

**STATE OF OREGON DEPARTMENT OF FORESTRY
GRANT AGREEMENT**

This agreement is between the State of Oregon, acting by and through its Department of Forestry, hereinafter referred to as "ODF," and, Deschutes County, hereinafter referred to as Recipient."

RECIPIENT	Deschutes County	ODF	
Administrator:	Ed Keith	Administrator:	Joseph Arbow
Title:	County Forester	Title:	Grants Specialist
Organization:	Deschutes County	Organization:	Oregon Department of Forestry – Federal Initiatives Unit
Address:	61150 SE 27 th Street Bend, OR 97702	Address:	Building D 2600 State Street Salem, OR 97310-0340
Phone:	541-322-7117	Phone:	503-945-7239
Email:	Ed.Keith@deschutes.org	Email:	joseph.m.arbow@odf.oregon.gov
		DUNS #:	809579808

Award Details	As Required by 2CFR 200.331
Subrecipient Name (As per sam.gov registration)	Deschutes County
Subrecipient Unique Identifier	DUNS # 021593806
Federal Award Identification Number (FAIN#)	21-PA-11060100-025
Federal Award Date	07/27/2021
Sub-award Period of Performance	December 9, 2021 – May 31, 2026
Amount of Federal Funds Obligated by this Action	\$50,000.00
Total Amount of the Federal Funds Obligated to Subrecipient Including This Action	\$50,000.00
Total Amount of Federal Award Committed to Subrecipient	\$50,000.00
Federal Award Project Description	This Participation agreement is for fuels mitigation on private lands associated with the Buttes to Basins Joint Chiefs Landscape Restoration project. Buttes to Basins is a local collaborative effort to address the threat of wildland fire across jurisdictional boundaries; increase forest resiliency on a landscape level watershed-wide; restore dry and fire-adapted forest habitat; and, work toward high water quality within the watershed.
Federal Awarding Agency/Pass Through Entity + Contact Info	USDA-USFS/ Oregon Department of Forestry Joe Arbow Federal Initiatives Unit 503-945-7239
CFDA # and Name	OMB 0596-0217 FS-1500-16A
Is this a Research and Development Award?	No
Indirect Cost Rate for Federal Award	Deminimis

AGREEMENT

1. Effective Date. This Agreement shall become effective on December 9th, 2021. This Agreement shall expire on the May 31st, 2026, or the date final payment is made by ODF.

2. Agreement Documents. This agreement consists of this document and includes the following listed exhibits which are incorporated into this Agreement:

Exhibit A: Statement of Work

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 A, this Agreement including the Recitals but without Exhibits.

3. Grant. In accordance with the terms and conditions of this Agreement, ODF shall provide Recipient **\$50,000.00** Grant Funds (or Grant moneys) for the purposes described in Section 4 (the "Program"). ODF shall pay the Grant from monies available from the Deschutes National Forest Buttes to Basins Participation Agreement.

Grant Funds may be used only as allowed through guidance provided in OMB guidance 2 CFR 200 and for eligible expenditures purposed and set out in this agreement.

Any Program Income deriving from the Grant Funds must be added to the Grant Funds. Program Income shall be considered Grant Funds for purposes of this Agreement and must be used or expended in accordance with the terms and conditions of this Agreement. Recipient must obtain written approval from ODF prior to earning any Program Income. Program Income includes any interest or other income generated with or deriving from the Grant Funds.

4. Program: Described in Exhibit A.

5. Disbursement and Recovery of Grant.

a. Disbursement Generally. ODF shall disburse up to 100 percent of the Grant Funds to Recipient on a cost reimbursement basis upon approval of invoices submitted to ODF. Recipient shall submit invoices to ODF. Invoices must provide detail indicating the nature of costs to be reimbursed. All such costs must be directly related to the Program as shown in Exhibit A. Invoices must be submitted by an authorized representative of the Recipient.

b. Allowable Costs. The Grant is for the Program and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Program unless such changes are approved by ODF by Amendment pursuant to section 11.b hereof. Recipient shall not use any Grant Funds for costs outside of what is specified in this Agreement, whether or not related to this Agreement.

c. Conditions Precedent to Disbursement. ODF's obligation to disburse Grant moneys to Recipient under this Agreement is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

- i. ODF has received sufficient expenditure authorizations to allow ODF, in the exercise of its reasonable administrative discretion, to make the disbursement.
- ii. No default as described in section 9 has occurred.

iii. Recipient's representations and warranties set forth in section 6 are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.

d. Recovery of Grant Moneys. Any Grant moneys disbursed to Recipient 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 must be returned to ODF. Recipient shall return all Misexpended Funds to ODF promptly after ODF's written demand and no later than 15 days after ODF's written demand. Recipient shall return all Unexpended Funds to ODF within 14 days after the earlier of expiration or termination of this Agreement.

6. Representations and Warranties of Recipient. Recipient represents and warrants to ODF as follows:

a. Organization and Authority. Recipient is a:

- Corporation
- Non-profit Corporation
- Partnership
- Limited Liability Company
- Governmental Entity

Duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant. Recipient 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 Recipient of this Agreement (1) have been duly authorized by all necessary action of Recipient 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 or any provision of Recipient's Articles of Incorporation or Bylaws (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 Recipient is a party or by which Recipient or any of its properties may be bound or affected. No 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 Recipient of this Agreement.

b. Binding Obligation. This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

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

7. Certain Covenants of Recipient.

a. Grant Funds. Recipient shall vigilantly safeguard the Grant moneys received hereunder and maintain financial controls sufficient to protect such moneys and ensure that the Grant moneys are used solely for purposes of the Program;

b. Completion. Recipient shall complete the Program on or before the May 31st, 2026.

8. Records Maintenance and Access.

a. Access to Records and Facilities. ODF, the Secretary of State of the State of Oregon (Secretary) and their duly authorized representatives shall have access to the books, documents, papers and records of Recipient that are directly related to this Agreement, the Grant moneys provided hereunder, or the Program for the purpose of making audits and examinations and to review Program accomplishments and management control systems and to provide technical assistance if required. In addition, ODF, the

Secretary and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Recipient shall permit authorized representatives of ODF and the Secretary to perform site reviews of all services delivered as part of the Program.

b. Retention of Records. Recipient shall retain and keep accessible all books, documents, papers, and records, that are directly related to this Agreement, the Grant moneys or the Program for a minimum of six (6) years, or such longer period as may be required by applicable law, following the later of (1) termination or expiration of this agreement or (2) the date of the conclusion of any audit, controversy or litigation arising out of or related to this Agreement.

c. Expenditure Records. Recipient shall document the expenditure of all Grant moneys disbursed by ODF under this Agreement. Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit ODF to verify how the Grant moneys were expended.

9. Default. Recipient shall be in default under this Agreement upon the occurrence of any of the following events:

a. Recipient fails to perform, observe, or discharge any of its covenants, agreements, or obligations set forth herein.

b. Any representation, warranty or statement made by Recipient herein or in any documents or reports relied upon by ODF to monitor implementation of the Program, the expenditure of Grant moneys or the performance by Recipient is untrue in any material respect when made;

c. Recipient (i) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (ii) admits in writing its inability, or is generally unable, to pay its debts as they become due, (iii) makes a general assignment for the benefit of its creditors, (iv) is adjudicated a bankrupt or insolvent, (v) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (vi) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vii) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (viii) takes any action for the purpose of effecting any of the foregoing; or

d. A proceeding or case is commenced, without the application or consent of Recipient, in any court of competent jurisdiction, seeking (i) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of Recipient, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of Recipient or of all or any substantial part of its assets, or (iii) similar relief in respect to Recipient under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Recipient is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

e. Remedies upon Default. If Recipient's default is not cured within 30 calendar days of written notice thereof to Recipient from ODF or such longer period as ODF may authorize in its sole discretion, ODF may pursue any remedies available under this Agreement, at law or in equity. Such remedies include, but are not limited to, termination of this Agreement, return of all or a portion of the Grant moneys, payment of interest earned on the Grant moneys, and declaration of ineligibility for the receipt of future grant awards from ODF. If, as a result of Recipient's default, ODF demands return of all or a portion of the Grant moneys or payment of interest earned on the Grant moneys, Recipient shall pay the amount upon ODF's demand.

10. TERMINATION

a. Termination for Convenience. Either party may terminate this Agreement in whole or in part, at any time prior to the expiration date of this Agreement upon 15 days notice to the other party. Neither party shall incur any new obligations for the terminated portion of this Agreement and shall cancel as many obligations as possible immediately upon receipt of notification from the other party. Payment in full shall be allowed for the non-cancelable obligations properly incurred up to the effective date of the termination. All Unexpended Funds shall be returned to ODF within 14 days of termination.

b. ODF Termination. ODF may terminate this Agreement:

i. Immediately upon written notice to Recipient, if ODF does not obtain sufficient funding and expenditure authorizations to allow ODF to meet its payment obligations under this Agreement.

ii. Immediately upon written notice to Recipient if state or federal laws, regulations, or guidelines are modified, changed or interpreted in such a way that ODF does not have the authority to provide Grant moneys for the Program or no longer has the authority to provide the Grant moneys from the funding source it had planned to use.

iii. Immediately if Recipient fails to request at least one reimbursement by December 31, 2011.

iv. Upon 30 calendar days advance written notice to Recipient, if Recipient is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as ODF may specify in the notice.

11. GENERAL PROVISIONS

a. Indemnification. Recipient shall indemnify, defend (subject to ORS chapter 180), and hold harmless the State of Oregon and ODF and their officers, employees, and agents from all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature, resulting from, arising out of or relating to the activities of the Recipient or Recipient's officers, employees, sub-contractors, or agents under this Agreement.

Recipient assumes sole liability for Recipient's breach of the conditions of the grant, and shall, upon Recipient's breach of grant conditions that requires the State of Oregon to return funds to the grantor, hold harmless and indemnify the state for an amount equal to the funds which the State of Oregon is required to pay to grantor.

b. Amendments. This Agreement may be amended or extended only by a written instrument signed by both parties. Any such amendment or extension is effective only when fully executed and approved as required by applicable law.

c. Participation in Similar Activities. This Agreement in no way restricts Recipient or ODF from participating in similar activities with other public or private agencies, organizations, or individuals.

d. Duplicate Payment. Recipient shall not be compensated for or receive 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.

e. No Third Party Beneficiaries. ODF and Recipient 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 intended beneficiary of the terms of this Agreement.

f. Notices. Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, email, or mailing the same, postage prepaid to Recipient or ODF to the applicable Principal Contact at the address or number set forth below, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed shall be effective five (5) days after mailing. Any communication or notice delivered by facsimile shall be effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the Recipient, or on the next business day, if transmission was outside normal business hours of the Recipient. Any communication or notice given by email shall be effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any communication or notice given by personal delivery shall be effective when actually delivered.

ODF:

Joseph Arbow
Oregon Department of Forestry
Federal Initiatives Unit – Grants Specialist
2600 State Street Building D
Salem, OR 97310-0340
joseph.m.arbow@odf.oregon.gov
Office: 503.945.7239 Cell: 541.480.6940

Recipient:

Ed Keith
Deschutes County
61150 SE 27th Street
Bend, OR 97702
541-322-7117
Ed.Keith@deschutes.org

Either party may designate a different person or change the contact information given in this section by providing notice in the manner provided in this section and such change shall be effective without need for amendment under Section 12.c.

g. 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 ODF (and/or any other agency or department of the State of Oregon) and Recipient 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. RECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THE CIRCUIT COURT OF MARION COUNTY.

h. Compliance with Law. Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Program. Without limiting the generality of the foregoing, Recipient expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement or the implementation of the Program: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations, (b) Titles VI and VII of the Civil Rights Act of 1964, as amended, (c) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (d) the Americans with Disabilities Act of 1990, as amended, and ORS 659A.142, (e) Executive Order 11246, as amended, (f) the Health Insurance Portability and Accountability Act of 1996, (g) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (h) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (i) ARRA, (j) all regulations and administrative rules established pursuant to the foregoing laws, and (k) all other applicable requirements of federal 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 Agreement or the Program and required by law to be so incorporated. Recipient shall not discriminate against any individual, who receives or applies for services as part of the Program, on the basis of actual or perceived age, race, creed, religion, color, national origin, gender, disability, marital status, sexual orientation, alienage or citizenship. All employers, including Recipient, 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.

j. Public Records. All information and records submitted to ODF are subject to disclosure under the Public Records Law, ORS 192.410 to 192.505. If Recipient believes that any information or records it submits to ODF may be a trade secret under ORS 192.501(2), or otherwise is exempt from disclosure under the Public Records Law, Recipient must identify such information with particularity and include the following statement:

"This data is exempt from disclosure under the Oregon Public Records Law pursuant to ORS 192, and is not to be disclosed except in accordance with the Oregon Public Records Law, ORS 192.410 through 192.505."

If Recipient fails to identify with particularity the portions of such information that Recipient believes are exempt from disclosure, Recipient is deemed to waive any future claim of non-disclosure of that information.

j. False Claim Act. Recipient will refer to the ODF Grant Administrator any credible evidence that a principal, employee, agent, sub-grantee contractor, contractor or other person has submitted a false claim under the federal or state False Claims Acts (31 USC 3729-3733; ORS 180.750-180.785) or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving funds provided under this Grant Agreement.

k. Sensitive Information. Except for information that is already a matter of public record, Recipient shall not publish or otherwise disclose, except to ODF or as otherwise required by law, any information or data obtained hereunder from private individuals, organizations, or public agencies in a publication wherein the information or data furnished by or about any particular person or establishment can be identified, except with the written consent of such person or establishment. Unless otherwise required by law, information concerning the business of the ODF, its financial affairs, and its relations with its clients and employees, as well as any other information that may be specifically classified as confidential by the ODF, shall be kept confidential. Recipient shall instruct its employees and subcontractors to keep such information confidential by using the same care and discretion that they use with similar information that the Recipient designates as confidential.

l. 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.

m. Assignment of Agreement, Successors in Interest. Recipient shall not assign or transfer any interest in this Agreement, enter into any subcontracts, or subgrant any Grant moneys, without the prior written approval of ODF. Any such assignment, transfer, subcontract, or subgrant, if approved, is subject to such conditions and provisions, as ODF may deem necessary, including without limitation that ODF shall have reasonable access to the facilities of the assignee, transferee, subcontractor, or subgrantee to the same extent as to the facilities of ODF as described in Section 9 hereof. No approval by ODF of any assignment, transfer, subcontract or subgrant shall be deemed to create any obligation of ODF in addition to those set forth in this Agreement nor will ODF's approval of an assignment, transfer, subcontract or subgrant relieve Recipient of any of its duties or obligations under this Agreement.

n. Headings. The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.

o. Construction. The parties agree and acknowledge that the rule of construction that ambiguities in a written agreement are to be construed against the party preparing or drafting the agreement shall not be applicable to the interpretation of this Agreement.

p. Independent Contractors. The parties agree and acknowledge that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

q. Force Majeure. Neither Department nor Recipient shall be held responsible for delay or default caused by fire, civil unrest, natural causes and war which is beyond, respectively, the Department's or Recipient's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

r. Survival. All rights and obligations shall cease upon termination or expiration of this Agreement, except for the rights and obligations set forth in Sections 5.d, 6, 9, 11.a, 11.g, 11.i, 11.s, 11.t., and Exhibit A, Section 4.

s. Integration and Waiver. This Agreement, including all Exhibits, 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. Recipient, 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.

IN WITNESS THEREOF: the parties hereto have caused this agreement to be properly executed by their authorized representatives as of the day and year hereinafter written.

Deschutes County

OREGON DEPARTMENT OF FORESTRY

Signature: _____
Nick Lelack Deschutes County Administrator

Signature: _____
Mike Kroon Interim Deputy Chief Forest Resources Division

Date: _____

Date: _____

**EXHIBIT A
STATEMENT OF WORK**

GENERAL INFORMATION.

Part I. Statement of Work

\$50,000 is for Deschutes County to implement a private landowner fuel reduction cost share, rebate and incentive program through a 50% cost share program with private landowners. Deschutes County shall work with Deschutes National Forest and ODF to coordinate treatments and track accomplishments. All work should be completed within the Buttes to Basins project area, map of project area is attached.

Part II. Reimbursement Provisions

1. Reimbursement for all work performed under this Grant shall be subject to the provisions of ORS 293.462 and shall not exceed the maximum amount of award listed in Section 3.
2. Reimbursements shall be made to Recipient on receipt and approval of an invoice documenting.
3. Recipient shall not submit billings for, and ODF will not pay, any amount in excess of the maximum compensation amount set forth in Section 3. No reimbursement will be made for any services performed before the effective date or after the expiration date of this Grant.
4. Recipient shall submit invoices and documentation to:

Oregon Department of Forestry – Federal Initiatives Unit
2600 State Street
Salem OR 97310-0340

Attachment A: Buttes to Basins Overview

