

Oregon Department of Fish and Wildlife  
Private Forest Accord Grant Program  
Grant Agreement  
Advanced Payment

<Project Title>

ODFW Agreement Number: XXX-XX

PFA Tracking Number: PFA2023-XX

Cost Code/Grant: XXXXX XXXXXX-XX

Grant Amount: Total funding requested from ODFW?

Effective Date: Date of Last Signature

Expiration Date: Project End Date

**Authorization.** The Oregon Department of Fish and Wildlife enters into this Grant Agreement (Agreement) under the authority of ORS 496.146(11) and Section 32, Chapter 33, Oregon Laws 2022, which provides funding from the Private Forest Accord Mitigation Grant Fund established by Section 28, Chapter 33, Oregon Laws 2022. This serves as the agreement between the State of Oregon (State), acting by and through its Oregon Department of Fish and Wildlife (“Department” or “ODFW”), and <Grantee> (“Grantee”), in consideration of the mutual covenants contained herein.

**Purpose.** The purpose of this Agreement is to reimburse the Grantee for Project Goal Statement, which is more fully described in Exhibit A (Project Description) (“the Project”). The Project is estimated to cost Total funding requested from ODFW?, and provide Total Matching Funds in matching funds.

**Effective Date and Duration.** The effective date of this Agreement is the date on which it is fully executed by both parties and approved as required by law (“Effective Date”) and this Agreement will expire on MM/DD/YYYY (“Expiration Date”). Agreement termination or expiration shall not extinguish or prejudice Department’s right to enforce this Agreement in accordance with its terms. The Department shall not reimburse the Grantee for any work performed before the Effective Date or after the Expiration Date of this Agreement.

**Oregon Prevailing Wage Rate Law.** Grantee may be required to comply with Oregon’s prevailing wage rate law, ORS 279C.800-279C.870. This law requires that entities using public funds for public works must pay not less than the prevailing rate of wage for an hour’s work, including fringe benefits, in the same trade in the locality where the work is performed. Contracts not exceeding \$50,000 are exempt from prevailing wage rate laws and nonprofit organizations are exempt for work other than construction. Public works is defined as including “roads, highways, buildings, structures and improvements of all types, the construction, reconstruction, major renovation or painting of which is carried on or contracted for by any public agency to serve the public interest . . .” ORS 279C.800(6)(a). Construction is defined as “the initial construction of buildings and other structures, or additions thereto, and of highways and roads” OAR 839-025-0004(6). Failure to comply with prevailing wage rate laws could result in the Grantee being liable to the workers affected in the amount of their unpaid minimum wages, including all fringe benefits, and in an additional amount equal to unpaid wages as liquidated damages.

**Agreement Documents.** This Agreement consists of the following documents in order of precedence: this Agreement less all Exhibits, **Exhibit A** (Project Description), **Exhibit B** (Project Budget Sheet), **Exhibit C** (Grantee’s Approved Grant Application to the Department), **Exhibit D** (Insurance Requirements), **Exhibit E** (Archaeological Inadvertent Discovery Plan (IDP)). **Exhibits A through E** are attached hereto and incorporated by this reference. In the event that Exhibit C conflicts with any other document(s) of this Agreement, the other document(s) shall control.

**I. DEPARTMENT ACTIONS**

**A. Provide Funds.** Subject to the terms and conditions herein, the Department shall pay the Grantee the total sum not to exceed amount of \$X,XXX for the cost of the whole or portion thereof, as applicable, of the Project consistent with Exhibit B (Project Budget Sheet) (“the Grant”). Of the total sum not to exceed amount, the Department shall make an advanced payment in the amount of \$X,XXX to the Grantee. The remaining amount (\$X,XXX) shall be reimbursed to the Grantee consistent with Section II.J provided however that the Department shall withhold ten percent (10%), \$XXX that total sum not to exceed amount until the Department receives and deems the Final Project Completion Report complete, as prescribed in Section II.H and evaluates the Project for compliance with the terms and conditions of this Agreement.

1. The Department is not obligated to pay any request for reimbursement that is received by the Department more than forty-five (45) days after the Expiration Date.

**B. Payment Procedure.** The Department shall pay the Grantee under this Agreement as follows:

1. The Department may make incremental or periodic payment(s) to the Grantee based upon the Grantee's request for Release of Advanced Funds Form which can be found at <https://www.dfw.state.or.us/habitat/PFA/forms.html>, or the Grantee's submission of the Performance Report & Request for Reimbursement Form which can be found at <https://www.dfw.state.or.us/habitat/PFA/forms.html>. Payment shall be may consistent with the requirements set forth in Section II.H., Section II.I., and Section II.J of this Agreement, as applicable.
2. Once the Department's Grant Coordinator identified in Section III.T. of this Agreement ("Grant Coordinator") has reviewed and approved the Grantee's submission of Release of Advanced Funds Form or the submission of Performance Report & Request for Reimbursement Form, as applicable, the Department shall pay the Grantee within forty-five (45) days. If the Department has questions about or concerns with the submission, the Grant Coordinator shall contact the Grantee. Notwithstanding any other term of this Agreement, the Department may not pay the Grantee for a submission until the Department's Coordinator has reviewed and approved that submission.
3. The Department may not pay the Grantee for submissions delivered to the Department more than forty-five (45) days after the expiration of this Agreement.

**II. GRANTEE ACTIONS**

- A. **Administration of Costs.** The Grantee shall be responsible for proper administration of all costs associated with the Project throughout the term of this Agreement.
- B. **Project Management and Construction.** The Grantee shall be responsible for the management and construction of the Project throughout the term of this Agreement as specifically described in Exhibit A (Project Description), provided, however, that:
1. When conducting any ground-disturbing activity, Grantee shall comply with the requirements described in Exhibit E (Archaeological Inadvertent Discovery Plan (IDP)), including without limitation the obligations related to the discovery of any archaeological sites, objects, or human remains, provided further that Grantee shall ensure that any subcontract(s) for work that involves ground disturbing activity under this Agreement must require subcontractors' compliance with such obligations.
  2. When conducting any activity, the Grantee agrees to comply with all applicable laws and regulations, concerning the protection of State or Federally-listed sensitive, threatened, or endangered species, and their habitats. The Grantee shall not undertake any work or activities that may adversely affect any State or Federally-listed sensitive, threatened, or endangered species, or their habitats, including without limitation, construction, land modification, or any other project-related activities without compliance with applicable authorizations, if any. The Grantee is responsible for obtaining and complying with all necessary permits and approvals and shall implement all required mitigation measures to minimize any impacts. Grantee acknowledges and agrees that failure to comply with this clause may result in suspension or termination of this Agreement, repayment of the Grant, and require remedial actions at the Grantee's expense.
- C. **Oversight.** The Grantee shall oversee the Project with due diligence.
- D. **Contribution of Additional Funds.** The Grantee shall contribute all Project costs that exceed the not-to-exceed amount specified in Section I.A. of this Agreement.
- E. **Use of Funds.** Grant funding may only be utilized for purposes authorized by law, including OAR 635-097-0070(5). The Grantee further agrees that the funding provided by the Department under this Agreement may be used only for the purposes specified in Exhibit A (Project Description), and Exhibit B (Project Budget Sheet). The amount authorized for specified purposes in Exhibit B (Project Budget Sheet) may not be increased or changed from one budget category to the next without a written amendment to this Agreement, which is to be submitted to and approved by the Grant Coordinator prior to any change taking effect.
- F. **Funds Available and Authorized; Payments.** The Grantee understands and agrees that the Department's obligations under this Agreement are contingent on the Department receiving funding, appropriations, limitations, allotments, or other expenditure authority at levels sufficient to allow the Department, in the exercise of its reasonable administrative discretion, to carry out such obligations under this Agreement.
- G. **Accounting.** The Grantee shall apply Generally Accepted Accounting Procedures (GAAP) to provide for an accurate and timely recording of receipt of funds by source, of expenditures made from such funds, and of unexpended balances. The Grantee shall establish or cause to be established controls that are adequate to ensure that all expenditures reimbursed by the Department under this Agreement are for allowable purposes and that documentation is readily available to verify that such charges are accurate.

## H. Project Reporting Requirements

1. **Performance Reports.** Following the full expenditure and enhanced reporting requirements of an advance payment, as discussed in Section II.I, the Grantee shall default to a Performance Reporting schedule to ODFW twice a year as specified in this Agreement. Any Request for Reimbursement must have an accompanied Performance Report, including itemized accounting invoices and documentation to substantiate expenses to the Grant Coordinator if requesting reimbursement under this Agreement. All performance reports must start the second fiscal quarter following the execution of the Agreement and must be submitted to the Grant Coordinator at most thirty (30) days following the close of the fiscal quarter. Grantee is required to submit a performance report to the Grant Coordinator even if no fiscal activity has occurred. After the first performance report, all subsequent performance reports are due by the following dates:

1.1 Quarter 2: July 31<sup>st</sup>

1.2 Quarter 4: January 31<sup>st</sup> (following calendar year)

2. **Mid-Project Performance Report.** The Grantee shall submit a Mid-Project Performance Report using the most current form of the Mid Project Performance Report Form found at <https://www.dfw.state.or.us/habitat/PFA/forms.html> halfway through the project timeline to ODFW online as specified in Section II.H.4 of this Agreement.

2.1 This Mid-Project Performance Report may take the place of a performance report.

3. **Project Completion Report.** The Grantee must submit a draft, and a final, comprehensive project completion report to the Department that must adhere to the detailed specifications outlined in Exhibit A (Project Description) and conform to the latest version of the Project Completion Report Form which can be found at <https://www.dfw.state.or.us/habitat/PFA/forms.html> ("Project Completion Reports"). Both the final and draft Project Completion Reports are to be submitted online using the most current form of the Grant Management System. The Grantee must receive approval from the Grant Coordinator on the draft Project Completion Report prior to submitting the final Project Completion Report. Final reports are due thirty (30) days after draft report approval is received from the Grant Coordinator. The Department reserves the right to request revisions to the draft or final Project Completion Reports for clarity and accuracy and may conduct on-site inspections to verify project completion consistent with terms and conditions of Exhibit A (Project Description).
4. **Online Reporting and Reimbursement Requests.** All Grantees are required to submit all relevant reports and reporting forms found at <https://www.dfw.state.or.us/habitat/PFA/forms.html> and any requests for reimbursement, online through the most current form of the Grant Management System, unless otherwise requested by ODFW.

4.1 Grantee may access the online system using their original ODFW login information at <https://www.grantinterface.com/Home/Logon?urlkey=odfw>

## I. Requests for Advance Payment.

1. The Grantee shall submit any request for advance payment using the Grantee's Request for Release of Funds Form, found at <https://www.dfw.state.or.us/habitat/PFA/forms.html>. The request shall include a detailed list outlining how the funds will be spent, a listing of expenditures in each of the categories listed in Exhibit B (Project Budget Sheet), list of the dates upon which expenditures are anticipated to occur, and documentation to substantiate the anticipated expenses to the Department's Grant Coordinator identified in Section III.T. of this Agreement for each request for advance payment under this Agreement.
2. The Department's processing of non-itemized or incomplete submissions will be delayed until the Grantee supplies correct information to the Department.
3. The Grantee shall look solely to the Department for payment under this Agreement. The Grantee shall not be paid by any agency or department of State other than the Department for work performed under this Agreement.
4. All advancements must be entirely spent prior to any additional requests for release of funds, requests for reimbursements, and before the project expiration date.
5. Following any request for advance payment, Grantee shall submit proof of all expenditures in the subsequent performance report(s).

6. As provided for in Section II.E of this Agreement, the Grantee must seek and obtain an amendment to this Agreement to increase the amount authorized for specified purposes (e.g., categories) in Exhibit B (Project Budget Sheet) before requesting an advance payment in excess of the amount specified for each category listed in Exhibit B (Project Budget Sheet).
7. Performance reports are due monthly for all advance payment requests until the advancement has been fully spent, after which reports must follow Section II.H.

**J. Requests for Reimbursement.**

1. The Grantee shall submit a Performance Report with every Request for Reimbursement using the Performance Report & Request for Reimbursement Form which can be found at <https://www.dfw.state.or.us/habitat/PFA/forms.html>. Requests for reimbursement must include itemized accounting invoices and documentation to substantiate expenses for each funding request under this Agreement semi-annually, as provided in Section II.H.1.
  - 1.1 A Grantee may request from the Grant Coordinator a more frequent reimbursement period, as needed, no more frequently than quarterly, following the execution of the Agreement and must still be submitted with a complete performance report.
2. The itemized accounting invoices referenced in Section II.I.1. of this Agreement shall include a listing of expenditures in each of the categories listed in Exhibit B (Project Budget Sheet) and shall list the dates upon which expenditures occurred and provide proof of expenditure such as original receipts. As provided for in Section II.E of this Agreement, the Grantee must seek and obtain an amendment to this Agreement to increase the amount authorized for specified purposes (e.g., categories) in Exhibit B (Project Budget Sheet) prior to requesting reimbursement.
3. The Grantee understands and acknowledges that the Department's processing of non-itemized or incomplete submissions will be delayed until the Grantee supplies correct information to the Department.
4. The Grantee shall look solely to the Department for payment under this Agreement. The Grantee shall not be paid by any agency or department of the State other than the Department.
5. The first Performance Report & Request for Reimbursement Form for implementation projects shall include a monitoring plan, that establishes methods for gathering baseline data, photo monitoring, mapping data (ArcGIS shapefiles and PDF maps), and habitat or survey reports. Following reports must submit baseline data as gathered.

- K. **Access to Project Site.** The Grantee shall allow the Department and its designated representatives access to the Project site to monitor and evaluate the progress of the Project as the Department determines is necessary.
- L. **Contractor Performance Bond.** If the Grantee selects a contractor to perform construction of the Project, the Grantee shall require the contractor to obtain a performance bond in the amount of its construction contract from a surety company authorized to do business in Oregon.
- M. **Access Agreements.** The Grantee shall procure all necessary access rights to project locations prior to any groundwork. Without limiting the generality of the foregoing, Grantee must secure sufficient access rights to meet its obligations under Section II.J above.
- N. **Permitting.** Notwithstanding any other term of this Agreement, Grantee is responsible for obtaining all necessary local, state, and federal permits and approvals to implement the Project, including but not limited to fill/removal and tribal, historic, and cultural compliances, including the National Historic Preservation Act and compliance with the Oregon State Historic Preservation Office. The Grantee shall secure and submit all necessary permits, including any ODFW in-water work permits and other approvals to ODFW, prior to commencing any groundwork once any permits are obtained.
- O. **Restoration Inventory.** Prior to submitting the final Project Completion Report to the Department, the Grantee must upload all required information to the designated restoration inventory system provided by the Department. Proof of successful submission is mandatory for the final report.
- P. **Project Equipment.** Following Project completion, Project equipment purchased with the Grant funding shall remain with the Grantee or another entity approved by ODFW. For the purposes of this section of the Agreement, Project equipment is considered a tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit

acquisition cost which equals or exceeds \$5,000. Grantee shall adhere to additional post-project requirements related to Project equipment as determined by the Department. Those requirements shall include the development of a Maintenance and Monitoring Plan that spans a five-year period starting from the "Expiration Date" of this Agreement. The Maintenance and Monitoring Plan template can be found at <https://www.dfw.state.or.us/habitat/PFA/forms.html> and shall include at a minimum the following details for each piece of Project equipment purchased:

1. Equipment Description.
2. Maintenance Schedule.
3. Monitoring Procedures.
4. Replacement Criteria.
5. Recordkeeping Process.
6. Rental Process.

**Q. Publicity and Disclosure of Funding Source.**

1. Grantee shall adequately reference Project funders on any publication, signage, postings, flyers, outreach, and educational materials, supplies, press releases, or any other outward-facing publication. The following is a statement that must accompany any publication regarding the Project or grant funds:

"This Project was funded in full or part by the Oregon Department of Fish and Wildlife Private Forest Accord Grant Program, a result of a landmark conservation initiative working to conserve Oregon's forests for current and future generations."

2. All published materials (electronic and printed) must also have the Oregon Department of Fish and Wildlife and the Private Forest Accord Grant Program Logo and any other logos the Department deems appropriate, present and sized accordingly with regards to other logos on the published material. A shortened statement of funding may be allowed if approved by the Grant Coordinator.

- R. **Photo Monitoring** All Grantees will provide color photos of all implemented Project elements (i.e., fencing, planting, structures, construction progress) to show compliance with the funded Project. Photo points will be set up, and the color photographs should be taken with the same focal-length lens at the same time of year, showing conditions before and after Project completion.

**III. GENERAL TERMS AND CONDITIONS.**

**A. Termination.**

1. **Termination for Convenience by the Grantee.** The Grantee may terminate this Agreement at any time upon thirty (30) days prior written notice to the Department pursuant to Section III.T. of this Agreement; however, within thirty (30) days of such termination, the Grantee shall reimburse by check payable to the Department all payments to the Grantee by the Department under this Agreement.
2. **Termination for Convenience by the Department.** The Department may terminate this Agreement at any time upon thirty (30) days prior written notice to the Grantee pursuant to Section III.T. of this Agreement. Within thirty (30) days of such termination, the Department shall reimburse the Grantee for Project costs authorized under this Agreement that have been expended or obligated prior to the date of the notification of termination of this Agreement.
3. **Termination for Cause by the Grantee.** The Grantee may terminate this Agreement at any time upon thirty (30) days prior written notice to the Department pursuant to Section III.T. of this Agreement if the Department commits any material breach or default of any covenant or obligation under this Agreement, and the Department fails to cure the material breach or default within twenty-one (21) days of receipt of the notice; however, within thirty (30) days of such termination, the Grantee shall reimburse by check payable to the Department all payments to the Grantee by the Department under this Agreement.
4. **Termination for Cause by the Department.** The Department may terminate this Agreement at any time upon thirty (30) days prior written notice to the Grantee pursuant to Section III.T. of this Agreement if:
  - A.1 The Department does not receive funding at the levels necessary to fund the Project as specified in Section I.A.1;
  - A.2 Any of the design, permitting, or construction of the Project is not pursued with due diligence;
  - A.3 Any fee title to or other interest in the construction site is not sufficient, legal, and valid;

A.4 The construction of the Project is not permissible under state, federal, or local law, or the Project is inconsistent with current State of Oregon and Department goals, policies, management plans, laws, guidelines, and regulations, as determined by the Department;

A.5 The Grantee does not abide by the nondiscrimination and affirmative action provisions of this Agreement; or

The Grantee otherwise commits any material breach or default of any covenant, warranty, obligation, certification or agreement under this Agreement, fails to perform the Project consistent with the approved Exhibit A (Project Description) or within the time specified herein or any extension thereof, or the Project does not meet its proposed objectives or methodology, and the Grantee fails to cure the material breach or default within fourteen (14) days of receipt of notice.

Upon receiving a notice of termination under Section III.A.4. of this Agreement, the Grantee shall immediately cease all activities under this Agreement, unless the Department expressly directs otherwise in its notice of termination. Upon termination of the Agreement, and at the Department's request, the Grantee shall surrender to anyone the Department designates, all documents, objects or other tangible things in the Grantee's possession or contract that may be needed to complete the Project.

Within thirty (30) days of termination under Section III.A.4. of this Agreement, the Grantee shall reimburse by check payable to the Department all payments to the Grantee by the Department under this Agreement.

- B. Force Majeure.** Neither the Department nor the Grantee shall be responsible for any breach or for any delay in the performance of any obligation under this Agreement caused by fire, riot, acts of God, terrorism, war, or any other cause which is beyond the breaching party's reasonable control. The Grantee shall, however, make all reasonable efforts to remove or eliminate the cause of the Grantee's delay or breach and shall, upon the cessation of the cause, continue performing under this Agreement.
- C. No Third-Party Beneficiaries.** The Department and the Grantee 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 may be construed to give or provide, any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- D. Records Maintenance; Access to Records.** The Grantee shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, the Grantee shall maintain any other records pertinent to this Agreement so as to clearly document the Grantee's performance of the Project. The Grantee acknowledges and agrees that the Department and the Oregon Secretary of State's Office and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of the Grantee that are pertinent to this Agreement, to perform examinations and audits, and make excerpts and transcripts. The Grantee shall retain and keep accessible all such fiscal records, books, documents, papers, plans and writings for a minimum of six (6) years or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.
- E. Disallowed Costs.** The Grantee agrees that any payment or payments made under this Agreement shall be subject to reduction for amounts that are found on the basis of any audit examination not to constitute allowable costs under Section II.E. The Grantee shall refund by check payable to the Department the amount of such reduction within thirty (30) days.
- F. Overpayment.** In the event that the amounts of the Department's payments to the Grantee exceed the reimbursable expenses presented by the Grantee to the Department, the Grantee agrees to refund the excess payments by check payable to the Department within thirty (30) days.
- G. Dual Payment.** The Grantee shall not be compensated for or receive any other form of dual payment for work performed under this Agreement from any agency of the State or the United States of America or any other entity.
- H. Attorney Fees.** Except for defense costs and expenses pursuant to Section III.M. of this Agreement, no party is entitled to recover attorney fees, court and investigative costs, or any other fees or expenses associated with pursuing a remedy for damages arising out of or relating to this Agreement.
- I. Governing Law; Venue; Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of State without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, Claim) between the Department (or any other agency or department of State) and the Grantee that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon, and the Grantee hereby consents to the *in personam* jurisdiction of such courts, waives any objection to venue in such courts, and waives any claim that such forum is an inconvenient forum; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this provision or any other provision of this Agreement be construed as a waiver by State of any form of defense or immunity, whether it is 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.

- J. Compliance with Workers' Compensation.** The Grantee shall require that all employers, including the contractor (the Grantee, or if other than the Grantee), that employ subject workers who work under this Agreement in State shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless the employers are exempt under ORS 656.126(2). The Grantee and the contractor (if other than the Grantee) shall require each of its subcontractors, if any, to comply with, and shall ensure that each of its subcontractors, if any, complies with, these requirements.
- K. Compliance with Applicable Law/Nondiscrimination/Model Assurance Statement.**
1. The Grantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Agreement or to the Grantee's obligations under this Agreement, as those laws, regulations and ordinances may be adopted or amended from time to time.
  2. Without limiting the generality of the foregoing, the Grantee expressly agrees to comply with: (i) Executive Order 11246, Equal Employment Opportunity; (ii) Drug Free Workplace Act of 1988, P.L. 110-690; (iii) Title VI of Civil Rights Act of 1965; (iv) Section V of the Rehabilitation Act of 1973; (v) the Americans of Disabilities Act of 1990 and ORS 659.425; (vi) all regulations and administrative rules established pursuant to the foregoing laws; and (vii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
  3. The Department's performance under this Agreement is conditioned upon the Grantee's compliance with the obligations required for public contracts under ORS 279B.220, 279B.225, 279B.230 and 279B.235 (if applicable to this Agreement), which are incorporated by reference herein. The Grantee shall, to the maximum extent economically feasible in the performance of this Agreement, use recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled plastic resin products and recycled products (as recycled product is defined in ORS 279A.010(1)(ii))
  4. The Grantee offers all persons the opportunity to participate in programs or activities regardless of race, color, national origin, age, sex, or disability. Further, it is agreed that no individual will be turned away from or otherwise denied access to or benefit from any program or activity that is directly associated with a program of the Grantee on the basis of race, color, national origin, age, sex (in education activities) or disability.
- L. Sub-contracts Compliance with Applicable Law.** Any underlying sub-contracts to perform work consistent with this Agreement shall be awarded by the Grantee based on a competitive Public Contracting (Procurement) process, consistent with the Oregon statutory and regulatory requirements applicable to the Public Contracting Oregon Revised Statutes, ORS 279A, 279B and 279C, or such other process that encourages competition, openness and impartiality.
- M. Indemnification.** THE GRANTEE AGREES TO DEFEND, HOLD HARMLESS AND INDEMNIFY STATE AND ITS DEPARTMENTS, AGENCIES, OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF WHATSOEVER NATURE RESULTING FROM, ARISING OUT OF OR RELATING TO THE ACTS OR OMISSIONS OF THE GRANTEE, ITS CONTRACTORS, SUBCONTRACTORS, AGENTS OR EMPLOYEES UNDER THIS AGREEMENT.
- N. State Tort Claims Act.** The parties agree that the Grantee is not an officer, employee, or agent of the state as those terms are used in ORS 30.265.
- O. Amendments; Waiver.** This Agreement may be amended to the extent permitted by applicable statutes and administrative rules. No waiver, consent, or amendment of terms of this Agreement shall bind either party unless in writing and signed by the Department and the Grantee, and all necessary approvals have been obtained. The Grantee shall execute a Certificate of Compliance regarding tax certification each time this Agreement is renewed or extended by the parties, as per Section III.W. of this Agreement. Waivers and consents shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.
1. Any requests for an amendment to this Agreement, such as changes to the budget, timeline or scope of work, must be approved by ODFW. Grantees shall submit requests to the ODFW PFA Grant Coordinator on the Grantee's letterhead (with signature) for ODFW's review and approval. Changes will not take effect until both parties execute a signed written amendment to the Agreement, and all required approvals consistent with applicable law have been obtained.
- P. Representations and Warranties.** The Grantee hereby represents and warrants that:

1. The Project shall be performed in a timely manner by qualified personnel in accordance with applicable professional standards.
2. The Grantee has the authority to enter into and perform in accordance with this Agreement and that this Agreement, when executed and delivered, is a valid and binding obligation of the Grantee that is enforceable in accordance with its terms.

- Q. Binding Agreement.** The provisions of this Agreement shall be binding upon and shall inure to the benefits of the Department and the Grantee and the respective successors and assigns.
- R. Severability.** The Department and the Grantee agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or otherwise invalid, 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 of provision held to be illegal or invalid.
- S. Integration.** This Agreement, together with the Exhibits attached hereto, constitutes the entire agreement between the parties on the subject matter thereof and merges all prior and contemporaneous communications with respect to such subject matter. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.
- T. Notice.** Notices under this Agreement shall be given in writing by personal delivery, express courier, or United States Postal Service, postage prepaid, to the Grantee or the Department at their respective address or number set forth below, or to such other addresses or numbers as each party may designate for itself in writing. Any notice so addressed and mailed shall be deemed to be given five (5) business days after mailing. Any notice given by personal delivery or express courier shall be deemed to be given immediately upon such delivery, provided such delivery is made to the person indicated below:

**Department:** **Oregon Department of Fish and Wildlife**  
 Andrew Spyрка, Private Forest Accord Grant Coordinator  
 Private Forest Accord Mitigation Grant Fund  
 4034 Fairview Industrial Drive SE  
 Salem, OR 97302  
 Phone: 503-871-2421  
 Email: [Andrew.J.SPYRKA@odfw.oregon.gov](mailto:Andrew.J.SPYRKA@odfw.oregon.gov)

**Grantee:** **Project Applicant:** «Organization\_Primary\_Contact\_First\_Name»  
 «Organization\_Primary\_Contact\_Last\_Name»  
 Business Name: «Organization\_Name»  
 Address:«Organization\_Address\_1»«Organization\_Address\_2»,  
 «Organization\_City», «Organization\_State», «Organization\_Postal\_Code».  
 Work Phone: «Organization\_Primary\_Contact\_Phone»  
 Email: «Organization\_Primary\_Contact\_Email»

- U. Counterparts.** This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
- V. Survival.** In addition to all provisions which by their nature extend beyond termination or full performance, the following provisions shall remain in effect beyond any termination or full performance: Sections I.B., II.I., III.C. through III.I., III.M., III.N., III.P. and III.Q.
- W. Tax Certification.** The individual signing this Agreement for the Grantee swears or affirms, under penalty of perjury, that he or she is authorized to act on behalf of the Grantee, has authority and knowledge regarding the payment of taxes, and that the Grantee is, to the best of his or her knowledge, not in violation of any Oregon tax laws. For purposes of this certification, 'Oregon tax laws' means those programs listed in ORS 305.380(4). The Grantee shall execute this certification each time this Agreement is amended by the parties.
- X. Insurance.** Grantee shall obtain and maintain insurance in the types and amounts as set forth in Exhibit D. Grantee shall furnish to the Department a Certificate of Insurance for the coverage and limits set forth in Exhibit D, which is to be in force and applicable to the Project throughout the term of this Agreement. If any contractors, subcontractors, or subgrantees used to carry out the Project are private entities, Grantee must ensure the liability and risks related to the Project are insured to the extent that similar insurance customarily carried by entities constructing, operating and maintaining similar work is required.



In witness thereof: the parties hereto have caused this Agreement to be properly executed by their authorized representatives as of the last date hereinafter written.

**STATE OF OREGON:**  
**Acting By and Through the Oregon**  
**Department of Fish and Wildlife**

**GRANTEE:**  
**(Insert Organization name here)**

By: \_\_\_\_\_  
Shannon Hurn  
Deputy Director for Administration

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Address:  
Attention – Procurement Section  
4034 Fairview Industrial Dr SE  
Salem, OR 97302

Address:  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Federal Employer Identification #

## **EXHIBIT A**

### **Project Description**

#### **Project Goal Statement**

Project Goal Statement

#### **Project Abstract**

Project Abstract

#### **Use of ODFW funds**

ODFW Funding

#### **The following conditions are set forth as Grantee actions based on the Project Objectives:**

Implementation

#### **Deliverables & Objectives Tables**

Measureable Project Objectives

At least 1 Objective

Project Deliverables

at least 1 Deliverable

## **EXHIBIT B**

### **Project Budget Sheet**

## **EXHIBIT C**

### **Grantee's Approved Grant Application to the Department**

The Grantee's Approved Grant Application is hereby incorporated by reference into this Agreement

## **Exhibit D**

### **Insurance Requirements**

## **Exhibit E**

### **Archaeological Inadvertent Discovery Plan (IDP)**