

OREGON WATERSHED ENHANCEMENT BOARD
GRANT AGREEMENT
for
Monitoring

Grantee: Tillamook County

Grant Number: 214-1043-11003

Grant Name: Southern Flow Corridor Effectiveness Monitoring - Baseline

Award Amount: \$125,548.00

Grant Completion Date: 12/30/15

Grantee

Tillamook County
201 Laurel Ave.
Tillamook, OR 97141
Phone: 503-842-1809
Fax: 503-842-1384
Email: plevesqu@co.tillamook.or.us
Contact: Paul Levesque

Project Manager for the Grantee

Laura Brophy
Institute for Applied Ecology
PO Box 2855
Corvallis, OR 97330-2855
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Fiscal Agent

Diane Powers
Tillamook County
201 Laurel Ave.
Tillamook, OR 97141
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Project Manager for the Board

Tom Shafer
OWEB
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Tidewater, OR 97390
Phone: 541-528-7451
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Fund Source:

This grant is funded by Oregon Lottery funds or another state fund source and must comply with the requirements defined in Article XV, section 4b(2) of the Oregon Constitution.

This Grant Agreement is between the Oregon Watershed Enhancement Board, hereafter called "Board," and the Grantee as identified above, in consideration of the mutual covenants contained herein. This Agreement consists of the following, in descending order of precedence: this Agreement less all exhibits; attached Exhibits A (Schedule for Release of Funds), B (Special Conditions), C (Project Completion Report Requirements), and D (Required Evidence of Permits, Licenses, and Other Agreements), E (Grant Application approved by the Board). All exhibits are incorporated by reference.

A. Authorization

This grant is authorized by ORS 541.890 to 541.958, as amended by Oregon Laws 2011, chapter 643, and is subject to Oregon Administrative Rules 695-001-0000 to 695-050-0050, as such rules may periodically be amended by the Board.

B. Grant Award

The Grantee agrees to perform the project described in the grant application (Exhibit E) and as specified in this Agreement, including without limitation in accordance with Sections C through O of this Agreement and in accordance with any Special Conditions identified in Exhibit B. In return, the Board agrees to payment of costs identified in the Agreement according to the *Schedule for Release of Funds*, attached as Exhibit A.

The Grantee agrees that funds provided by the Board will be used only for the purposes specified in the grant application (Exhibit E) and as detailed in Exhibits A and B.

C. Term of Agreement

This Agreement will become effective upon signature by all parties. Implementation of any changes to the project must be approved by all parties according to Section F, Amendments. The Project Completion Report is due within 60 days following grant completion. The Grantee will provide at least 25% non-Board match for the total amount of funding from the Board unless otherwise specified in Exhibit B.

D. Funding Conditions

The Board's obligation to disburse funds to the Grantee under this Agreement is subject to the Board having received, on the date of each disbursement, sufficient funding, appropriations, limitations, allotments, or other expenditure authority to allow the Board, in the exercise of its reasonable administrative discretion, to make each disbursement. Nothing in this Agreement entitles the Grantee to receive payment under this Agreement from any part of Oregon state government other than the Board, and nothing in this Agreement is to be construed as permitting any violation of Article IX, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon.

As a condition for the disbursement of any Board funds, the Grantee agrees to do the following:

1. Acknowledge Funding

Provide acknowledgement on any technical, outreach or informational material produced through this grant and distributed either in paper or electronic form that funding was provided by the Board.

2. Obtain Necessary Permits and Licenses

Submit to the Board's Project Manager, before release of any Board funds for the project components requiring permits or licenses, or for activities dependent on portions of the project for which a permit or license has yet to be issued, copies of all permits and licenses from local, state or federal agencies or governing bodies that have been obtained, or written evidence acceptable to the Board that permits and licenses are not needed (see Exhibit D, *Permits and Licenses*) as required by ORS 541.932(10). OWEB also has the discretion to condition its release of funds based on specific circumstances of a project. The Grantee should review Exhibit B Special Conditions of this Agreement for any related conditions with respect to permitting, licensing and fund release.

3. Comply With Implementation Conditions

- (a) Submit to the Board's Project Manager, before release of any Board funds, documentation that non-Board match has been secured as required by OAR 695-005-0060(3).
- (b) Notify the Board's Project Manager when any change or modification of the project is proposed.
- (c) Inform the Board's Project Manager of any address changes.
- (d) Adhere to the Special Conditions as described in Exhibit B.

4. Document and Report Project Completion

- (a) Submit to the Board's Project Manager all verifiable receipts, expenditure tracking sheet, and other accounting records throughout the term of this Agreement to document expenditure of grant fund installments, account for all other funding, and in-kind contributions in the Project Completion Report.
- (b) Submit to the Board's Project Manager a Project Completion Report as provided in Exhibit C and final Request for Release of Funds form within 60 days of the project completion date.

E. Records Maintenance and Access

1. **Access to Records and Facilities.** The Board, the Secretary of State's Office of the State of Oregon and their duly authorized representatives will have access to the books, documents, papers and records of Grantee that are directly related to this Agreement, the grant moneys provided hereunder, or the project for the purpose of making audits and examinations. In addition, the Board, the Secretary of State's Office of the State of Oregon and their duly authorized representatives may make and retain excerpts, copies and transcriptions of the foregoing books, documents, papers and records. Grantee will permit authorized representatives of the Board, the Secretary of State's Office of the State of Oregon and their duly authorized representatives to perform site reviews of all services delivered as part of the project.
2. **Retention of Records.** Grantee will retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the grant moneys or the project for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following termination or expiration of this Agreement. If there are unresolved audit questions or litigation at the end of the six-year period, Grantee will retain the records until the questions or litigation is resolved.
3. **Expenditure Records.** Grantee will document the expenditure of all grant moneys disbursed by the Board under this Agreement. Grantee will create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit the Board to verify how the grant moneys were expended, including without limitation accounting for all other funds expended, as well as in-kind services and donated materials.

F. Amendments

Any modifications of this Agreement must be mutually agreed to in writing by all parties. Amendments for time extensions, reinstatements, and award amendments will be permitted only if all reporting obligations under any earlier agreements have been met. Other amendments such as budget or fiscal agent changes may proceed regardless of reporting obligation status. Modifications to the budget elements only, as listed in Exhibit A, may be approved for change upon signature of the Board's Project Manager.

G. Assignment

The Grantee will not assign or transfer its interest in this Agreement without prior written approval from the Board.

H. Permission Required to Access Private Property; Access to Project Sites

In carrying out this Agreement, Grantee will not access any private property without first obtaining verbal or written consent from the landowner of the private property. Grantee will direct its contractors not to access private property without first obtaining verbal or written consent from the landowner of the private property.

Upon Board request and consistent with the Cooperative/Landowner Agreement(s) meeting the requirements as specified in Exhibit D, Grantee will seek the landowner's permission for mutually convenient access to the project site by Board members and their representatives for the purposes of evaluating project implementation, completion, post-implementation status or effectiveness.

I. Public Domain Information

Projects funded by this grant may be used in the collection of monitoring information on private lands about the effects of the project on aquatic or terrestrial conditions. Grantee acknowledges that all monitoring information obtained from private lands may become public information subject to the requirements of ORS 192.410 to 192.505.

J. Termination of Grant Agreement

1. If this Agreement is not signed by all parties within one (1) year of Board approval, the Grantee will not be reimbursed for any expenses and funding will be terminated. OAR 695-005-0050(2)
2. This Agreement may be terminated:
 - (a) At any time by mutual written consent of all parties;
 - (b) Upon written notice by the Board to Grantee for Grantee's failure to perform any other provision of this Agreement;
 - (c) Upon 30 days written notice by the Board to Grantee for any other reason specified in writing; or
 - (d) At any time, upon written notice by the Board, if the Board lacks sufficient funding, appropriations, limitations, allotments, or other expenditure authority to allow the Board, in the exercise of its reasonable administrative discretion, to disburse the grant funds.
3. Within 30 days of termination, Grantee will return to the Board any unspent funds provided by the Board under this Agreement in accordance with Section O, Recovery of Grant Funds. The Board will reimburse the Grantee for authorized services performed and expenses incurred before the termination under this Agreement.

K. Compliance With Applicable Law

Grantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Agreement or to the project. Without limiting the generality of the foregoing, Grantee expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement or the project: (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, (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) all regulations and administrative rules established pursuant to the foregoing laws, and (j) 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 project and required by law to be so incorporated. Grantee shall not discriminate against any individual, who receives or applies for services as part of the project, on the basis of actual or perceived age, race, creed, religion, color, national origin, gender, disability, marital status, sexual orientation, age or citizenship. All employers, including Grantee, 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.

L. Grantee Authority

The individual signing on behalf of the Grantee hereby certifies and swears under penalty of applicable law that the signator is authorized to act on behalf of Grantee, has authority and knowledge regarding Grantee's payment of taxes, and to the best of signator's knowledge, Grantee is not in violation of any Oregon tax laws.

M. Indemnity

Grantee will defend (subject to any limitation imposed by ORS Chapter 180), save, hold harmless, and indemnify the State of Oregon and the Board and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature resulting from or arising out of, or relating to the activities of Grantee or its officers, employees, contractors, or agents under this Agreement or in the implementation of the project.

N. Designation of Forum

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County. 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.

O. Recovery of Grant Funds

Any funds disbursed to Grantee 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 by the earlier termination of this Agreement or grant completion ("Unexpended Funds") must be returned to the Board not later than 15 days after the Board's written demand.

THIS AGREEMENT, INCLUDING ALL MATERIALS INCORPORATED BY REFERENCE, CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES ON THIS SUBJECT. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HERE REGARDING THIS AGREEMENT. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THE FAILURE OF THE BOARD TO ENFORCE ANY PROVISION OF THIS AGREEMENT SHALL NOT CONSTITUTE A WAIVER BY THE BOARD OF THAT OR ANY OTHER PROVISION. GRANTEE, BY EXECUTING THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT GRANTEE HAS READ THIS AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

CERTIFICATION

GRANTEE CERTIFIES THAT BEFORE BEGINNING WORK ON PROJECTS INVOLVING PRIVATE LANDS, GRANTEE HAS SECURED, OR WILL SECURE, COOPERATIVE LANDOWNER AGREEMENTS WITH ALL PARTICIPATING PRIVATE LANDOWNERS THAT, AT A MINIMUM, INCLUDE THE FOLLOWING:

- (a) Permission to access the private land, at times agreeable to the landowner, to implement the project, inspect the project, track the status of the project, or perform repairs or maintenance;
- (b) Permission for the Board or its representatives to access the private land for inspections and evaluations of the project;
- (c) Identification of the party responsible for repairs and maintenance of the project; and
- (d) Acknowledgement that the landowner is aware of the application to OWEB and that information relating to the work, including effectiveness monitoring data, is a public record.

AGREED:

FOR THE GRANTEE:

Bill Baertlein

Bill Baertlein, Chair
Print Name Tillamook County
Board of Commissioners
05/21/14
Date

FOR THE BOARD:

Shuman
OWEB Program Manager

5/12/14
Date



EXHIBIT A

SCHEDULE FOR RELEASE OF FUNDS

All fund requests must be submitted using the most current Request for Release of Funds form signed by the Grantee or the Grantee's authorized agent. Disbursement of funds is subject to the Board having sufficient funding on the date of each disbursement. Payment requests will be processed after approval by the Board's Project and Program Managers. Funds are released upon presentation of receipts, invoices or bills for purchases or work accomplished. If a landowner is requesting reimbursement for materials and supplies provided for the project, OWEB may reimburse Grantee for certain costs, pursuant to the landowner receipts guidance provided in OWEB's Grant Billing Instructions at: www.oregon.gov/OWEB/pages/forms_linked.aspx.

Funds may also be released in advance on the basis of a detailed estimate of expenses. Receipts/invoices and an expense tracking spreadsheet must be submitted to document **all funds** received from the Board for this project within 120 days of the date of the check. Failure to comply may delay new grants from being issued, and other grant payment requests and amendments.

Authorized travel expenses will be reimbursed at State of Oregon rates. Receipts for lodging are required for reimbursement. In-house personnel costs include: gross wages, payroll taxes, health insurance, retirement benefits, accrued leave liability, and workers compensation insurance. Fiscal administration costs include: accounting, auditing, contract management and fiscal reporting expenses, including final report expenses for this grant. Definitions of Budget Categories can be found at: http://oregon.gov/OWEB/forms/budget_categories_defs_sep06.pdf.

The grant budget consists of the elements listed below. Modifications to the budget elements only, as listed in Exhibit A, may be approved for change upon signature of the Board's Project Manager.

Budget Category	Amount
OWEB Funds	
Project Management	\$2,184.00
In-House Personnel	\$0.00
Contracted Services	\$111,951.00
Travel	\$0.00
Supplies/Materials	\$0.00
Production	\$0.00
Equipment	\$0.00
Categories Subtotal	\$114,135.00
Fiscal Administration (OAR 695-005-0030(5))*	\$11,413.00
Grant Total	\$125,548.00

*Not to exceed 10% of the Categories Subtotal

Note: The final 10% of the grant (\$12,555.00) will be released for payment upon receipt of all grant expense documentation and acceptance of the Project Completion Report by the Board. OAR 695-005-0060(8)

EXHIBIT B
SPECIAL CONDITIONS

1. Special Grant Conditions.

The following special conditions apply to the implementation of this Agreement:

- (a) Provide for review and approval by the Board's Project Manager, the draft and final copies of any technical, outreach or informational materials produced through the grant before publication or electronic posting.
- (b) The grant agreement is conditioned to require the groundwater monitoring (see Figure 7 in the application) to use standard protocols, in order for sensor wells to go deep enough to cover the full extent of ground water elevation change (4-5 feet).

EXHIBIT C**PROJECT COMPLETION REPORT REQUIREMENTS**

Oregon Administrative Rule 695-010-0100(1) states that "Grantee must submit a report at completion of the project describing the work done and placing it in its larger watershed context." Therefore, **Grantee must submit a Project Completion Report within 60 days following project completion** that includes, but is not limited to, (1) through (6) below. The Project Completion Report may be submitted in writing to OWEB's Project Manager or submitted electronically on OWEB's Grant Management System (OGMS). Grantee must have an OGMS User Identification and password to submit the Project Completion Report electronically. If Grantee does not have an OGMS User Identification and password, Grantee may request one by calling (503) 986-0232. Once logged into OGMS, click on the menu item 'Project Completion Reporting.' <http://apps.wrd.state.or.us/apps/oweb/fiscal/default.aspx>. See reporting guidance at www.oregon.gov/OWEB/GRANTS/Pages/final_report_guidance.aspx.

- (1) A **final project summary** that in 200 words or less, describes **what the project accomplished and what problem(s) it addressed**. The information you provide will be used for accountability and reporting purposes, and displayed for the general public. Please make a clear and concise statement; avoid jargon and acronyms. For guidance see www.oregon.gov/OWEB/GRANTS/Pages/final_report_guidance.aspx.
- (2) A brief, narrative description of the project including:
 - (a) Background on the problem that generated the project;
 - (b) A description of the work done, placing it in its larger watershed context;
 - (c) A description and explanation of any changes to the original proposal;
 - (d) A summary of any outreach activities related to the project, including identification of any tours or presentations and copies of newspaper or other media coverage about the project;
 - (e) Lessons learned, if any, from the project; and
 - (f) Recommendations, if any, for more effective implementation of similar projects.
- (3) **See Exhibit B for any Special Conditions applying to the Project Completion Report.**
- (4) Attachments:
 - (a) For Technical Assistance grants, attach final project designs, the action plan prepared by the project contractor or staff person, or a list of the landowners contacted and identify those successfully recruited, with discussion of the reasons that landowners agreed or declined to participate, and the resulting list of sites secured for project implementation (include township, range, and section for each).
 - (b) For Monitoring grants, attach the monitoring data and a final report providing the data and any analysis conducted. Include a description of where the data is housed for future use.
 - (c) For Watershed Assessment grants, attach two (2) paper copies and an electronic version of the completed assessment.
 - (d) For Outreach grants, attach copies of any outreach or informational materials developed as part of this project.
- (5) **Final Report Metrics Form**
Complete the Final Report Metrics form as provided for Technical Assistance, Monitoring and Outreach grants on the OWEB website at www.oregon.gov/OWEB/pages/forms_linked.aspx. The information you provide in the Final Report Metrics Form is used by OWEB for federal and state reporting purposes.
- (6) An accounting of the expenditures of Board moneys and all other funding in the project, including a final accounting of all in-kind contributions, donations and the **required non-Board match funds**, using the Match Form for Final Report form provided on the OWEB website at www.oregon.gov/OWEB/pages/forms_linked.aspx.

The Board's Project Manager must review and approve project completion, including the review and approval of all documents, permits, invoices, etc., before the final 10% of the grant award is released.

Submittal and acceptance of a Project Completion Report and final request for release of funds will authorize the Board to retain any unspent funds.

OWEB will not issue new grant agreements when Grantee has any outstanding reports due to OWEB.

EXHIBIT D

REQUIRED EVIDENCE OF PERMITS, LICENSES AND OTHER AGREEMENTS

Permits, Licenses, Other Agreements. ORS 541.932(10) states that “the Board may not disburse funds to the applicant for any part of the project that requires the applicant to obtain a permit or license from a local, state or federal agency or governing body until the applicant presents evidence that the agency has granted the permit or license.” OWEB also has the discretion to condition its release of funds based on specific circumstances of a project. Grantee should review Exhibit B Special Conditions of this Agreement for any related conditions with respect to permitting, licensing and fund release.

If applicable to this grant, the Grantee must provide before the release of any Board funds copies of applicable permits, licenses, and other agreements that have been obtained to provide sufficient evidence that this requirement has been met or written evidence acceptable to the Board that permits and licenses are not required. Check one of the two boxes below:

Permits are not required for this project.

The following permits, licenses, and General Authorizations are required for my project:

NOAA Fisheries 4(d) Rule Research Authorization: Currently using ODFW's authorization (File Number 18361, 'Presence/Absence Surveys and Fish Passage Evaluations for the North Coast ODFW District'). Current authorization expires 12/31/14. After expiration, The Confederated Tribes of Siletz Indians will acquire a new authorization.

Cooperative/Landowner Agreement(s). OAR 695-005-0060(4) states that “prior to disbursement of Board funds for projects involving private lands, the Board must receive certification from the Grantee that they will obtain, prior to expending Board funds on a property, a Cooperative Agreement from the landowner.” See page 6 of this Agreement for Grantee Certification and Exhibit B.

Check one of the three boxes below:

The work related to this project will not require site access. Therefore, Cooperative/Landowner Agreement(s) are not required.

All work related to this project will occur on *public* lands. Therefore, Cooperative/Landowner Agreement(s) are not required.

All or part of the work related to this project will occur on *private* lands. A sample Cooperative/Landowner Agreement form is available on OWEB's website at www.oregon.gov/OWEB/Pages/forms_linked.aspx. Such Agreement shall include, but is not limited to:

- Landowner's certification that the landowner owns the land where the work will be carried out;
- Landowner's Agreement to allow Grantee to carry out the work, or a portion of the work on the landowner's property;
- Landowner's Agreement to allow maintenance of the work over a time period consistent with the grant application;
- Landowner's Agreement to allow the OWEB Board and its representatives access to the site where the work is being carried out for inspection and evaluation; and
- Landowner's acknowledgment that he/she is aware of the application to OWEB and that information relating to the work, including effectiveness monitoring data, is a public record.

Bill Bault
Grantee Signature

05/21/14
Date

Grant No. 214-1043-11003

Project Name: Southern Flow Corridor Effectiveness Monitoring - Baseline

EXHIBIT E

**OWEB GRANT APPLICATION
(In OWEB files)**