



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: August 18, 2021

Department: Public Works Agenda Planning Date: August 12, 2021 Time required: 5 Min.

Audio/Visual aids

Contact: Kathleen Silva Phone: 503 365-3133

Department Head Signature: [Signature]

TITLE: State Preparedness and Incident Response (SPIRE) Grant

Issue, Description & Background: In 2019 Public Works - Emergency Management applied for a grant through Oregon Emergency Management for the direct provision of emergency equipment, as authorized by HB 2687, to local governments and other recipients. Marion County submitted applications for a satellite communications and data system, a mass casualty incident support trailer, portable lighting and sandbagging equipment. This agreement awards a soft-sided mass casualty incident support trailer that will provide us the ability to set up two shelter units and 20 beds to use as overflow urban care or to set up as a remote aid or shelter facility. The trailer package includes a generator, HVAC and lighting. The package has been ordered by the state but has not yet been delivered. Exhibit A: Equipment Schedule will be updated when the equipment is delivered. Ownership of the trailer will remain with the State of Oregon, with Marion County being responsible for the secure storage and ongoing maintenance of the trailer and equipment.

Financial Impacts: Ongoing maintenance will primarily consist of replacing tires and fire extinguisher testing.

Impacts to Department & External Agencies: The granted equipment will increase Marion County's capability to respond to mass casualty incidents in both urban and rural locations which will enhance the safety of the community at large.

Options for Consideration: 1. Approve the grant agreement and accept the soft-sided incident support trailer and equipment. 2. Deny approval of the grant agreement.

Recommendation: Public Works - Emergency Management recommends the Board approve the grant agreement and accept the soft-sided incident support trailer and equipment.

List of attachments: 1. Grant Agreement 2. Contract Review Sheet 3. Grant Application Transmittal

Presenter: Kathleen Silva

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Copies to:

Tim Beaver, tbeaver@co.marion.or.us



Grant Application Transmittal

Instructions: Send this transmittal form along with a completed *copy of the grant application* to Alicia Henry (x3279) - Finance Department or e-mail electronically to ahenry@co.marion.or.us. Please allow **at least 5-7 business days** for review & approval (prior to application deadline). (For additional instructions on completing this form, see second tab of this workbook, titled 'Instructions'.)

Please Complete the Following Info:		Please Complete the Following Info:	
Dept Submitted By:	Public Works	Application Deadline:	1-Mar-19
Transmittal Date:	02/25/19	Amount of Grant Award:	\$0
Contact Name & Ph#:	Ed Flick 503-365-3133	Allocated Admin Charges:	0
Grantor Name:	Oregon Military Department	County Match Included?	No
Type of Funding:	State	If Yes, enter Match Amt or %:	
Fund/DIPS/Project #:		Subcontract Services*?	
Title of Grant:	State Preparedness and Incident Response Equipment Grant Program (SPIRE)	Enter Contractor Name(s):	

Grant Summary or Grant Objective

Oregon House Bill 2687, which became effective in August 2017, established a grant program to distribute emergency preparedness equipment, which may include vehicles or other property, to local governments and other recipients to be used to decrease risk of life and property resulting from an emergency. Items purchased must qualify as capital assets, meaning individual items must cost at least \$5,000. The Oregon Office of Emergency Management will purchase and retain ownership of all equipment dispersed under the grant, and can reclaim the item(s) at any time and for any duration based on: Failure to meet requirements of grant agreement, community needs, or any other purpose, as determined solely by the OEM. Unless reclaimed or repurposed, the equipment will remain with the grantee for the duration of its useful life. The State will work with each grantee after the equipment's useful life for final disposition. Marion County is submitting five applications. 1. Satellite System; 2. Mass Casualty Incident Support Trailer; 3. Portable Lighting; 4. Sandbagging Machine.

Department has read and agrees to the guidelines, regulations, and certifications contained in the application submitted for approval. Upon notice of award, department will ensure compliance with all terms and conditions of the grant funding. *If Department is subcontracting services, Department has considered procurement rules regarding appropriate solicitation process.

Brian Nicholas 2/25/2019
 Department Signature Date

The remaining transmittal is for Finance & CAO use only

Date Rcvd by Finance	Date Sent to CAO	Date Returned to Finance	Date Returned to Dept
2-26-19	2-26-19	2-26-19	2-27-19

CAO Signature & Date
[Signature] 2/26/19
 Chief Administrative Officer Date

CAO Approval/Denial
 APPROVED DENIED

Finance Signature & Date
[Signature] 2/26/19
 Finance Department Date

BOC Signatures Required?
 YES* N/A
 *See Board Agenda

Comments

**OREGON MILITARY DEPARTMENT
OFFICE OF EMERGENCY MANAGEMENT
STATE PREPAREDNESS AND INCIDENT RESPONSE GRANT
Marion County Emergency Management
Mass Casualty Incident Support Trailers
Grant No: 18-097**

This Agreement is made and entered into by and between the **State of Oregon**, acting by and through the Oregon Military Department, Office of Emergency Management, hereinafter referred to as “OEM,” and **Marion County Emergency Management**, hereinafter referred to as “Recipient,” and collectively referred to as the “Parties.”

1. **EFFECTIVE DATE.** This Agreement shall become effective on the date this agreement is fully executed and approved as required by applicable law. This Agreement, and OEM’s obligation to provide the Equipment (as that term is defined in Section 3) under this Agreement, shall terminate as provided in Section 8.
2. **AGREEMENT DOCUMENTS.** This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

Exhibit A: **Equipment Schedule**

3. **EQUIPMENT.** In accordance with the terms and conditions of this Agreement, OEM shall provide Recipient the item(s) of emergency response vehicles, equipment, and other personal property identified in Exhibit A (collectively, the “Equipment”). Recipient shall use the Equipment solely to decrease risks to life and property resulting from an emergency, as defined in ORS 401.025.
4. **MAINTENANCE; ANNUAL SUSTAINMENT REPORTS.**
 - a. Recipient must maintain, repair, perform upkeep on, and otherwise keep the Equipment in good working condition.
 - b. Recipient shall submit annual sustainment reports using a form provided by OEM. The sustainment reports will summarize Recipient’s maintenance and use of the Equipment during the preceding calendar year.
 - c. Recipient must submit sustainment reports to OEM annually on or before January 31st.
 - d. Recipient may request from OEM prior written approval to submit a sustainment report after its due date. OEM may approve or deny the request in its sole discretion.
 - e. Failure of Recipient to timely submit an annual program sustainment report may result in termination of this Agreement.

5. RECORDS MAINTENANCE AND ACCESS; EQUIPMENT INSPECTIONS.

- a. **Records, Access to Records.** Recipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Equipment in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards, and state minimum standards for audits of municipal corporations. OEM, the Secretary of State of the State of Oregon (the “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 or the Equipment provided for the purpose of making audits and examinations. In addition, OEM, the Secretary, and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records.
- b. **Retention of Records.** Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement or the Equipment 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 of this Agreement. If there are unresolved audit questions at the end of the six-year period, Recipient shall retain the records until the questions are resolved.
- c. **Equipment Inspections.** Recipient shall permit authorized representatives of OEM to periodically inspect the Equipment, with or without notice.

6. OPERATION AND MAINTENANCE EXPENSES. Recipient shall be solely responsible for the costs of operating, maintaining, licensing, and insuring the Equipment and the costs, if any, to acquire and install any parts, accessories, or attachments for the Equipment (collectively, the “Operating Expenses”). OEM shall not be responsible for any Operating Expenses while the Equipment remains in Recipient’s possession, custody, or control.

7. OWNERSHIP. The OEM will retain ownership of the Equipment and can reclaim any or all of the item(s) of Equipment at any time and for any duration based on Recipient’s failure to meet requirements of this Agreement, community needs, or any other purpose, as determined by OEM in its sole discretion. Upon the Equipment being fully depreciated under governmental accounting principles, OEM may elect to sell the Equipment to Recipient at its fair market value.

8. TERMINATION.

- a. **Termination by OEM.** OEM may terminate this Agreement effective upon delivery of written notice of termination to Recipient, or at such later date as may be established by OEM in such written notice, if:
 - i. Recipient fails to follow grant agreement requirements or standard or special conditions; or
 - ii. Recipient fails to adequately maintain the Equipment; or
 - iii. Recipient fails to submit required reports; or
 - iv. Recipient fails to comply with inspections for any reason; or
 - v. Recipient files a false certification in this application or other report or document, including correspondence with OEM by any medium; or
 - vi. OEM determines that the Equipment could be of greater use to the community elsewhere.

b. Termination by Recipient. Recipient may terminate this Agreement effective upon delivery of written notice of termination to OEM, or at such later date as may be established by Recipient in such written notice, if:

- i. Recipient no longer needs the Equipment; or
- ii. The Equipment is beyond its useful life.

c. Termination by Either Party. Either Party may terminate this Agreement upon at least ten business days' notice to the other Party.

d. OEM's Rights Upon Termination. Upon termination under this Section 8:

- i. OEM may repossess the Equipment from Recipient and, if Recipient has failed to adequately maintain the Equipment as required by Section 4(a), require Recipient to reimburse OEM the cost of repairing the Equipment; or
- ii. Where Recipient has failed to adequately maintain the Equipment as required by Section 4(a), OEM may require Recipient to pay OEM an amount equal to the Equipment's fair market value assuming proper maintenance and repair.

9. REPRESENTATIONS AND COVENANTS REGARDING THE TAX-EXEMPT STATUS OF BONDS.

- a. Recipient acknowledges that the State of Oregon may issue certain bonds (the "Bonds") in part to fund this grant and that the interest paid on the Bonds is excludable from gross income for federal income tax purposes. Recipient further acknowledges that the uses of the Equipment by Recipient during the term of the Bonds may impact the tax-exempt status of the Bonds. Accordingly, Recipient agrees to comply with all applicable provisions of the Internal Revenue Code of 1986, as amended, including any implementing regulations and any administrative or judicial interpretations, (the "Code") necessary to protect the exclusion of interest on the Bonds from federal income taxation.
- b. Recipient shall not, without prior written consent of OEM, permit more than five percent (5%) of the Equipment to be used in a "private use" by a "private person" (as defined in the Code) if such private use could result in the State of Oregon, receiving direct or indirect payments or revenues from the portion of the Equipment to be privately used.
- c. This subsection 9 shall survive any expiration or termination of this Agreement.

10. GENERAL PROVISIONS.

- a. **Indemnity.** To the extent authorized by law, Recipient shall defend (subject to ORS chapter 180), indemnify, save, and hold harmless the State of Oregon, OEM and each of their officers, employees, and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability, and court awards including costs, expenses, and attorneys' fees incurred related to any actual or alleged act or omission by Recipient, or its employees, agents, or contractors. This Section shall survive expiration or termination of this Agreement
- b. **Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or

arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. Each party shall bear its own costs incurred under this Section 10.b.

- c. Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
- d. Notices.** Except as otherwise expressly provided in this Section, any communications between the parties hereto or notice to be given hereunder shall be given in writing by personal delivery, facsimile, email or mailing the same by registered or certified mail, postage prepaid to Recipient or OEM at the appropriate address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and sent by registered or certified mail shall be deemed delivered upon receipt or refusal of receipt. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. The parties also may communicate by telephone, regular mail, or other means, but such communications shall not be deemed Notices under this Section unless receipt by the other party is expressly acknowledged in writing by the receiving party.
- e. Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between OEM (or any other agency or department of the State of Oregon) and 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. 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.
- f. 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 Project.
- g. 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.
- h. Counterparts.** This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

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

Marion County Emergency Management

By _____

Name _____
(printed)

Date _____

APPROVED AS TO LEGAL SUFFICIENCY
(If required for Recipient)

By _____
Recipient's Legal Counsel

Date _____

Recipient Program Contact:

Kathleen Silva
County Emergency Manager
Marion County
5155 Silverton Rd NE
Salem, OR 97305
503-365-3133
ksliva@co.marion.or.us

Recipient Fiscal Contact:

KaLyn Franchini
Accounting Specialist
Marion County
5155 Silverton Rd NE
Salem, OR 97305
503-365-3106
ksfranchini@co.marion.or.us

State of Oregon, acting by through its Oregon Military
Department Office of Emergency Management

By _____

Traci Naile
Mitigation and Services Section Manager, OEM

Date _____

APPROVED AS TO FORM

By Sam Zeigler via email
Senior Assistant Attorney General

Date: August 8, 2019

OEM Program Contact:

Jim Jungling
Program Coordinator, OEM
Oregon Military Department
Office of Emergency Management
PO Box 14370
Salem, OR 97309-5062
503-378-3552
jim.jungling@state.or.us

OEM Fiscal Contact:

Nicki Powers
Senior Grants Accountant
Oregon Military Department
Office of Emergency Management
PO Box 14370
Salem, OR 97309-5062
503-378-3734
nicki.powers@mil.state.or.us

SEE ATTACHED SIGNATURE PAGE

EXHIBIT A

Equipment Schedule

Description	Make	Model	Serial No.

**OREGON MILITARY DEPARTMENT
OFFICE OF EMERGENCY MANAGEMENT
STATE PREPAREDNESS AND INCIDENT RESPONSE GRANT
Marion County Emergency Management
Mass Casualty Incident Support Trailers
Grant No: 18-097**

MARION COUNTY SIGNATURES:

BOARD OF COMMISSIONERS:

Chair Date

Commissioner Date

Commissioner Date

Authorized Signature: Brian Hill 8/4/2021
Department Director or designee Date

Authorized Signature: _____
Chief Administrative Officer Date

Reviewed by Signature: _____
Marion County Legal Counsel Date

Reviewed by Signature: _____
Marion County Contracts & Procurement Date