defensible space and fuels reduction around residential properties. Alternative methods to reduce wildfire risks were considered but not carried forth and are described in the EA. The Draft EA was made available for public review and comment on December 26, 2014; no substantive comments were received following a 30 day comment period. The Proposed Action is the preferred alternative because the No Action alternative would not address the purpose and need stated in the EA and no other practical alternatives were identified.

FINDINGS

Based upon the PDM grant application, final EA, and Attachment A, and in accordance with 1) FEMA's regulations in 44 CFR Part 10 for environmental consideration, including Executive Orders (EOs) addressing floodplains (EO 11988), wetlands (EO 11990), and environmental justice (EO 12898); and 2) the Council of Environmental Quality's regulations in 40 CFR Chapter 5 for implementing NEPA, FEMA determined the proposed project will not significantly affect the quality of the natural and human environment. As a result of this FONSI, an EIS will not be prepared (44 CFR Part 10.8) and the project, as described in the grant application, attached EA, and following conditions may proceed.

APPROVAL



Mark G. Eberlein
Regional Environmental Officer
FEMA Region 10

3-9-2015

Date

Finding of No Significant Impact

Crook County

Page 4 of 4

Attachment A:

PERMITTING, PROJECT CONDITIONS, AND MITIGATION MEASURES

Crook County shall implement the Proposed Action as outlined above and comply with the following project conditions and mitigation measures:

- If vegetative debris is to be disposed of through burning slash piles onsite, appropriate notification to and adherence to the Crook County Fire & Rescue's outdoor burning regulations will be required.
- Fuels reduction activities must adhere to ODF riparian management area restrictions.
- Fuels reduction activities in wetlands in the target communities will be avoided. If wetlands cannot be avoided, additional analysis and approval by FEMA of proposed activities and the potentially affected wetland on the project site will be required prior to working in the wetland.
- Clearing of the project area, including the removal of vegetation, during the migratory bird nesting period between April 15 and July 31, has the potential to impact active migratory bird nests. The proposed project is still subject to the prohibitions of the Migratory Bird Treaty Act which specifically protects migratory bird nests from possession, sale, purchase, barter, transport, import, export and take. The USFWS allows empty or abandoned nests to be removed and destroyed without a permit as long as they are not taken into possession. Please see: <http://www.fws.gov/migratorybirds/mbpermits/PoliciesHandbooks/MBPM-2.nest.PDF>. The applicant is responsible for obtaining and complying with any necessary permits from USFWS and documenting it on the project site assessment/treatment plan.
- For the Airport community work is prohibited during the golden eagle nesting period (January 15 to August 30), unless survey as described above, determined work during the nesting season would not result in disturbance or "take.
- To minimize the potential for impacts to known archeological resources within the target communities (see EA), the County will be required determine if a participating property has or is close to a known site. Site locations will be provided separately and characterized as avoidance areas, details of sites must remain confidential. Fuels reduction activities must be avoided within the perimeter of the recorded site location plus a 250 feet buffer.
- The County is responsible for selecting, implementing, monitoring, and maintaining Best Management Practices to minimize ground disturbance, control erosion and sedimentation, reduce spills and pollution, and provide habitat protection. To the maximum extent practicable, vegetation removal activities beyond the immediate defensible space around a structure that involve use of mechanized equipment should be conducted in dry soil conditions, be equipped with rubber tires, and equipment staged on existing roads or previously disturbed areas.
- In the event that potentially significant cultural resources are discovered during project activities, and in compliance with State and Federal laws protecting cultural resources, including Section 106 of the NHPA, work in the immediate vicinity will cease, the area will be secured, and the SHPO and FEMA will be notified.
- Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other laws and EOs, before implementation.



FEMA

FINDING OF NO SIGNIFICANT IMPACT
Central Oregon Wildfire Mitigation Project – Klamath County
FEMA-PDMC-PJ-10-OR-2010-001

Klamath County, Oregon has applied, through Deschutes County, for fiscal year 2010 funding under the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) Pre-Disaster Mitigation (PDM) grant program for a wildfire hazard mitigation project. The Central Oregon Wildfire Mitigation Project will be managed by Deschutes County. Klamath County plans vegetative fuels reduction activities primarily around residential structures in the following target communities: Bly Mountain, Chiloquin, Crescent Lake, Keno, and Scott Creek. These communities are in the Wildland-Urban Interface and are determined to be at high risk from wildfire hazards. This grant program is administered by FEMA, through Oregon Emergency Management, to fund pre-disaster mitigation planning and projects that primarily address natural hazards, such as wildfires.

The project areas comprise approximately 6,416 acres with 1,570 lots, and 670 structures. The Proposed Action would reduce fuels through vegetation removal and creation of defensible spaces on about 1,200 acres distributed within the target communities. Project activities would occur in the project area on properties that were developed prior to the County's existing wildfire safety land development codes. The Proposed Action consists of the following components which will be implemented by Klamath County in coordination with local fire departments and districts, and participating property owners:

- Plan, supervise, manage, and administer project activities and funding.
- Develop and adopt program criteria, policies, and operating guidelines.
- Communicate project readiness to property owners and compile a working inventory of participants.
- Conduct assessments of participating properties, determine appropriate treatment strategies, establish buffers for avoidance areas, and convey work restrictions.
- Hire contractors or use County staff to implement treatment measures where participating property owners need assistance.
- Inspect treated properties for compliance.
- Administer grant funds, manage matching contributions, and authorize and monitor expenditures.
- Monitor and evaluate program effectiveness and adjust if needed to achieve treatment goals.
- Prepare and submit status reports and communicate project results to OEM.
- Explore ways to make the program self-sustaining over the long term.

Finding of No Significant Impact

Klamath County

Page 2 of 5

The defensible space would be created consistent with Firewise Program guidelines; sponsored by the U.S. Forest Service, U.S. Department of the Interior, and National Association of State Foresters; which include the following:

- Create a defensible space zone with at least a 30-foot radius around a structure's foundation as a primary fuel break. The radius may be expanded to provide additional defensible space around structures on steep slopes.
- Plant grass and small islands of fire-resistant plants in the defensible space.
- Trim trees in the defensible space so the lowest branches are 6 to 10 feet above the ground.
- Space plants in the defensible space so the plants or plant canopies do not touch; use wider spacing along slopes.
- Plant fire- or drought-resistant plants in the defensible space.
- Do not remove all vegetation in the defensible space because doing so can increase soil erosion, especially on sloped areas, which are found in much of the project area.

These guidelines will be augmented by the County's fuels reduction requirements, intended to mirror the Oregon Forestland-Urban Interface Fire Protection Act of 1997 (Senate Bill 360) standards. The requirements pertain to, for example, dead and downed materials, tree and shrub thinning, and nonflammable construction materials. The requirements also describe a secondary fuel break which would extend 20 to 70 feet depending on the risk classification and the type of roofing on the structure.

Examples of the types of vegetation to be treated are ponderosa pines (*Pinus ponderosa*), Douglas firs (*Pseudotsuga menziesii*), lodgepole pines (*Pinus contorta*), junipers (*Juniperus occidentalis*), sagebrush, bitterbrush, and invasive species. Ladder fuels and other biomass would be treated using chainsaws, clippers, brush mowers, and masticators. Vegetative debris would be chipped and spread onsite, with some limited burning of piles, or hauled away and disposed of at the Klamath County Transfer Station and Recycling Centers at Chemult, Chiloquin, Crescent, Keno, and Sprague River.

Limited ground disturbance would occur during fuel-reduction activities. No work is planned in wetlands or water bodies. Per Oregon Department of Forestry (ODF) water protection rules, vegetation management activities would be restricted within riparian management areas between 10 to 100 feet from a stream's ordinary high water mark (OHWM) depending on the size of the stream and water classification. Riparian management area restrictions would include retaining understory vegetation within 10 feet of the OHWM, trees within 20 feet of the OHWM, all trees leaning over a channel, and all downed wood and snags.

The site assessment and treatment plan would be documented for each participating property using the checklist in the EA. It would also document compliance with the attached conditions and mitigation measures. Participating property owners may provide personal labor and/or materials and commit to maintain the property's defensible space once established for 5 years.

In accordance with the National Environmental Policy Act (NEPA) of 1969 and FEMA's implementing regulations, FEMA prepared an Environmental Assessment (EA) to identify and evaluate potential environmental effects resulting from the alternatives presented in the EA and to

Finding of No Significant Impact

Klamath County

Page 3 of 5

determine whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI). Alternatives evaluated in the EA include: 1) No Action, and 2) the Proposed Action to reduce wildfire damage risks through creation of defensible space and fuels reduction around residential properties. Alternative methods to reduce wildfire risks were considered but not carried forth and are described in the EA. The Draft EA was made available for public review and comment on December 15, 2014; no substantive comments were received following a 30 day comment period. The Proposed Action is the preferred alternative because the No Action alternative would not address the purpose and need stated in the EA and no other practical alternatives were identified.

FINDINGS

Based upon the PDM grant application, final EA, and Attachment A, and in accordance with 1) FEMA's regulations in 44 CFR Part 10 for environmental consideration, including Executive Orders (EOs) addressing floodplains (EO 11988), wetlands (EO 11990), and environmental justice (EO 12898); and 2) the Council of Environmental Quality's regulations in 40 CFR Chapter 5 for implementing NEPA, FEMA determined the proposed project will not significantly affect the quality of the natural and human environment. As a result of this FONSI, an EIS will not be prepared (44 CFR Part 10.8) and the project, as described in the grant application, attached EA, and following conditions may proceed.

APPROVAL



Mark G. Eberlein
Regional Environmental Officer
FEMA Region 10

3-9-2015

Date

Attachment A:

PERMITTING, PROJECT CONDITIONS, AND MITIGATION MEASURES

Klamath County shall implement the Proposed Action as outlined above and comply with the following project conditions and mitigation measures:

- If vegetative debris is to be disposed of through burning piles onsite, appropriate notification or permitting must be secured from the local fire departments or Klamath County Air Quality.
- Fuels reduction activities must adhere to ODF riparian management area restrictions. Project area specific stream buffers would be established during the initial site assessment for property owner participants.
- Fuels reduction activities in wetlands in the target communities will be avoided. If wetlands cannot be avoided, additional analysis and approval by FEMA of proposed activities and the potentially affected wetland on the project site will be required prior to working in the wetland.
- Work is prohibited within 100 feet of the OHWM of Crescent Creek at the Crescent Lake community, the Klamath River at the Keno community, and the Sprague River and Williamson River at the Chiloquin community. The purpose of this condition is to avoid potential impacts to Endangered Species Act-listed aquatic species.
- Work would be prohibited in the southern-most Keno community between November and March of each year to avoid impacts to the Bear Valley bald eagle winter roost.
- Clearing of the project area, including the removal of vegetation, during the migratory bird nesting period between April 15 and July 31, has the potential to impact active migratory bird nests. The proposed project is still subject to the prohibitions of the Migratory Bird Treaty Act which specifically protects migratory bird nests from possession, sale, purchase, barter, transport, import, export and take. The USFWS allows empty or abandoned nests to be removed and destroyed without a permit as long as they are not taken into possession. Please see: <http://www.fws.gov/migratorybirds/mbpermits/PoliciesHandbooks/MBPM-2.nest.PDF>. The applicant is responsible for obtaining and complying with any necessary permits from USFWS and documenting it on the project site assessment/treatment plan.
- To minimize the potential for impacts to known archeological resources within the target communities (see EA), the County will be required determine if a participating property has or is close to a known site. Site locations will be provided separately and characterized as avoidance areas, details of sites must remain confidential. Fuels reduction activities must be avoided within the perimeter of the recorded site location plus a 250 foot buffer. This information must be documented on the project site assessment/treatment plan.
- The County is responsible for selecting, implementing, monitoring, and maintaining Best Management Practices to minimize ground disturbance, control erosion and sedimentation, reduce spills and pollution, and provide habitat protection. To the maximum extent practicable, vegetation removal activities beyond the immediate defensible space around a structure that involve use of mechanized equipment should be conducted in dry soil conditions, be equipped with rubber tires, and equipment staged on existing roads or previously disturbed areas.

Finding of No Significant Impact

Klamath County

Page 5 of 5

- In the event that potentially significant cultural resources, including human remains, are discovered during project activities, and in compliance with State and Federal laws protecting cultural resources and human remains, including Section 106 of the NHPA, work in the immediate vicinity will cease, the area will be secured, and the SHPO and FEMA will be notified in order to evaluate the discovery.
- Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other laws and EOs, before implementation.

EXHIBIT B

Federal Requirements and Certifications

I. General. Subrecipient agrees to comply with all federal requirements applicable to this Agreement, including without limitation financial management and procurement requirements and maintain accounting and financial records in accordance with Generally Accepted Accounting Principles (GAAP) and financial, administrative, and audit requirements as set forth in the most recent versions of the Code of Federal Regulations (CFR), Department of Homeland Security (DHS) program legislation, and DHS/Federal Emergency Management Agency (FEMA) regulations.

II. Specific Requirements and Certifications

- A. Debarment, Suspension, Ineligibility and Voluntary Exclusion.** Subrecipient certifies by accepting funds under this Agreement that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, nor voluntarily excluded from participation in this transaction by any Federal department or agency (2 CFR 200.213).
- B. Standard Assurances and Certifications Regarding Lobbying.** Subrecipient is required to comply with 2 CFR 200.450 and the authorities cited therein, including 31 USC § 1352 and *New Restrictions on Lobbying* published at 55 Federal Register 6736 (February 26, 1990).
- C. Compliance with Applicable Law.** Subrecipient agrees to comply with all applicable laws, regulations, program guidance, and guidelines of the State of Oregon, the Federal Government and OEM in the performance of this Agreement, including but not limited to:
1. Administrative Requirements set forth in 2 CFR Part 200, including without limitation:
 - a. Using Grant Funds only in accordance with applicable cost principles described in 2 CFR Subpart E, including that costs allocable to this Grant may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations or the terms of federal awards or other reasons;
 - b. Subrecipient must establish a Conflict of Interest policy applicable to any procurement contract or subawards made under this Agreement in accordance with 2 CFR 200.112. Conflicts of Interest must be disclosed in writing to the OEM within 5 calendar days of discovery including any information regarding measures to eliminate, neutralize, mitigate or otherwise resolve the conflict of interest.
 2. USA Patriot Act of 2001, which amends 18 USC §§ 175-175c.
 3. Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 USC 2225(a).
 4. 31 USC 3729, prohibiting recipients of federal payments from submitting a false claim for payment. See 38 USC 3801-3812 detailing administrative remedies for false claims and statements made.
 5. 10 USC §§ 2409 and 2324 and 41 USC §§ 4712, 4304 and 4310 requiring compliance with whistleblower protections, as applicable.
 6. No supplanting. Grant Funds under this Agreement shall not replace funds that have been budgeted for the same purposes through non-Federal sources. Subrecipient may be required to

demonstrate and document that a reduction in non-Federal resources occurred for reasons other than receipt or expected receipt of Federal funds.

D. Non-discrimination and Civil Rights Compliance, Equal Employment Opportunity Program, and Services to Limited English Proficient (LEP) Persons.

- 1. Non-discrimination and Civil Rights Compliance.** Subrecipient, and all its contractors and subcontractors, assures compliance with all applicable nondiscrimination laws, including but not limited to:
 - a. Title VI of the Civil Rights Act of 1964, 42 USC § 2000d et seq., as amended, and related nondiscrimination regulations in 6 CFR Part 21 and 44 CFR Part 7.
 - b. Title VIII of the Civil Rights Act of 1968, 42 USC § 3601, as amended, and implementing regulations at 6 CFR Part 21 and 44 CFR Part 7.
 - c. Titles I, II, and III of the Americans with Disabilities Act of 1990, as amended, 42 USC §§ 12101 – 12213.
 - d. Age Discrimination Act of 1975, 42 USC § 6101 et seq.
 - e. Title IX of the Education Amendments of 1972, as amended, 20 USC § 1681 et seq.
 - f. Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794, as amended.
 - g. If, during the past three years, Subrecipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, Subrecipient must provide a letter certifying that all documentation of such proceedings, pending or completed, including outcome and copies of settlement agreements will be made available to OEM upon request. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against Subrecipient, or Subrecipient settles a case or matter alleging such discrimination, Subrecipient must forward a letter to OEM summarizing the finding and making a copy of the complaint and findings available to OEM.
- 2. Equal Employment Opportunity Program.** Subrecipient, and any of its contractors and subcontractors, certifies that an equal employment opportunity program will be in effect on or before the effective date of this Agreement. Subrecipient must maintain a current copy on file.
- 3. Services to Limited English Proficient (LEP) Persons.** Subrecipient, and any of its contractors and subcontractors agrees to comply with the requirements Title VI of the Civil Rights Act of 1964 and Executive Order 13166, improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin and resulting agency guidance, national origin discrimination includes discrimination on the basis of LEP. To ensure compliance with Title VI, Subrecipient must take reasonable steps to ensure that LEP persons have meaningful access to your programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Subrecipient is encouraged to consider the need for language services for LEP persons served or encountered both in developing budgets and in conducting programs and activities. For assistance additional information regarding LEP obligations, please see <http://www.lep.gov>.

E. Environmental and Historic Preservation.

1. Subrecipient shall comply with all applicable Federal, State, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable environmental and historic preservation laws including but not limited to:
 - a. National Environmental Policy Act of 1969, as amended, 42 USC § 4321, and related FEMA regulations, 44 CFR Part 10.
 - b. National Historic Preservation Act, 16 USC § 470 et seq.
 - c. Endangered Species Act, 16 USC § 1531 et seq.
 - d. Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).

Failure of Subrecipient to meet Federal, State, and local EHP requirements and obtain applicable permits may jeopardize Federal funding.

2. Subrecipient shall not undertake any project without prior EHP approval by FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings, structures, and objects that are 50 years old or greater. Subrecipient must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements. If ground disturbing activities occur during project implementation, Subrecipient must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, Subrecipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office. Any construction activities that have been initiated without the necessary EHP review and approval will result in a non-compliance finding and will not be eligible for FEMA funding.
3. For any of Subrecipient's or its contractors' or subcontractors' existing programs or activities that will be funded by these grant funds, Subrecipient, upon specific request from the U.S. DHS, agrees to cooperate with the U.S. DHS in any preparation by the U.S. DHS of a national or program environmental assessment of that funded program or activity.

F. Procurement of recovered materials. Subrecipient must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Recovery and Conservation Act and in accordance with Environmental Protection Agency guidelines at 40 CFR Part 247.

G. SAFECOM. If the Grant Funds are for emergency communication equipment and related activities, Subrecipient must comply with SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

H. Drug Free Workplace Requirements. Subrecipient agrees to comply with the requirements of the Drug-Free Workplace Act of 1988, 41 USC § 701 et seq., as amended, and implementing regulations at 2 CFR Part 3001 which require that all organizations receiving grants (or subgrants) from any Federal agency agree to maintain a drug-free workplace. Subrecipient must notify this

office if an employee of Subrecipient is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment.

- I. Human Trafficking (2 CFR Part 175).** Subrecipient must comply with requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, 22 USC § 7104, as amended and 2 CFR § 175.15.
- J. Fly America Act of 1974.** Subrecipient agrees to comply with the requirements of the Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 USC § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, (49 USC § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to the Comptroller General Decision B138942.
- K. Activities Conducted Abroad.** Subrecipient agrees to comply with the requirements that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.
- L. Acknowledgement of Federal Funding from DHS.** Subrecipient agrees to comply with requirements to acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.
- M. Copyright.** Subrecipient shall affix the applicable copyright notices of 17 USC § 401 or 402 and an acknowledgement of Government sponsorship (including Subgrant number) to any work first produced under an award unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations). For any scientific, technical, or other copyright work based on or containing data first produced under this Agreement, including those works published in academic, technical or professional journals, symposia proceedings, or similar works, Subrecipient grants the Government a royalty-free, nonexclusive and irrevocable license to reproduce, display, distribute copies, perform, disseminate, or prepare derivative works, and to authorize others to do so, for Government purposes in all such copyrighted works.
- N. Patents and Intellectual Property Rights.** Unless otherwise provided by law, Subrecipient is subject to the Bayh-Dole Act, 35 USC § 200 et seq., as amended, including requirements governing the development, reporting and disposition of rights to inventions and patents resulting from financial assistance awards, 37 CFR Part 401, and the standard patent rights clause in 37 CFR § 401.14.
- O. Use of DHS Seal, Logo and Flags.** Subrecipient agrees to obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.
- P. Personally Identifiable Information (PII).** Subrecipient, if it collects PII, is required to have a publically available privacy policy that described what PII they collect, how they use it, whether they share it with third parties and how individuals may have their PII corrected where appropriate.

Q. Federal Debt Status. Subrecipient shall be non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, benefit overpayments and any amounts due under Section 11.c of this Agreement. See OMB Circular A-129 for additional information and guidance.

R. Construction Contracts.

1. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
2. When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”).
3. Contracts awarded by Subrecipient in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

S. Clean Air, Water. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).

T. Funding Agreements. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

U. Executive Compensation. Within thirty (30) days of the Effective Date of this Agreement, Subrecipient agrees to report to OEM the names and compensation of each of the Subrecipient’s five most highly compensated executives for the completed fiscal year preceding this Agreement if in the preceding fiscal year Subrecipient received: (i) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards) and (ii) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards) and (iii) the public does not have access to information about the compensation of the executives

through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

- V. **Animal Welfare Act.** All recipients of financial assistance will comply with the requirements of the *Animal Welfare Act*, as amended (7 U.S.C. § 2131 *et seq.*), which requires that minimum standards of care and treatment be provided for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public. Recipients must establish appropriate policies and procedures for the humane care and use of animals based on the *Guide for the Care and Use of Laboratory Animals* and comply with the *Public Health Service Policy and Government Principles Regarding the Care and Use of Animals*.
- W. **Clean Air Act of 1970 and Clean Water Act of 1977.** All recipients of financial assistance will comply with the requirements of 42 U.S.C. § 7401 *et seq.* and Executive Order 11738, which provides for the protection and enhancement of the quality of the nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation's waters is considered research for other purposes.
- X. **Protection of Human Subjects.** All recipients of financial assistance will comply with the requirements of the Federal regulations at 45 CFR Part 46, which requires that recipients comply with applicable provisions/law for the protection of human subjects for purposes of research. Recipients must also comply with the requirements in DHS Management Directive 026-04, *Protection of Human Subjects*, prior to implementing any work with human subjects. For purposes of 45 CFR Part 46, research means a systematic investigation, including research, development, testing, and evaluation, designed to develop or contribute to general knowledge. Activities that meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program that is considered research for other purposes. The regulations specify additional protections for research involving human fetuses, pregnant women, and neonates (Subpart B); prisoners (Subpart C); and children (Subpart D). The use of autopsy materials is governed by applicable State and local law.
- Y. **Environmental Policy Act (NEPA) of 1969.** All recipients of financial assistance will comply with the requirements of the *National Environmental Policy Act (NEPA)*, as amended, 42 U.S.C. § 4331 *et seq.*, which establishes national policy goals and procedures to protect and enhance the environment, including protection against natural disasters. To comply with NEPA for its grant-supported activities, DHS requires the environmental aspects of construction grants (and certain non-construction projects as specified by the Component and awarding office) to be reviewed and evaluated before final action on the application.
- Z. **National Flood Insurance Act of 1968.** All recipients of financial assistance will comply with the requirements of Section 1306(c) of the *National Flood Insurance Act*, as amended, which provides for benefit payments under the Standard Flood Insurance Policy for demolition or relocation of a structure insured under the Act that is located along the shore of a lake or other body of water and that is certified by an appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or *Flood Disaster Protection Act of 1973*

- AA. Flood Disaster Protection Act of 1973.** All recipients of financial assistance will comply with the requirements of the *Flood Disaster Protection Act of 1973*, as amended (42 U.S.C. § 4001 et seq.), which provides that no Federal financial assistance to acquire, modernize, or construct property may be provided in identified flood-prone communities in the United States, unless the community participates in the National Flood Insurance Program and flood insurance is purchased within one year of the identification. The flood insurance purchase requirement applies to both public and private applicants for DHS support. Lists of flood-prone areas that are eligible for flood insurance are published in the *Federal Register* by FEMA. 45 CFR Part 46.
- BB. Coastal Wetlands Planning, Protection, and Restoration Act of 1990.** All recipients of financial assistance will comply with the requirements of Executive Order 11990, which provides that federally funded construction and improvements minimize the destruction, loss, or degradation of wetlands. The Executive Order provides that, in furtherance of Section 101(b)(3) of NEPA (42 U.S.C. § 4331(b)(3)), Federal agencies, to the extent permitted by law, must avoid undertaking or assisting with new construction located in wetlands unless the head of the agency finds that there is no practicable alternative to such construction, and that the proposed action includes all practicable measures to minimize harm to wetlands that may result from such use. In making this finding, the head of the agency may take into account economic, environmental, and other pertinent factors. The public disclosure requirement described above also pertains to early public review of any plans or proposals for new construction in wetlands. This is codified at 44 CFR Part 9.
- CC. USA Patriot Act of 2001.** All recipients of financial assistance will comply with the requirements of the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act* (USA PATRIOT Act), which amends 18 U.S.C. §§ 175-175c. Among other things, it prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose. The act also establishes restrictions on access to specified materials. "Restricted persons," as defined by the act, may not possess, ship, transport, or receive any biological agent or toxin that is listed as a select agent.

EXHIBIT C

Subagreement Insurance Requirements

GENERAL.

Subrecipient shall require in its first tier subagreements with entities that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELIATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the subagreement commences, and ii) maintain the insurance in full force throughout the duration of the subagreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to State. Subrecipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Subrecipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Subrecipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Subrecipient permit work under a subagreement when Subrecipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a subagreement in which Subrecipient is a Party.

TYPES AND AMOUNTS.

i. WORKERS COMPENSATION. Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Employers liability insurance with coverage limits of not less than \$500,000 must be included.

ii. COMMERCIAL GENERAL LIABILITY.

Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to State. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by OEM:

Bodily Injury, Death and Property Damage:

\$500,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

iii. AUTOMOBILE Liability Insurance: Automobile Liability.

Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate

limits for "Commercial General Liability" and "Automobile Liability"). Automobile Liability Insurance must be in not less than the following amounts as determined by OEM:

Bodily Injury, Death and Property Damage:

\$500,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

ADDITIONAL INSURED. The Commercial General Liability Insurance and Automobile Liability insurance must include OEM, its officers, employees and agents as Additional Insureds but only with respect to the contractor's activities to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.

"TAIL" COVERAGE. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subcontract, for a minimum of 24 months following the later of: (i) the contractor's completion and Subrecipient's acceptance of all Services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and OEM may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If OEM approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE. The contractor or its insurer must provide 30 days' written notice to Subrecipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE. Subrecipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

EXHIBIT D

Information required by 2 CFR 200.331(a)

1. Federal Award Identification: Sub-grant - PDMC-PJ-10-OR-2010-001
 - (i) Sub-recipient name (which must match registered name in DUNS): DESCHUTES COUNTY
 - (ii) Sub-recipient's DUNS number: 030805147
 - (iii) Federal Award Identification Number (FAIN): EMS-2013-PC-0001, Amendment 1.
 - (iv) Federal Award Date: September 30, 2015
 - (v) Sub-award Period of Performance 10/1/15 through 9/30/18
 - (vi) Total Amount of Federal Funds Obligated by this Agreement: \$3,000,000.00
 - (vii) Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity including this agreement: \$3,000,000.00
 - (viii) Total Amount of Federal Award committed to the subrecipient by the pass-through entity: \$3,000,000.00
 - (ix) Federal award project description: CENTRAL OREGON WILDFIRE MITIGATION
 - (x) Name of Federal awarding agency: U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA)
 - (a) Name of Pass-through entity: Oregon Military Department, Office of Emergency Management
 - (b) Contact information for awarding official of the pass-through entity: Andrew Phelps, Director, P O Box 14370, Salem, OR 97309-5062
 - (xi) CFDA Number and Name: 97.047 Pre-Disaster Mitigation Grant
Amount: \$3,000,000.00
 - (xii) Is Award R&D? No
 - (xiii) Indirect cost rate for the Federal award: 0%
2. Subrecipient's indirect cost rate: 0%

DESCHUTES COUNTY DOCUMENT SUMMARY

(NOTE: This form is required to be submitted with ALL contracts and other agreements, regardless of whether the document is to be on a Board agenda or can be signed by the County Administrator or Department Director. If the document is to be on a Board agenda, the Agenda Request Form is also required. If this form is not included with the document, the document will be returned to the Department. Please submit documents to the Board Secretary for tracking purposes, and not directly to Legal Counsel, the County Administrator or the Commissioners. In addition to submitting this form with your documents, please submit this form electronically to the Board Secretary.)

Please complete all sections above the Official Review line.

Date:

Department:

Contractor/Supplier/Consultant Name:

Contractor Contact:

Contractor Phone #:

Type of Document: Grant Agreement

Goods and/or Services: This grant agreement provides \$3,000,000 for fuels reduction in communities located in Deschutes, Crook and Klamath Counties. Funding is provided through FEMA's Pre-Disaster Mitigation program, and is passed through Oregon Office of Emergency Management (OEM) to Deschutes County as the lead applicant. This funding requires a 25% (\$1,000,000) match. This funding should produce at least 3,780 acres of fuels treatment.

Background & History: Deschutes County was the lead applicant in applying for funding through FEMA's PDM program in 2010. Funding was tentatively awarded, however two past FEMA grants had to be resolved and closed and procedures for tracking match and documenting project participation on a lot by lot basis had to be established. Once that was complete FEMA conducted an Environmental Analysis with a Finding of No Significant Impact. Following those steps, FEMA completed an agreement with OEM. OEM has now provided Deschutes County with this agreement to obligate the funding and allow work to begin. Agreements with Crook and Klamath Counties will shortly be developed following this agreement.

Agreement Starting Date:

Ending Date:

Annual Value or Total Payment:

Insurance Certificate Received (check box)

Insurance Expiration Date:

Check all that apply:

- RFP, Solicitation or Bid Process
- Informal quotes (<\$150K)
- Exempt from RFP, Solicitation or Bid Process (specify – see DCC §2.37)

Funding Source: (Included in current budget? Yes No)

If **No**, has budget amendment been submitted? Yes No

