

W.5.G.1.

**ABREVIATED CONSENT CALENDAR MEMO**

Memorandum Date: 26 May 2010

Order Date: 9 June 2010

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TO: Board of County Commissioners

DEPARTMENT: Lane County Sheriff's Office

PRESENTED BY: Judy Simpson

**AGENDA ITEM TITLE: IN THE MATTER OF DELEGATING AUTHORITY TO THE COUNTY ADMINISTRATOR TO EXECUTE ATV GRANT PROGRAM AGREEMENT BETWEEN THE STATE OF OREGON, PARKS AND RECREATION DEPARTMENT AND LANE COUNTY IN THE AMOUNT OF \$110,000**

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I. MOTION

MOVE TO AUTHORIZE EXECUTION OF THE DUNES PATROL ATV GRANT AGREEMENT

II. DISCUSSION

A. Background/Analysis

Every fiscal year the Lane County Sheriff's Office applies for an ATV Grant to provide funding for a fulltime Deputy Sheriff to provide law enforcement patrols and first response medical aid in primarily the coastal dunes area of Lane County.

The Sheriff's Office (SO) will receive an ATV Grant in the amount of \$110,000 for fiscal year 10/11 for the Dunes Patrol Deputy.

The primary reportable match for the ATV Grant is reserve deputy time assisting the Dunes Patrol Deputy on the dunes.

A notice to proceed or begin working the grant is provided to the SO upon full execution of the ATV Grant Program Agreement.

The SO must have an executed Agreement prior to 1 July 2010 because the SO is able to fulfill a large portion of the match requirement the 4<sup>th</sup> of July weekend due to the amount of reserves working on the Dunes assisting the Dunes Deputy.

Lane Manual 21.145 requires Board of Commissioner approval for execution of an Agreement which exceeds \$100,000.

B. RECOMMENDATION

Staff recommends approving execution of the Dunes Patrol ATV Grant Program Agreement.

The fourth of July holiday weekend is one of the busiest times for patrolling the Dunes, and the SO receives assistance from a number of reserve officers during this time period.

III. ATTACHMENTS

1. Proposed Board Order No. \_\_\_\_\_.
2. ATV Grant #10-16 Program Agreement.



## ATV GRANT PROGRAM AGREEMENT

**THIS AGREEMENT** is made and entered into by and between the State of Oregon acting by and through its Oregon Parks and Recreation Department, hereinafter referred to as the "State" and the **Lane County Sheriff's Office**, or designated representative, hereinafter referred to as the "Sponsor".

The parties agree to the following:

Under ORS 390.180, the State and the Sponsor may enter into an agreement concerning All Terrain Vehicle recreational opportunities, hereinafter, referred to as the "Project", and the State may make grants of money to assist the Sponsor in such projects.

The Sponsor agrees to comply with the ATV Grant Program Rules found in ORS 390.550 – 390.590, OAR 736.004.0005 – 736.004.0030, the ATV Grant Program Manual and all other State adopted policies, guidelines and procedures.

The State has sufficient ATV Grant funds available within its current biennial budget and has authorized the expenditure on the Sponsor's Project as defined below.

The purpose of this agreement is to set forth the obligations of both parties in the development of ATV recreational opportunities, hereinafter called the "Project" which is described in the Sponsor's ATV Grant Application. With this reference the ATV Grant Application is made a part of this agreement and more specifically describes the Sponsor's Project.

The Sponsor shall perform the services under this agreement as an independent contractor and shall indemnify, defend, and hold harmless the State of Oregon and Oregon Parks and Recreation Department and its 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 Sponsor or the Sponsors officers, employees, sub-contractors, or agents under this, agreement, only to the extent permitted by the Oregon Tort Claims Act and the Oregon Constitution Article XI, Section 10. The State shall be responsible for the acts, omissions, or negligence of its own officers, employees or agents, and only to the extent permitted by the Oregon Tort Claims Act ORS 30.260 – 30.300 and the Oregon Constitution Art. XI, sec.7.

The Project has been reviewed and based on the Sponsor's representations is found to be feasible and appropriate for funding.

Project Title: **Lane County Sheriff Dunes Patrol**

Project Type: **Law Enforcement**

Project Number: **ATV 10-16**

Project Funding:

Grant Amount: The State agrees to pay to the Sponsor **\$110,000.00** or **76.39%** of the total cost of the project, or whichever amount is less from the monies available in the All Terrain Vehicle Account.

The total cost of the entire ATV project covered by this agreement is **\$144,000.00**

The value of the match contribution by the Sponsor for this project is **\$34,000.00**

**NOW, THEREFORE**, the State and the Sponsor agree to the following:

Grant Funds: Subject to the approval of the Oregon Parks and Recreation Commission, the State shall provide ATV Grant funds to the Sponsor to supplement the funding of the authorized Project. The State shall not provide to the Sponsor, and the Sponsor shall not use any funds described in this section for administration, overhead, or indirect costs whether or not related to this agreement.

Overpayments: In the event that the aggregate amount of money advanced and payments made to the Sponsor exceed the allowable reimbursable costs for the Project, the Sponsor agrees to refund to the State the amount paid in excess of such allowable expenses within forty-five (45) days of the final billing for the Project or the completion date whichever is earlier.

Project Description: The scope of work will be completed as contained in the ATV Program Grant Application. It will include, but is not limited to the following:

**This grant provides for one full time Deputy Sheriff to provide law enforcement patrols in the dunes. The patrols include first response medical aid, search and rescue, and OHV enforcement primarily in the coastal dunes area of Lane County and the Lane County portion of the ODNRA. The full-time deputy is augmented by several reserve deputies and on occasion other trained full-time deputies.**

## **AGREEMENT TERM AND PROJECT COMPLETION**

Term: This agreement is **effective as July 1, 2010 or the last date shown executed by all parties**, whichever is later. Unless otherwise terminated or extended this agreement shall **expire on June 30, 2011**.

Project Completion: The Project shall be completed by or before the expiration date of the agreement and a final billing for the Project shall be submitted within forty-five (45) days of the expiration date of the agreement. A final report must accompany the final billing. If the Project is not completed by the expiration date the report shall contain an estimate of the percentage of completion of the abbreviated Project.

## **PROJECT FUNDING, PROGRESS REPORTS, AND GRANT PAYMENTS, DISBURSEMENTS**

Conditions Precedent to a Disbursement: The Sponsor may bill for reimbursable expenditures quarterly or at anytime during the agreement period with proper documentation. Prior to any disbursement for a project, the Sponsor shall provide a copy of all necessary federal, state and local permits required for the project. If the Sponsor requires the project or a portion of the project be awarded to a contractor, a copy of the contractors performance bond in the amount of the contract from a surety company authorized to do business in Oregon is required to be submitted to the State. The State will not reimburse the Sponsor for any expenses incurred prior to the effective date of this agreement.

Advances: As stated in the Oregon Administrative Rule (OAR 736-004-0030) the Sponsor may request an advance for a partial payment up to 25% of the ATV grant amount during the project period. Advances may be paid at the discretion of the State. The full amount of any advance must be expended and accounted for by the Sponsor, prior to any further disbursements to the Sponsor. The State will retain 10% of the total ATV grant amount as final payment until full documentation and all required reports are received by the State. At no time will the State reimburse the Sponsor for more than the maximum amount allowed by this agreement.

Conditions Precedent to Final Payment: The State shall not be obligated to make a final payment to the Sponsor until all documentation and required reports are received, including the ID number or vehicle identification number of any equipment purchased by the Sponsor. A final inspection will be made by the State and the State will make the final payment to the Sponsor within forty-five (45) days of the receipt of all reports, documents and the final inspection.

Progress Reports: Progress Reports are required at a minimum, on a quarterly basis during the project period. The due dates for Progress Reports are as follows:

Period beginning January 1, ending March 31, report is **due April 30**.

Period beginning April 1, ending June 30, report is **due July 31**.

Period beginning July 1, ending September 30, report is **due October 31**.

Period beginning October 1, ending December 31, report is **due January 31**.

Equipment: Equipment must be used as described in the Project description throughout its useful life. The useful life is defined as 5 years from Project completion. Equipment purchased with ATV grant funds must display a sticker supplied by the State, showing the ATV Grant funding source. The vehicle ID or a serial number, together with a photograph of equipment purchased with ATV grant funds shall be submitted to OPRD within 90 days of purchase. The Sponsor is responsible for maintaining all equipment purchased under this agreement. The State must be notified prior to any sale or disposal of equipment purchased under this agreement. The Sponsor agrees to return the equipment to the State for redistribution to other OHV programs should the Sponsor end the project or OHV activities related to the Project at any time during the equipment's useful life. The Sponsor is responsible for maintaining all equipment purchased under this agreement.

## **SPONSOR COVENANTS**

Matching Funds: The Sponsor shall contribute matching funds or the equivalent in labor, materials, or services, which are shown as eligible match in the rules, policies and guidelines for the ATV Grant Program. Volunteer labor used as match requires a log with the name of the volunteer, date volunteered, hours worked, location worked at and rate used for match to be eligible.

Project Sign: The Sponsor shall post in a conspicuous location at the Project site a sign identifying the ATV funding and the State's participation in the Project.

Public Access to Project: The Sponsor shall allow open and unencumbered public access to the Project to all persons without regard to race, color, religious or political beliefs, sex, national origin, or place of primary residence.

Compliance with Workers Compensation Law: The Sponsor shall require that its contractors or any sub-contractors, and all employers performing work on the Project be subject employers under the Oregon Workers Compensation Law, and shall comply with ORS 656.017, which requires subject employers to provide compensation coverage for all subject workers.

Record Maintenance: The Sponsor shall maintain all fiscal records relating to this agreement in accordance with generally accepted accounting principles. Controls shall be established which are adequate to ensure that all expenditures reimbursed under this agreement are for allowable purposes and that documentation is readily available to verify that such charges are accurate.

Audit: The Sponsor shall allow the State or its authorized representative to inspect and review all records related to this agreement whenever so requested by the State. The Sponsor shall retain and keep accessible all such fiscal records for a minimum of three (3) years.

## **TERMINATION, REMEDIES, AND AMENDMENTS**

Termination for Convenience: Either party, in writing may terminate this agreement in whole or in part, at any time prior to the expiration date of this agreement. Neither party shall incur any new obligations for the terminated portion of this agreement and shall cancel as many obligations as possible. Full credit shall be allowed for the non-cancelable obligations properly incurred up to the effective date of the

termination. The State reserves the right to cancel this agreement if no progress on the Project is made within six months of the effective date of this agreement.

Termination Due to Non-Appropriation or Project Ineligibility: The State and the Sponsor, upon thirty (30) days written notice to the other party, may modify or terminate this agreement if the party fails to receive funding or appropriations, limitations, or other expenditure authority at levels sufficient to pay the allowable costs of the Project to be funded hereunder, or should state law, regulation or guidelines be modified, changed or interpreted in such a way that the Project, or any portion of the Project is no longer eligible for ATV grant funding.

Remedies: The State and the Sponsor shall have any and all rights and remedies available by law or in equity.

Amendments: This agreement may only be amended or extended with an actual written amendment signed by both parties. A request by the Sponsor for a time extension must include a compelling reason for the extension and must be received by the State at least (30) thirty days prior to the expiration date of this agreement. A request to increase the amount of grant funding for the Project must be approved by the ATV Account Allocation Committee and must go through the ATV grant funding approval process. Neither the State nor the Sponsor is obligated to fund any changes not approved in advance and in writing.

## **GENERAL PROVISIONS**

Authorized Representatives. By signature below, the State and the Sponsor certify that the individuals listed in this document as their representatives are authorized to act in their respective areas for matters related to this agreement.

Participation in Similar Activities: This agreement in no way restricts the Sponsor or the State from participating in similar activities with other public or private agencies, organizations or individuals.

Duplicate Payment: The Sponsor 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. All Sponsor matching contributions to this agreement must be used and expended for this Project only and within the Project period.

No Third Party Beneficiaries: The State and the Sponsor 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.

Freedom of Information: Any information furnished under this agreement is subject to the Freedom of Information Act (5 U. S. C. 552) and the Oregon Public Records Law (ORS 192.410-.505).

Property Improvements: Improvements placed on the Sponsor's land at the direction of the parties and shall be subject to the same regulations and administration of the Sponsor as other improvements of similar nature.

Ownership: No part of this agreement shall entitle the State to any share or interest in the project other than the right to use and enjoy the same under existing regulations of the Sponsor. The State is neither responsible nor liable in any manner for the construction, operation or maintenance of the project.

Notices: Written notices or communications to the State or Sponsor under this agreement will be addressed and mailed to the following:

State:

Agreement Principal Contact:

Pamela Berger  
ATV Grant Contracts Coordinator  
Oregon Parks and Recreation Department  
725 Summer St NE Suite C  
Salem Oregon 97301-1271

Telephone: (503) 986-0785  
Fax: (503) 986-0794  
E-mail: [pamela.berger@state.or.us](mailto:pamela.berger@state.or.us)

Sponsor:

Project Principal Contract:

Sergeant Chris Doyle  
Lane County Sheriff's Office  
125 E. 8<sup>th</sup> Ave  
Eugene, Oregon 97401

Telephone: (541) 682-8541  
Fax: (541) 682-8596  
E-mail: [christopher.doyle@co.lane.or.us](mailto:christopher.doyle@co.lane.or.us)

Waiver Clause: THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE STATE AND THE SPONSOR. NO WAIVER CONSENT, MODIFICATION OR CHANGE OF THE TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH A WAIVER, CONSENT, MODIFICATION, OR CHANGE IF MADE SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. THE DELAY OR FAILURE OF THE STATE TO ENFORCE ANY PROVISIONS OF THIS AGREEMENT SHALL NOT CONSTITUTE A WAIVER BY THE STATE OF THAT PROVISION OR ANY OTHER PROVISION. THE 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 last date hereinafter written.

\_\_\_\_\_  
Sponsor Printed Name

\_\_\_\_\_  
Kyleen Stone, OPRD Asst. Director or Delegate

\_\_\_\_\_  
Sponsor's Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sponsor Signature

\_\_\_\_\_  
Wayne Rawlins, Grant Division Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Pamela Berger, ATV Grant Contracts Coordinator

\_\_\_\_\_  
Date