

# CLEAN VESSEL GRANT PROGRAM

## PRIVATE MARINA/MOORAGE FACILITIES

### PROCEDURE GUIDE

### APPLICATION FORMS



**BOATING FACILITIES  
PROGRAM**

**OREGON STATE  
MARINE BOARD**

## **“NOTHING OVERBOARD”**

The State Marine Board, in cooperation with the of the U.S. Fish & Wildlife Service, proactively protects and enhances Oregon’s waterways by providing grants for vessel waste collection facilities and promoting the proper disposal of vessel waste through education and information programs. The Marine Board’s goal is: “Nothing Overboard” – a simple concept that boaters can easily understand.

Funding for the Marine Board’s efforts primarily comes from the federal Clean Vessel Act, a component of the federal Sport Fish Restoration program, which is administered by the U.S. Fish and Wildlife Service. In addition to providing grants to public entities, the Marine Board makes grants available to private Marina/Moorage Facilities.

The purpose of this guide is to provide information to Private Marinas and Moorages interested in applying to the Marine Board for a grant to improve vessel waste collection facilities that are open to the public. Public entities should use the Public Facility Guide and Application Forms. Specific terms used are described in the glossary. (Section V)



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# SECTION I INTRODUCTION

## 1.1 Program Summary

- A. The Oregon State Marine Board is designated by the Governor to be the lead state agency to administer and distribute funds allocated to the U.S. Fish & Wildlife Service through the federal Clean Vessel Act (CVA) of 1992. Congress has authorized the Service to allocate federal CVA funds to states since fiscal year 1993.
  
- B. The Oregon State Marine Board consists of both a five-member citizen panel appointed by the Governor (Board) that allocates funds and enacts agency policies, and an agency (Agency) that carries out day-to-day business. Within the agency, the Boating Facilities Program is responsible for administering federal Clean Vessel Act grants and other boating facility grants. In this document, Board and Agency may be used interchangeably.
  
- C. Each federal fiscal year, the Board applies to the U.S. Fish & Wildlife Service (Service) for federal CVA funds. Applications are considered by the Service and awards are made to states on a nationally competitive basis. CVA funds received by the Board can be used for the following types of eligible activities:
  - 1) Statewide planning
  - 2) Public and private grants for vessel waste collection facilities
  - 3) Education and public information
  - 4) Technical and engineering assistance
  - 5) Agency coordination and enforcement (in-kind activity).
  
- D. The Board uses the bulk of the federal CVA funds it receives to provide grants for new or replacement/upgraded vessel waste collection facilities. Specific items that are eligible for grant assistance under administrative rules adopted by the Board include:
  - 1) Pumpouts Stationary or Portable
  - 2) Dump stations
  - 3) Combination pumpout/dump stations
  - 4) Floating restrooms
  - 5) Pumpout Boats
  - 6) Directly related support structures, such as floats, piles, and gangways
  - 7) Utilities or other improvements necessary for the proper installation and operation of boat waste collection facilities.

- E. Federal CVA grants can be used to cover a maximum of 75% of the cost of eligible items. The Board typically provides the required minimum 25% non-federal match from state boater funds, including registration fees and marine fuel taxes.
- F. Initially, only public entities were eligible to apply to the Board for CVA grants. In 1995, the Oregon Legislative passed Senate Bill 96, authorizing the Board to consider CVA grants applications submitted by private marinas and moorages.
- G. As directed by Senate Bill 96, the Board developed and adopted administrative rules, which became effective September 1995, governing the distribution of grant funds to private parties. These rules can be found in Oregon Administrative Rules Chapter 250-14-005. A synopsis of these rules is provided in Appendix D.
- H. Upon adoption of program rules, the Board prepared this Private CVA grant program Procedures Guide, Agreement, and Application Forms.

## **1.2 Eligible Applicants and Activities**

### **A. Eligible Private Applicants**

Any privately owned and operated marina/moorage in Oregon may apply to the Board for a CVA grant provided they agree to:

1. Provide a waste collection facility that will be available to all boaters without charge.
2. Not restrict or limit, in any manner or form, access to CVA-funded facilities by the general public by boat. This includes restricted access or use by member-only clubs, or other exclusive uses.
3. Have a reasonable method to dispose of vessel sewage waste collected. Acceptable methods include: discharge to municipal sewer lines to an approved on-site sewage treatment facility, on-site septic disposal field, or to an upland holding tank where the waste is transported to a municipal treatment plant.

### **B. Eligible Grant Components**

Applicants may apply for CVA grants to:

1. Purchase, install or renovate boat vessel waste collection facilities such as vessel pumpouts and potty dump stations.

2. Purchase, install or renovate directly related and necessary support facilities and accessories associated with pumpouts and potty dump stations, including: sewer, water, and electrical service and/or extensions; forward sewage lift stations; upland boat sewage holding tanks; floats (up to 60ft in length) to support pumpouts and dump stations along with piling, gangways or other connecting structures.
3. Obtain project-specific surveys, design and engineering needed to develop final drawings and specifications as a part of a grant. A registered professional engineer must perform all engineering work in order to be eligible.
4. Make major repairs to eligible facilities resulting from unforeseeable and extraordinary events such as vandalism, natural disasters, or high-use system failures. Eligibility of the requested repairs is made by the Board on a case-by-case basis.

#### C. Ineligible Projects and Activities

Grant applicants and recipients may not use CVA funds for:

1. Costs to apply for grant funds, manage construction or inspect construction sites. This includes overhead, payroll, salaries or accounting costs. In most cases design or engineering costs are not eligible for grant assistance unless they are project specific and performed by a registered engineer.
2. Legal fees for any purpose. This includes anything related to or involving the Grant Agreement, Project or Terms of Agreement.
3. Costs associated with ordinary operations, maintenance, or routine minor repairs or vessel waste collection facilities.
4. Costs associated with Department of State Lands submerged or submersible land leases of any form or type of land use easement or agreement and royalty fees.
5. Costs related to any type of local government land use permits, building permits, planning or zoning fees, or other charges. In most cases, vessel waste collection facilities are allowable uses under existing local planning and zoning and code restrictions.
6. The cost of transporting sewage from an upland holding tank to an off-site sewage disposal facility or any other costs related to the disposal or treatment of vessel waste.

7. Costs of extending power, water, sewer or any other utilities or services to the facility not commensurate with the length of Agreement. The assumed lifespan of improvements is 20 years.
8. The costs of construction, renovation, or maintenance of any on-site sewage treatment plant, package treatment plants, or any other improvements to primary or secondary municipal treatment systems.
9. Costs associated with any type of enforcement activities.
10. The costs of constructing or renovating of any type of upland restrooms.
11. Any costs to complete the project that are not included in an approved budget or are not covered by subsequent written approvals.
12. Any costs for vessel waste collection facilities that serve only a single type of boat or a restricted group of boat owners, such as floating home moorage tenants, club members, or commercial fishing/tour vessels.
13. Costs associated with master development plans, business, marketing, or promotional plans, concept development plans, or any other general feasibility studies or reports.

### **1.3 Purpose of CVA Grants, Award, Reimbursement, and Availability**

#### **A. Purpose and Award of CVA Grants**

1. The Board's primary purpose of providing CVA grants to private marinas/moorages is to assist with the direct costs of constructing and installing boat vessel waste collection facilities that are accessible to the boating public, including pumpouts, potty dump stations, and directly related and necessary support facilities.
2. Only the Oregon State Marine Board can award a CVA grant to a private marina/moorage. The award of a CVA grant by the Board may be predicated on the receipt of a complete grant application, the availability of federal funds, an executed Agreement between the grant recipient and the Board, and any other stipulations contained in the Agreement or required by the Board.



## B. Reimbursement of Authorized Expenditures

1. CVA grants are awarded to grant recipients but funds are provided only as a reimbursement for eligible expenditures made by the grant recipient. This means grant recipients must be able to underwrite the full cost of construction or the purchase of equipment up front and then request reimbursement based on proof of eligible expenditures in the form of paid invoices, work orders, purchase agreements, contracts, etc. This generally occurs only after completion or substantial completion of the work authorized under the grant and only for documented and verified costs or a percent of authorized work completed. Any payments for authorized work not adequately documented by the grant recipient may be ineligible for reimbursement.
2. Grant recipients must have the financial capability to make timely, direct payments to contractors, vendors, or others when receiving billings or invoices for work authorized in the Agreement. In order to be reimbursed by the Board for these direct payments, grant recipients must submit adequate documentation of work accomplished and payments made for authorized work. (See Progress Payments, Section IV)
3. Work must not be performed before written approval of a grant award is received from the Board. Any costs or payments made by the grant recipient for work performed prior to receiving written approval of a grant award from the Board are not eligible for reimbursement.

## C. CVA Grant Availability and Notice

1. CVA Grants are available as authorized by Congress, the US Fish & Wildlife Service, the Oregon Legislature, and the Oregon State Marine Board. Federal funds are appropriated on a fiscal year basis, while the State of Oregon's budget is based on a two-year biennium. Private marinas/moorages are eligible to apply for and receive CVA grants at the discretion of the responsible agencies, subject to federal and state priorities and other considerations.
2. Notice of Grant Fund availability is given by the Board to all interested Applicants each biennial period as outlined in the Grant Application Periods, Appendix A. The Boating Facilities Program maintains a list of potential Applicants and notifies the Applicants of grant deadlines.
3. The Board may adjust notice procedures and application deadlines as necessary.

## 1.4 **Matching Funds and In-Kind Participation**

### A. Matching Funds Policy:

1. The Clean Vessel Act is a federal grant program that authorizes federal assistance for up to 75% of the cost of providing eligible public vessel waste collection facilities. A non-federal source of funds must be provided for the remaining 25% of eligible grant expenditures.
2. In an effort to encourage private marinas and moorages to apply for CVA grants, the Board may provide the 25% non-federal portion of the grant from state funds. As a result, a CVA grant may cover 100% of the eligible construction costs for a private marina/moorage.
3. A higher priority will be given to Applicants that choose to provide all or a portion of the non-federal match from private or other sources, allowing the Board to use state funds for other needed boating projects.
4. Regardless of the source of non-federal matching funds, participating private marinas/moorages agree to provide any and all costs for ordinary and routine operations and maintenance of the equipment and facility throughout the ten-year term of the Agreement. This includes any and all utility or sewage disposal costs.
5. To encourage public use of the facility, grant recipients agree not to charge boaters any type of fee to use or access the vessel waste collection facility funded through a CVA grant. This requirement applies throughout the ten-year term of the Agreement.

### B. In-Kind Match or Participation:

1. The Board encourages Applicants to identify and commit to providing in-kind match or participation in the project in the form of administration, project inspection, contracting and bidding, and related project activities.
2. Applicants are encouraged to consider using existing floats to support the vessel waste collection facility and/or provide suitable locations nearest to existing utility connections, lines, or appurtenances capable of supporting the planned facilities.
3. Other types of in-kind match may consist of in-house labor, stockpiled materials, and demolition. The Applicant should fully describe any proposed in-kind contributions in the Grant Application.

## **1.5 Project Engineering and Inspection**

### **A. Engineering Required:**

1. Prior to submitting an application for a CVA grant, the Applicant should complete preliminary design and engineering and cost estimates.
2. The Board requires all grant-funded CVA facilities to be professionally designed and engineered, unless they are to be completed solely using force-account labor. This assures the Applicant and Board that proper and necessary provisions are being met with respect to public safety through the best use of materials and labor at minimal cost.
3. Applicants may provide, at their own cost, a consulting engineer to survey, design, and engineer eligible CVA grant facilities. However, consulting Engineers must follow and use minimum design standards and guidelines established by the Boating Facilities Program. Applicant-funded consulting engineer costs can be included as a part, or all, of the Applicant's match.
4. On a case-by-case basis, Applicants may request consulting engineer costs, which are directly related to design of eligible grant facilities, to be included as part of a CVA grant. If approved by the Boating Facilities Program, direct and verifiable costs associated with a consulting engineer to survey, design, and engineer eligible CVA facilities would be eligible for reimbursement.
5. Requests to allow for the reimbursement of consulting engineering must be made prior to submittal of an application and should be directed to the Boating Facilities Program Manager.

### **B. Boating Facilities Program Technical Assistance and Engineering:**

1. The Boating Facilities Program, within staffing limits and other project priorities, may provide survey and professional engineering services at no cost to the Applicant
2. Requests for engineering assistance must be made prior to submittal of an application and should be directed to the Boating Facilities Program Manager

C. Project Inspection:

1. It is the Applicant's responsibility to manage all construction contracts; oversee all site work and construction activity; and perform progress and final inspections of all construction work including any force-account work.
2. Within budgetary and staff constraints, Boating Facilities Program representatives will visit the project site prior to, during, and upon completion of construction to ensure the Applicant's compliance with the standards and terms of the Agreement.
3. The Applicant is responsible for correcting any deficiencies noted by representative of the Boating Facilities Program prior to final payment by the Agency. The Applicant must inform the Boating Facilities Program Manager of any changes or time delays encountered during the project.

## **SECTION II APPLICATION PROCEDURES**

### **2.1 Grant Applications**

- A. The Boating Facilities Program periodically sends notice of Grant Program fund availability to eligible Applicants. This notice describes the application deadlines, agency review period and Board consideration date.
- B. All grant applications must be submitted on or before established deadlines using Application Forms located in Appendix A. Applicants are encouraged to submit applications prior to the established deadline to allow the Agency to review the applications and request additional information in a timely manner. Applications received after the established deadlines or received in an incomplete state may be rejected by the Boating Facilities Program and not presented to the Board for funding consideration.

In addition to the completed application, the Applicant must provide the in the cover letter or separate attachments assurances that:

1. The project site is on land owned solely by the Applicant or is on land which the Applicant is the legal representative.
2. The Applicant is the owner of the marina/moorage or has full authorization from the owner to apply for a grant.
3. The Applicant intends to enter into an Agreement (a sample is shown in Appendix B) with the Agency.
4. The Applicant has the intent and ability to complete the project by the end of the biennium in which the grant is awarded.
5. The Applicant has the intent and ability to secure and adhere to all required permits and local land-use approvals for the project.
6. The Applicant has made a reasonable attempt to identify and describe all of the potential environmental impacts of the project and has proposed actions to mitigate the described impacts.

### **2.2 Pre-Application Conference**

Prior to submitting an application, the Applicant is encouraged to attend an Agency Grant Workshop (held biennially) and/or contact the Boating Facilities Program Manager to schedule a pre-application conference to discuss the proposed project. This will provide the Applicant an opportunity to ask any questions regarding the grant program and will permit Agency staff to assist the Applicant in the early stages of a project.

## **2.3 Application Preparation**

- A. Applicants must submit one (1) original and five (5) copies of a completed grant application form and required attachments. A standard grant application form is provided in Appendix A. Completed applications should also include a cover letter addressed to the Board requesting consideration of the application. Applications will be reviewed by the Boating Facilities Program staff and presented to the Board for consideration and possible award.
- B. All applications must be submitted by the established application deadline. The Agency will not process any applications received after the deadline and will return them to the Applicant or hold them pending the next consideration period.
- C. Requests for application forms, guidance, and assistance may be obtained from:

Oregon State Marine Board  
Boating Facilities Program Manager  
435 Commercial St. NE/ PO Box 14145  
Salem, OR 97310-0650  
503-378-2605

## **SECTION III PROJECT CONSIDERATION AND APPROVAL**

### **3.1 Agency Application**

- A. Upon receipt of a complete application by the established deadline, Boating Facilities Program staff will review and evaluate the application.
- B. Staff will prepare a written report and recommendation to the Board for each application.
- C. Staff recommendations can include, but are not limited to: Board approval as requested; Board approval with staff-recommended changes; Board approval with conditions; Board deferral (no action); or Board denial.
- D. A copy of the staff report and recommendation will be furnished to the Applicant prior to the Board meeting when applications are considered and grants awarded.
- E. The Applicant should contact the Boating Facilities Program Manager, as soon as possible after receiving a copy of the staff report and recommendations, to add critical information or indicate that they disagree with the staff recommendation provided to the Board.

### **3.2 Consideration by the Board**

- A. The Board considers grant applications at publicly noticed quarterly meetings or, under urgent circumstances, during telephone conference calls.
- B. The Board generally considers each grant application individually and may ask questions of the Applicant.
- C. Occasionally, the Board considers groups of applications under one motion or may consider grant applications under a consent agenda. In these cases, the Board generally will not ask questions of Applicants.
- D. Unless informed otherwise by the Boating Facilities Program Manager, Applicants should plan to attend the Board meeting where their grant application will be considered. The Agency will inform the Applicant as to the date, time, and location of the Board meeting.
- E. Failure to appear at the meeting, unless excused by the Boating Facilities Program Manager, may result in the deferral or denial of the grant application by the Board.

### **3.3 Board Action**

- A. As a part of the appropriate agenda item at the Board meeting, the Boating Facilities Program Manager or designated staff will introduce the Applicant to the Board; describe the project and the funding requested; and explain the staff recommendation.
- B. At the conclusion of the staff report and recommendation, the Board may ask questions of the Applicant and provide the Applicant with an opportunity to elaborate on the project details and present any new information not contained in the application.
- C. If the Applicant agrees with staff recommendation and if the Board has no questions, it may not be necessary for the Applicant to address comments to the Board.
- D. If the Board has questions and/or the Applicant needs to provide additional information about the application, a limited amount of time (usually five minutes) will be available for comments from the Applicant. Time will not permit the use of a Power Point or other audio-visual presentations.
- E. If the Applicant disagrees with the staff recommendation provided to the Board, the Applicant may request the opportunity to address the Board and explain why they disagree.
- F. The Board will consider all information provided and make a final decision on the grant application. The Board may take a number of possible actions including, but not limited to: award a grant as requested; award a grant with staff-recommended or Board-initiated changes; award a grant with conditions; defer the application (no action); or deny the application.
- G. Following the Board meeting Applicants will be advised of the Board's decision in writing.



## **SECTION IV PROJECT AGREEMENT**

### **4.1 Project Agreement**

- A. Upon award of a CVA grant by the Board, an Agreement will be prepared by Boating Facilities Program staff and sent to the grant Recipient. This Agreement describes the responsibilities of both parties and contains the terms and conditions of the grant award (A sample Agreement is shown as appendix B).
- B. The Agreement binds both parties to specific terms and conditions for a period of 20 years.
- C. Based on action taken by the Board in awarding the grant, Boating Facilities Program staff will prepare two original signed Agreements and transmit them to the Recipient under cover of a transmittal letter containing instructions.
- D. The Recipient will review the content of the Agreement; seek legal advice if necessary; sign both originals; return one signed original to the Agency; and retain one signed original for their records.
- E. An Agreement must be fully executed by all parties prior to the expenditure of any grant funds or commencement of authorized work for which the Recipient expects to be reimbursed.

### **4.2 Prior Work**

- A. Reimbursement will not be made for any construction initiated or completed or costs incurred by the Recipient prior to Board approval.
- B. Recognizing that emergencies that necessitate quick action may arise, the Applicant should contact the Boating Facilities Program Manager for direction before initiating any improvements.

### **4.3 Completion Deadlines**

- A. The Agreement requires Recipients to complete CVA grants by the end of the State biennial budget period during which the grant award is made, unless the Board specifies an alternative period in the Agreement or amends the Agreement.

- B. The grant authorized vessel waste collection facility must be constructed, inspected, and fully operational on or before the project completion date.
- C. If the project is not significantly completed by the date set for completion, the Board may, upon written notice to the Recipient, cancel the grant as provided in terms and conditions of the Agreement.

#### **4.4 Agency Review of Plans and Specifications**

- A. Prior to soliciting quotes or commencing any work at the project site, the grant Recipient must provide the Boating Facilities Program with one full set of the final plans and specifications to review.
- B. The Recipient must allow the Boating Facilities Program at least 10 days for this review.
- C. After review, Boating Facilities Program staff will provide the Recipient either with notice of approval or written comments or recommended changes to the plans and specifications.
- D. The Recipient must make any changes recommended by Boating Facilities Program staff and resubmit a revised set of plans and specifications with the changes.
- E. The Recipient may not solicit bids or quotes for the work until the Agency provides written notice to proceed.

#### **4.5 Project Bidding and Contracting Requirements**

- A. The Boating Facilities Program will supply the Recipient with a list of potential bidders and/or other information regarding potential sources of equipment, parts, or materials.
- B. The Recipient must make every effort to conduct an open, fair, and competitive solicitation and selection process.
- C. The Recipient must document the bidding process and outcome and retain a record as required in the Agreement.
- D. The Agency may require additional bidding and contracting procedures as necessary or mandated by changes in federal and State laws, directives, or administrative rules.

## **SECTION V PROJECT PAYMENTS & CLOSEOUT**

### **5.1 Progress Payment**

- A. The Recipient may request partial reimbursement from the Agency based on the amount of work completed.
- B. The Recipient must submit a Grant Billing form (see Appendix C) marked as “partial”, indicate the appropriate billing period, and complete the portion of the form relating to construction costs incurred, purchases made, or payments made to contractors.
- C. To ensure prompt payment, the Recipient must attach copies of the contractor’s invoice, copies of bills or receipts for materials purchased, documentation of force account labor and costs, or other supporting information for project items purchased or furnished.
- D. Progress payment requests should be submitted to the Boating Facilities Program Grants and Contracts Coordinator.
- E. The Boating Facilities Program Grants and Contracts Coordinator will review requests for progress payments. The Recipient may be required to provide additional documentation.
- F. Once Boating Facilities Program staff has all of the required information, progress payments can generally be processed in less than fifteen working days.

### **5.2 Final Payment and Contract Closeout**

- A. After the construction and installation of grant-funded CVA facilities are complete and the Recipient has inspected and approved all work, the Recipient may request final payment to be reimbursed for eligible project-related expenditures.
- B. A request for final payment must be made on the prescribed Grant Billing Form, noting “final” in the appropriate check box on the form. The Recipient must also complete the portion of the form relating to construction costs incurred, purchases made, or payments made to contractors.
- C. To ensure prompt payment, the Recipient must attach copies of the contractor’s invoice, copies of bills or receipts for materials purchased, documentation of force account labor and costs, or other supporting information for project items purchased or furnished.

- D. The final payment request should be submitted to the Boating Facilities Program Grants and Contracts Coordinator.
- E. The Boating Facilities Program Grants and Contracts Coordinator will review requests for final payment. The Recipient may be required to provide additional documentation.
- F. By submitting a final payment request, the Recipient is assuring the Agency that the project has been satisfactorily completed according to the provisions of the Agreement, project plans and specifications, and applicable Agency, federal, state and local codes and regulations.
- G. Final payment and project closeout is also subject to Boating Facilities Program signoff as verified by on-site inspections and review of grant documentation.
- H. Once Boating Facilities Program staff is assured that the project has been satisfactorily completed, the final payment will be processed. Final approval of reimbursements to Recipients will be made by the Boating Facilities Program Manager or Director of the Agency.

### **5.3 Cost Overruns**

- A. The Recipient must make every effort to avoid cost overruns on a project.
- B. The Agency may authorize cost overruns on a case-by-case basis. Cost overruns not authorized by the Agency become the sole responsibility of the Recipient and are not eligible for reimbursement.
- C. Prior to agreeing to any cost overruns, the Recipient must notify the Boating Facilities Program and provide adequate justification of any potential overruns.
- D. If authorized by the Agency, the Recipient must process cost overruns as change orders to the project construction contract.
- E. The Agency, through the Director, is authorized to approve minor cost overruns up to \$10,000. Cost overruns over \$10,000 must be considered and approved by the Board.

### **5.4 Uniform CVA Signs and Credit Signs**

- A. Boating Facilities developed with the assistance of the Board using federal CVA funds must have at least one sign posted at or near the facility signifying the presence of a public pumpout and/or dump station so boaters can easily find the facility. Signs will be provided by the Board and posted by the Recipient.

- B. The Recipient must also post at or near the facility one credit sign recognizing the Board and U.S. Fish & Wildlife Service as the primary sources of funding. Credit signs are provided by the Board and posted by the Recipient.

## **5.5 Reports and Breakdowns**

- A. The Recipient must maintain a monthly record of pumpout usage as shown on the pumpout hour meter.
- B. A copy of the monthly pumpout record must be submitted to the Boating Facilities Program every August. The Boating Facilities Program uses this information to record amount and patterns of use, boater demand and life of the facility.
- C. In the event the pumpout becomes inoperable or a spill occurs the Recipient must promptly notify the Boating Facilities Program of the problem(s), what action the Recipient intends to take, and when the Recipient expects the pumpout to be back in full operation.
- D. After repairs are made or following a spill incident, the Recipient must notify the Boating Facilities Program of any repairs made, the cost, and any changes made to the facility.

## **5.6 Conversion, Use of Property**

- A. All property acquired or developed with assistance from the Board must be dedicated for public use and maintained by the Recipient for a period of not less than twenty (20) years.
- B. The Recipient retains title to all improvements upon project completion.
- C. In the event the Recipient fails to maintain the facility or converts the use of the facility to an unauthorized or noncompliant use, the Recipient must promptly reimburse the Agency for all original improvement costs funded by the Board.

## **5.7 Financial and Accounting Requirements**

- A. Recipients must retain all grant project accounting records, supporting documents, and any other documents for a period of up to seven years after the completion of the agreement term.
- B. The Agency reserves the right to perform a fiscal audit of these records to assure compliance with all state and federal program rules.

## **5.8 Agency and Public Access to Facility**

- A. During the term of the Agreement, the Recipient must allow unencumbered access to Boating Facilities Program staff or their agents to conduct site visits or inspections in order to verify that the facility is being maintained, is in operation, and is open and available to the public.
- B. As part of the inspection, the Boating Facilities Program may request maintenance and use information from the Recipient to validate condition of the facility.
- C. The Recipient must assure, to the maximum extent possible, that no person is excluded from using the facility, denied access to the facility, or be otherwise subjected to discrimination on grounds of race, creed, color, national origin, age, sex, or disability.

## SECTION VI GLOSSARY

**AGENCY:** The Oregon State Marine Board, staff or other authorized representatives.

**AGREEMENT:** The written document under which the Recipient and the Board mutually agree to carry out the respective responsibilities for a fixed term.

**APPLICANT:** Any individual firm, corporation, association, partnership, consortium, joint venture, industry, or other non-public entity, which operates a marina or moorage facility.

**APPLICATION:** A complete proposal with all the attachments required for consideration by the Board.

**BIENNIUM:** A 24 month period beginning July 1 of each odd numbered year and ending June 30 of the next odd numbered year.

**BOARD:** A five-member citizen board appointed by the Governor and confirmed by the Oregon Senate.

**BOATING FACILITIES GRANT PROGRAM:** The program authorized by ORS 830.150, including funds available for the development and rehabilitation of public and private marine Vessel Waste Collection Facilities.

**BOATING FACILITIES PROGRAM:** The program within the Oregon State Marine Board agency responsible for administering federal Clean Vessel Act grants and other Boating Facility Grants.

**BOATING FACILITIES PROGRAM MANAGER:** The Agency staff member who is designated by the Director to manage the Boating Facilities Program.

**CLEAN VESSEL ACT:** A federal grant program, administered by the U.S. Fish & Wildlife Service.

**CONVERSION:** The use of the project for any other purpose not specified in the Agreement.

**CVA GRANT PROJECT:** A project to develop, rehabilitate, or replace vessel waste collection facilities and other related support facilities.

**DESK AUDIT:** An audit of Recipient's project records conducted by Boating Facilities Program staff or other Agency representatives.

**RECIPIENT:** The Recipient of grant funds and party responsible for completing the project and the operation and maintenance of the site.

**VESSEL WASTE COLLECTION FACILITY:** A stationary or portable system that pumps or removes human waste from recreational boats. This includes pumpouts, dump stations, related forward sewage lift stations and necessary floats, piles, gangways and related facilities.





**CLEAN VESSEL ACT APPLICATION  
PRIVATE MARINA/MOORAGE FACILITIES  
OREGON STATE MARINE BOARD**

<b>FOR OFFICE USE ONLY</b>				
BIENNIUM:	DATE RECEIVED:	GRANT #:		
<i>FILL IN ALL SECTIONS THAT APPLY - LEAVE ALL OTHERS BLANK</i>				
<b>I ~ APPLICANT INFORMATION</b>				
ENTITY OR LEGAL BUSINESS NAME:	TELEPHONE #:	FAX #:		
MAILING ADDRESS:	CITY:	ZIP CODE:		
PROJECT MANAGER NAME & TITLE:	EMAIL:			
Phone:	Fax:			
TYPE OF APPLICANT: _____ CORPORATION _____ PARTNERSHIP _____ LIMITED PARTNERSHIP _____ LIMITED LIABILITY PARTNERSHIP _____ OTHER				
<b>II ~ PROJECT LOCATION</b>				
FACILITY NAME:	COUNTY:	WATERBODY:		
Address if different from above:				
Facility Township	Range:	Section:	Tax Map #:	Tax Lot#:
River Mile:	Latitude:	Longitude:	GPS:	
DRIVING INSTRUCTIONS:				
<b>III ~ PROJECT SUMMARY</b>				
TYPE OF PROJECT: _____ Pumpout _____ Dump Station _____ Portable Pumpout _____ Pumpout/Dump Station _____ Floating Restroom _____ Pumpout Boat				
GRANT FUNDS REQUESTED: \$		APPLICANT CASH: \$	OTHER CASH: \$	
IS THIS PROJECT IDENTIFIED IN THE MARINE BOARD'S 2001 - 2006 VESSEL WASTE DISPOSAL PLAN? _____ YES _____ NO PRIORITY RANKING: _____				
PROJECT DESCRIPTION NARRATIVE:				

### III ~GENERAL FACILITY INFORMATION

UPLAND

OWNERSHIP:  PUBLIC - FEE SIMPLE  
 PUBLIC - LEASE  
 NO. OF YEARS REMAINING  
 PRIVATE  
 CONCESSIONAIRE

NAME OF OWNER:

Names of adjacent boating facilities public and private (ramps, tie-up facilities or marinas) with a 5-miles radius.

Please check box those facilities that have pump outs or dump stations

Upstream (rivers) North/East (lakes)

Downstream (rivers) South/West (lakes)

Distance: Name:

Distance: Name:

1. \_\_\_ \_\_\_\_\_  
 2. \_\_\_ \_\_\_\_\_  
 3. \_\_\_ \_\_\_\_\_  
 4. \_\_\_ \_\_\_\_\_

1. \_\_\_ \_\_\_\_\_  
 2. \_\_\_ \_\_\_\_\_  
 3. \_\_\_ \_\_\_\_\_  
 4. \_\_\_ \_\_\_\_\_

Who will maintain site when project is completed?

Applicant  Other  
 Name \_\_\_\_\_  
 if other

Estimate annual boating facility operations and maintenance costs.

\$ \_\_\_\_\_

### IV. FACILITY CAPACITY

Number of Wet Slips (Open and Covered)

\_\_\_ < 16 ft.      \_\_\_ 16-26 ft.  
 \_\_\_ 26 - 40 ft    \_\_\_ 40-65 ft.  
 \_\_\_ > 65 ft.      \_\_\_ TOTAL  
 \_\_\_\_\_ feet of broadside tie-up

Estimated Mix of Vessels: \_\_\_% Power \_\_\_%Sail  
 \_\_\_% Commercial \_\_\_% Non-Motorized  
 Estimated Percent of Occupancy: \_\_\_%Seasonal  
 \_\_\_% Transient: \_\_\_% Annual

Estimated Number with Sewage Holding Tanks \_\_\_

Transient Docks/Slips:

\_\_\_ < 16 ft.      \_\_\_ 16-26 ft.  
 \_\_\_ 26 - 40 ft    \_\_\_ 40-65 ft.  
 \_\_\_ > 65 ft.      \_\_\_ TOTAL  
 \_\_\_\_\_ feet of broadside tie-up

Estimated Mix of Vessels: \_\_\_% Power \_\_\_%Sail  
 \_\_\_% Commercial \_\_\_% Non-Motorized  
 Estimated Percent of Occupancy: \_\_\_%Seasonal  
 \_\_\_% Annual

Estimated Number with Sewage Holding Tanks \_\_\_

Estimated Mix of Vessels: \_\_\_% Power \_\_\_%Sail  
 \_\_\_%Commercial \_\_\_% Non-Motorized  
 Estimated Percent of Occupancy: \_\_\_Seasonal  
 \_\_\_ Annual

V. EXISTING VESSEL WASTE FACILITIES	
Do you presently have a vessel pumpout: ___ Yes ___ No	Do you presently have a dump station: ___ Yes ___ No
Does a mobile vessel waste pumpout service your facility now? ___ Yes ___ No	
Does your slip/mooring rental contract contain language-prohibiting discharge of boat sewage into facility waterway? ___ Yes ___ No                      If no, but will add for season beginning 200___	
VI. PROJECT DESCRIPTION	
Type of Project: ___ New Construction ___ Renovation ___ Expansion ___ Equipment ___ Repair	
Check the facilities to be constructed or rehabilitated: ___ Pumpout/Dump ___ Pumpout ___ Dump Station ___ Sewage Lift Station ___ Portable Pumpout ___ Pumpout Boat ___ Utilities ___ Holding Tank ___ Floats ___ Piling ___ Other	
Intended Location of Pumpout: ___ Fuel Dock ___ Existing Floats ___ New Floats ___ Other _____	Intended Location of Potty Dump: ___ Fuel Dock ___ Existing Floats ___ New Floats ___ Other _____
Describe other facilities that will be connected to this project:	
Where will the vessel waste collected be discharged: ___ Directly into a city sewer system ___ Directly into an on-site septic system ___ Into a holding tank where sewage is safely stored until it is transported to an authorized wastewater treatment facility.	
Describe other facilities that will also be connected to discharge system:	
Do you currently provide dockside: ___ Power ___ Water ___ Sewer	
Do you currently have an on-water sewage lift station? ___ Yes ___ No	
Proposed hours and days of operation for the pumpout and/or dump station: Days: ___ Daily ___ Mon ___ Tues ___ Wed ___ Thur ___ Fri ___ Sat ___ Sun Hours: ___ 24 hours or between _____ and _____	

<b>VII. PROJECT COST - SOFT (NON-ELIGIBLE) FUNDS</b> <i>Not eligible for Facility Grant Funds</i>				
	Applicant	Other**	Board	TOTAL
Administration	\$0.00	\$0.00	N/A	\$0.00
Force Account	\$0.00	\$0.00	N/A	\$0.00
Labor/Materials	\$0.00	\$0.00	N/A	\$0.00
Force Account Equipment	\$0.00	\$0.00	N/A	\$0.00
Force Account Inspection	\$0.00	\$0.00	N/A	\$0.00
Permit Fees	\$0.00	\$0.00	N/A	\$0.00
System Dev. Charge (SDC)	\$0.00	\$0.00	N/A	\$0.00
Other	\$0.00	\$0.00	N/A	\$0.00
<b>Total Soft Funds</b>	\$0.00	\$0.00	N/A	\$0.00

<b>VIII. PROJECT COST - HARD (CASH) FUNDS</b>				
	Applicant	Other**	Board	TOTAL
Construction Contract	\$0.00	\$0.00	\$0.00	\$0.00
Materials/Equipment	\$0.00	\$0.00	\$0.00	\$0.00
Consultant Contract	\$0.00	\$0.00	\$0.00	\$0.00
Other	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Hard Funds</b>	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Soft Funds</b>	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Hard Funds</b>	\$0.00	\$0.00	\$0.00	\$0.00
<b>GRAND TOTAL</b>	\$0.00	\$0.00	\$0.00	\$0.00

**\*\* Other Sources of Funds (List all sources on separate sheets of paper, if necessary)**

Source of Other Funds: \_\_\_\_\_

Approval Status: \_\_\_\_\_ Approved \_\_\_\_\_ Pending \_\_\_\_\_ Intend to Apply Date \_\_\_\_\_

**IX. CITY/COUNTY PLANNING DEPARTMENT AFFIDAVIT** Note: Construction Projects Only

*This information is needed to determine if the proposed project complies with statewide planning goals and is compatible with local comprehensive plans (ORS 192.180).*

	Yes	No
1. This project is regulated by the local comprehensive plan and zoning ordinance	___	___
2. This project has been reviewed by the local planning commission.	___	___
3. This project is compatible with the local comprehensive plan and zoning ordinance. (Please cite appropriate plan policies, ordinance section, and case numbers).	___	___
Policy/Ordinance/Case Number _____		
4. Compatibility of this project with the local planning ordinance cannot be determined until the following local approvals are obtained: ___ Conditional Use Permit _____ Development Permit _____ Plan Amendment _____ Zone Change _____ Other		

**X. WATERWAY PERMITS**

Are Waterway Permits required for the project?  Yes  No (If No, go to Section XI)

Have the waterway permit applications for the project been  Approved?  Submitted?

If yes, provide permit number and date below:

Applicant/Permit No.	Date
US Army Corps of Engineers:	
Division of State Lands:	

**XI ENVIRONMENTAL ASSESSMENT**

1. Will the project significantly change the use of the facility or adversely affect the environment?  Yes  No  
If yes, please explain key issues and describe any mitigation actions proposed:

2. Will the project significantly or adversely affect any cultural or historical features?  Yes  No

3. Will the project adversely affect any Threatened or Endangered Species or designated Critical Habitat?  Yes  No  
If Yes, please list species and anticipated impacts :

**XII REQUIRED APPLICATION ATTACHMENTS**

Cover Letter and five (5) copies
One (1) original application and five (5) copies of application
Existing condition and use photographs and five (5) copies
Location/vicinity map (Assessor's Map) and five (5) copies
Preliminary Design/Engineering and/or materials quote and five (5) copies

**APPLICANT SIGNATURE**

Application is hereby made for the activities described herein. I certify that I am familiar with the information contained in the application, and, to the best of my knowledge and belief, this information is true, complete, and accurate. I further certify that I possess the authority including the necessary requisite property interests to undertake the proposed activities.

I also certify that the owner, corporation or partnership is aware of and has authorized the person identified as the official representative of the Applicant to act in connection with this application and subsequent project as well as to provide additional information as may be required.

By signature below the Applicant intends to enter into a Cooperative Facility Grant Agreement and agrees to comply with all applicable federal, state and local laws and Oregon State Marine Board's program rules, policies and guidelines in conjunction with this proposal and resultant project if so approved.

\_\_\_\_\_  
Print/Type Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Date

Note: Instruction regarding this application and the facility grant program can be found in the Facilities Program Procedure Guide, or you may contact the Boating Facilities Program Manager, Oregon State Marine Board, 435 Commercial Street, N.E., PO Box 14145, Salem, OR 97309. Phone: 503-378-2605 or visit our website at [www.boatoregon.com](http://www.boatoregon.com).

**Appendix B**  
**STATE MARINE BOARD**  
**FACILITY GRANT COOPERATIVE AGREEMENT**  
**FACILITY GRANT NO.    – ENTITY**  
**FACILITY LOCATION**

This Agreement is entered into by and between the State of Oregon, acting by and through its State Marine Board, hereinafter called the “Board”, and ENTITY hereinafter called the “Recipient”.

RECITALS

WHEREAS, the Board and the Recipient are authorized under ORS Chapter 190 to enter into cooperative agreements.

WHEREAS, the Board is authorized to provide grants for boating facility projects under ORS 830.150.

WHEREAS, the Board has sufficient federal aid in funds available under the National Boating Infrastructure Grant Program of 1998 Pub. L. 105-178, Subtitle D 2400-377, Section 7404 of the Sportfishing and Boating Safety Act of 1998 ("Boating Infrastructure Grant Program") and 50 C.F.R. Part 86 for transient tie-up facilities; and under the Clean Vessel Act of 1992 Pub. L. No. 102-587, title V, Subtitle F 5601-5608, 106 Stat. 5086 (1992) (33 U.S.C. 1322nt (1994) (“Clean Vessel Act”) and 50 C.F.R. Part 85 for pumpouts, dump stations and floating restrooms; however the funds are matching federal grants obtained through the Federal Aid in Sport Fish Restoration Program administered by the U.S. Fish and Wildlife Service available within its current biennial budget and authorized expenditure on the Recipient’s Project as defined below.

WHEREAS, the Recipient agrees to comply with Facility Grant Program Rules OAR 250-014 and other Board adopted policies and procedures.

WHEREAS, the purpose of this Agreement is to set forth the obligations of both parties in the development of recreational boating facilities at LOCATION, for DESCRIPTION OF PROJECT hereinafter called the “Project”, as described in the Recipient’s Facility Grant Application GRANT NO. and Staff Report to the Board. With this reference, the Facility Grant Application and Staff Report are made part of this Agreement. If a conflict exists between the Facility Grant Application, Staff Report and this Agreement, the Agreement will govern.

NOW, THEREFORE, the Board and the Recipient agree to the following:

I. BOARD COVENANTS

1. Grant Funds. Upon approval by its governing body, the Board shall provide grant funds in the amount of \$        state funds and \$        federal Clean Vessel Act funds to the Recipient to fund the authorized Project activities. The Board shall not provide to the Recipient, and the Recipient shall not use any funds described in this section for administration, overhead, or indirect costs whether or not related to this Agreement.

2. Expenditure of Funds by the Board. The Board, with the Recipient's approval may be authorized to expend grant funds described in Section I.1. on authorized Project activities.

3. Payments. After the Recipient awards the contract for construction of the Project, and construction activities commence the Board shall, upon receipt of the Recipient's request for payment and appropriate documentation all in form and substance satisfactory to the Board, disburse funds to the Recipient in accordance with Section III.

4. Overpayment. In the event that the aggregate amount of the Board's interim progress payments to the Recipient exceeds the allowable reimbursable costs of the Recipient for the Project, the Recipient agrees to refund to the Board the amount paid in excess of such allowable expenses within thirty (30) days of final billing by the Recipient or the Project Completion Date, whichever is earlier.

5. Disallowed Costs. The Recipient agrees that payment(s) made under this Agreement shall be subject to offset or reduction for amounts previously paid hereunder which are found by the Board on the basis of an audit examination not to constitute allowable costs under this Agreement. If such disallowed amount exceeds the payment(s); the Recipient shall immediately upon demand, pay the Board the amount of such excess.

6. Cost Savings. Any cost savings realized on the Project shall be prorated between the parties based on the percentage of their respective cash contributions as set forth in Section I.1. and Section IV.1.

7. Principal Contact:

Name/Title: Wayne Shuyler, Facilities Program Manager

Address: PO Box 14145, 435 Commercial St. NE, Salem, OR 97309-5065

Phone/FAX: (503) 378-2605 (503)378-4597

II. TERM; PROJECT COMPLETION; PROJECT OWNERSHIP

1. Term. The term of this Agreement is twenty (20) years commencing on the date Effective Date on which last party to sign this Agreement has been duly executed this Agreement and all required approvals have been obtained.

2. Project Completion. The Project shall be completed, and final billing for the Project shall be submitted to the Board, on or before June 30, 2009 "Project Completion Date". Unless approved in writing, the Board shall not be obligated to disburse any payments after this date.

3. Project Ownership. The Board acknowledges and agrees that the Project is the exclusive property of the Recipient. The Board is neither responsible nor liable in any manner for the construction, operation or maintenance of the Project.

III. CONDITIONS TO DISBURSEMENT

1. Conditions Precedent to Any Disbursement. The Board shall not be obligated to reimburse any

of the grant funds for authorized Project costs hereunder unless the Board has received from the Recipient:

- a. Prior to Project bid advertisement or construction, the final architectural and engineering plans, specifications, and cost estimates for the Project, said plans, specifications and estimates to be in form and substance satisfactory to the Board;
- b. Prior to Project bid advertisement or construction, a copy of all necessary federal, state and local permits or approvals required for the Project; and
- c. A copy of the general contractor's performance bond, if other than the Recipient, in the amount of the construction contract from a surety company authorized to do business in Oregon.

2. Conditions Precedent to Partial Progress Payment(s). The Board shall not be obligated to make partial progress payment(s) hereunder until receipt, review and approval by the Board of documentation based on the percentage of Project completion. Approved payments are made on a prorated basis by each of the parties' matching cash contributions. In no event shall the Board disburse more than ninety percent (90%) of the amount indicated in Section I.1. as progress payments.

3. Conditions Precedent to Final Payment. The Board shall not be obligated to make final payment hereunder until:

- a. Receipt by the Board of a copy of the Notice of Substantial Completion of the Project;
- b. Receipt by the Board a copy of a Certificate of Acceptance of the Project duly executed by the Recipient;
- c. Inspection and approval of the Project by the Board; and
- d. Final payment request and all documentation as may be required, shall be submitted by the Recipient to the Board. Upon approval, final payment will be made to the Recipient within thirty (30) days by the Board.

#### IV. RECIPIENT COVENANTS

1. Matching Funds. The Recipient shall contribute the total sum of \$        CASH or equivalent in labor, materials, or services as described in the Staff Report.

2. Construction. The Recipient shall award, and monitor the contractor's performance under the construction contract in such a manner as to insure compliance with Project plans and specifications. The Recipient shall be responsible for all cost overruns unless otherwise specifically agreed to in writing by the Board. The Recipient shall at all times be responsible for the maintenance and operation of the Project and related facilities.

3. Project Sign. The Recipient shall post in a conspicuous location at the site a sign identifying the Board's and federal aid participation in the Project in compliance with the Board's sign guidelines.



4. Public Access to Project. During the term of this Agreement the Recipient 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.
5. User Fees. Notify and request written approval from the Board of any user fees charged for the use of the improvements described herein throughout the term of this Agreement except as otherwise required by State or Federal law. Fees charged will be subject to reasonable review and approval by the Board. If user fees are charged for the use of the completed Project, the Recipient shall maintain sufficient records and accounting procedures that demonstrate all of the gross income from the fees is used to defray direct operational costs (for example, maintenance and repair costs) for the Project. User fees may affect Maintenance Assistance Program eligibility on publicly owned and operated Projects.
6. Payments. To the extent required by State and Federal law the Recipient agrees to:
  - a. Make payment promptly as due to all contractors, subcontractors, vendors or any other persons supplying labor and/or materials for the Project;
  - b. Pay all contributions or amounts due to the State Industrial Accident Fund for workers compensation premiums incurred if the contractor fails to make such payments; and
  - c. Not permit any lien or claim to be filed or prosecuted against the Board, due to any construction or maintenance activities at the Project.
7. Liabilities. Each party shall be responsible, to the extent required by law (including the Oregon Tort Claims Act, ORS 30.260-30.300), only for the acts, omissions or negligence of its own officers, employees or agents.
8. Compliance with Applicable Law. The Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Agreement. The Board's performance under this Agreement is conditioned upon the Recipient's compliance with the obligations intended for contractors under ORS 279B.220, 279B.225 (if applicable to this Contract), 279B.230, 279B.235 (if applicable to this Contract) which are incorporated into this Contract by reference. Recipient shall, to the maximum extent economically feasible in the performance of this Contract, use recycled paper (as defined in ORS 279A.010(1)(ee)), recycled PETE products (as defined in ORS 279A.010(1)(ff)).
9. Compliance with Workers Compensation Law. The Recipient shall require that the contractor, its subcontractors, if any, and all employers performing work on the Project are subject employers under the Oregon workers compensation law (unless inapplicable as a matter of federal law) and shall comply with ORS 656.017, which requires subject employers to provide workers' compensation coverage for all their subject workers.
10. Records Maintenance. The Recipient shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, the Recipient shall maintain any other records pertinent to this Agreement in such a manner as to clearly document the Recipient's performance. The Recipient's accounting procedures shall provide for an accurate and timely recording of receipt of funds by source, of expenditures made from such funds, and of

unexpended balances. 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.

11. Access. The Recipient acknowledges and agrees that the Board and the Oregon Secretary of State's Office and the federal government and duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of the Recipient that are pertinent to this Agreement to perform examinations and audits and make excerpts and transcripts. The Recipient shall retain and keep accessible all such fiscal records, books, documents, papers, plans and writings for a minimum of five (5) 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.

12. Principal Contact:

Name/Title: \_\_\_\_\_

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

Phone/Fax: \_\_\_\_\_

**TERMINATION; REMEDIES**

1. Termination for Convenience. The Recipient may terminate this Agreement at any time upon thirty (30) days prior written notice to the Board; provided, however, that the Recipient shall, within thirty (30) days of such termination, reimburse the Board for all funds contributed by the Board to the Project; provided further that until the Recipient has fully reimbursed the Board for such funds, the Recipient shall comply with the terms hereof.

2. Termination Because of Non-Appropriation or Project Ineligibility. The Board, at any time upon thirty (30) days prior written notice to the Recipient, may modify or terminate this Agreement if:

a. The Board fails to receive funding or appropriations, limitations, or other expenditure authority at levels sufficient to pay for the allowable costs of the Project to be funded hereunder or should any state law, regulation or guideline be modified, changed or interpreted in such a way that the Project, or any portion of the Project, is no longer eligible for facility grant funds as described in ORS 830.150.

b. In the event insufficient funds are appropriated for the payments under this Agreement and the Recipient has no other lawfully available funds, then the Recipient may terminate this Agreement at the end of its current fiscal year, with no further liability to the Board. The Recipient shall deliver written notice to the Board of such termination no later than thirty (30) days from the determination by the Recipient of the event of non-appropriation. The Board shall pay for all authorized project costs expended up to the date of written notice of termination.

3. Termination for Default. The Board may, at any time upon thirty (30) days prior written notice of default to the Recipient, may modify or terminate this Agreement if:

- a. The design, permitting, or construction of the Project is not pursued with due diligence; or
- b. The Recipient's fee simple title to or other interest in the construction sites or Project is not sufficient, legal and valid; or
- c. The construction of the Project is not permissible under federal, state, or local law; or
- d. The Recipient, does not abide by the nondiscrimination and affirmative action provisions of this Agreement; or
- e. The Recipient, without the prior written approval of the Board, uses the funds provided by the Board hereunder to build any project other than the Project described in the final architectural and engineering drawings approved by the Board; or
- f. The construction is not completed in a good and workmanlike manner or fails to comply with any required permits; or
- g. During the term of this Agreement, the Recipient conveys the Project or the Project property or any part thereof or converts the use of the Project or the Project property to a use which precludes free and unencumbered public boat access.

4. Rights and Remedies. The Recipient shall, within thirty (30) days of its receipt of a notice of default, reimburse the Board for all funds contributed by the Board to the Project. Further, the Board shall have any and all rights and remedies available at law or in equity.

## VI. GENERAL PROVISIONS

1. No Duplicate Payment. The Recipient shall not be compensated for, or receive any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party.

2. Amendments. This Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, except by written instrument signed by both parties.

3. Force Majeure. Neither the Board nor the Recipient shall be held responsible for delay or failure to perform when such delay or failure is due to fire, flood, epidemic, strike, public carrier, act of God, act of a public enemy or a public authority or a cause which cannot be reasonably foreseen or provided against.

4. Persons Not to Benefit. No member of or delegate to Congress, resident commissioner, officer, agent or employee of the United States of America, member of the Oregon Legislative Assembly, elected official of the State of Oregon, or official, agent, or employee of the State of Oregon, or elected member, officer, agent, or employee of any political subdivision, municipality or municipal corporation of the State of Oregon shall be admitted to any share or part of this Agreement or derive any financial benefit that may arise therefrom.

5. No Third Party Beneficiaries. The Board and Recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended

to give, or shall be construed to give or provide any benefit or right, whether directly, 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.

6. Successors and Assigns. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Board and Recipient and their respective successors and assigns; provided however that the Recipient may not assign this Agreement or any interest therein without the prior written consent of the Board, which consent may be withheld for any reason.

7. Severability. The Board and the Recipient agree that 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 the Agreement did not contain the particular term or provisions held to be invalid.

8. Notice. Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to the Board or the Recipient at the 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 mailed shall be deemed to be given five (5) days after mailing. 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.

9. Counterparts. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement binding all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement so executed shall constitute an original.

10. Governing Law; Venue; 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 the Board and/or other agency or department of the State of Oregon and the Recipient 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; 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.

11. Statutory Requirements for Construction Contracts and Subcontracts. The Recipient shall certify and be in compliance with all applicable Federal Assurances specified in Exhibit "A" and Preservation of Open Competition and Government Neutrality in Exhibit "B" attached hereto and by this reference made a part hereof.

12. Merger Clause; Waiver. THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE BOARD AND THE RECIPIENT ON THE SUBJECT MATTER HEREOF. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH THE BOARD AND THE RECIPIENT. SUCH 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 BOARD TO ENFORCE ANY PROVISION OF THIS AGREEMENT SHALL NOT CONSTITUTE A WAIVER BY THE BOARD 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.

BOARD:  
State of Oregon, acting by and through its  
State Marine Board

RECIPIENT:  
ENTITY

By: \_\_\_\_\_  
Paul Donheffner, Director  
Title: \_\_\_\_\_

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

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

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

Telephone: (503) 378-8587

Telephone: \_\_\_\_\_

Fax No: (503) 378-4597

Fax No: \_\_\_\_\_

Federal Employer Identification Number:  
\_\_\_\_\_

**EXHIBIT "A"**  
**FACILITY GRANT CVA COOPERATIVE AGREEMENT**  
**U.S. FISH AND WILDLIFE SERVICE**  
Division of Federal Aid

**ASSURANCES**

Note: Certain of these assurances may not apply to our project or program. If you have questions, please contact the Regional Director of U.S. Fish and Wildlife Service. Further, if you are required to certify to additional assurances, you will be notified.

**As the duly authorized representative of the applicant, I certify that the applicant:**

1. Has the legal authority to apply for Federal assistance, the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of the project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal goals.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personal Act of 1970 (42 U.S.C. 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards

of Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1688), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) 523- and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3) as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) As amended, relating to nondiscrimination in the sale, rental or

financing of housing; (i) any other nondiscrimination provision in the specific states(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis Bacon Act (40 U.S.C. 276a to 276a-7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

11. Will comply with environmental

standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11968; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205)

12. Will comply with Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.)

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining

to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be preformed the required

financial and compliance audits in accordance with the Single Audit Act Amendments f 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

**ADDITIONAL ASSURANCES GENERALLY APPLICABLE TO CONSTRUCTION,  
LAND ACQUISITION, OR LAND DEVELOPMENT**

1. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.

2. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications, and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.

3. Will comply with requirements of the assistance awarding agency with regard to the drafting, review, and approval of construction plans and specifications.

<b>Signature of Authorized Certifying Official</b>	<b>Title</b>
<b>Applicant Organization</b>	<b>Date Submitted</b>



**EXHIBIT "B"**  
FACILITY GRANT COOPERATIVE AGREEMENT  
U.S. FISH AND WILDLIFE SERVICE  
Division of Federal Aid

Executive Order 13202 of February 17, 2001; as revised by Executive Order 13208 of April 6, 2001.  
Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects

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By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 471 *et seq.*, and in order to (1) promote and ensure open competition on Federal and federally funded or assisted construction projects; (2) maintain Government neutrality towards Government contractors' labor relations on Federal and federally funded or assisted construction projects; (3) reduce construction costs to the Federal Government and to the taxpayers; (4) expand job opportunities, especially for small and disadvantaged businesses; and (5) prevent discrimination against Government contractors or their employees based upon labor affiliation or lack thereof; and (6) prevent the inefficiency that may result from the disruption of a previously established contractual relationship in particular cases; thereby promoting the economical, nondiscriminatory, and efficient administration and completion of Federal and federally funded or assisted construction projects; it is hereby ordered that:

**Section 1.** To the extent permitted by law, any executive agency awarding any construction contract after the date of this order, or obligating funds pursuant to such a contract, shall ensure that neither the awarding Government authority nor any construction manager acting on behalf of the Government shall, in its bid specifications, project agreements, or other controlling documents: (a) Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other related construction project(s); or (b) Otherwise discriminate against bidders, offerors, contractors, or subcontractor for becoming or refusing to become or remain signatories or otherwise adhere to agreements with one or

more labor organizations, on the same or other related construction project(s). (c) Nothing in this section shall prohibit contractors or subcontractors from voluntarily entering into agreements described in subsection (a).

**Section 2.** Contracts awarded before the date of this order, and subcontracts awarded pursuant to such contracts, whenever awarded, shall not be governed by this order.

**Section 3.** To the extent permitted by law, any executive agency issuing grants, providing financial assistance, or entering into cooperative agreements for construction projects, shall ensure that neither the bid specifications, project agreements, nor other controlling documents for construction contracts awarded after the date of this order by recipients of grants or financial assistance or by parties to cooperative agreements, nor those of any construction manager acting on their behalf, shall contain any of the requirements or prohibitions set forth in section 1 (a) or (b) of this order.

**Section 4.** In the event that an awarding authority, a recipient of grants or financial assistance, a party to a cooperative agreement, or a construction manager acting on behalf of the foregoing, performs in a manner contrary to the provisions of sections 1 or 3 of this order, the executive agency awarding the contract, grant, or assistance shall take such action, consistent with law and regulations, as the agency determines may be appropriate.

**Section 5.** (a) The head of an executive agency may exempt a particular project, contract, subcontract, grant or cooperative agreement from the requirements of any or all of the provisions of sections 1 and 3 of this order, if the agency head finds that special circumstances require an exemption in order to

avert an imminent threat to public health or safety or to serve the national security. (b) A finding of "special circumstances" under section 5(a) may not be based on the possibility or presence of a labor dispute concerning the use of contractors or subcontractors who are nonsignatories to, or otherwise do not adhere to, agreements with one or more labor organizations, or concerning employees on the project who are not members of or affiliated with a labor organization. (c) The head of an executive agency, upon application of an awarding authority, a recipient of grants or financial assistance, a party to a cooperative agreement, or a construction manager acting on behalf of the foregoing, may exempt a particular project from the requirements of any or all of the provisions of sections 1 and 3 of this order, if the agency head finds: (i) that the awarding authority, recipient of grants or financial assistance, party to a cooperative agreement, or construction manager acting on behalf of the foregoing had issued or was a party to, as of the date of this order, bid specifications, project agreements, agreements with one or more labor organizations, or other controlling documents with respect to that particular project, which contained any of the requirements or prohibitions set forth in sections 1(a) or (b) of this order; and (ii) that one or more construction contracts subject to such requirements or prohibitions had been awarded as of the date of this order.

**Section 6.** (a) The term "construction contract" as used in this order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property. (b) The term "executive agency" as used in this order shall have the same meaning it has in 5 U.S.C. 105, excluding the General Accounting Office. (c) The term "labor organization" as used in this order shall have the same meaning it has in 42 U.S.C. 2000 e(d).

**Section 7.** With respect to Federal contracts, within 60 days of the issuance of this order, the Federal Acquisitions Regulatory Council shall take whatever action is required to amend the Federal Acquisition Regulation in order to implement the provisions of this order.

**Section 8.** As it relates to project agreements, Executive Order 12836 of February 1, 1993, which, among other things, revoked Executive Order 12818 of October 23, 1992, is revoked.

**Section 9.** The Presidential Memorandum of June 5, 1997, entitled "use of Project Labor Agreements for Federal Construction Projects" (the "Memorandum"), is also revoked.

**Section 10.** The heads of executive departments and agencies shall revoke expeditiously any orders, rules, regulations, guidelines, or policies implementing or enforcing the Memorandum or Executive Order 12836 of February 1, 1993, as it relates to project agreements, to the extent consistent with law.

**Section 11.** This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it, create any right to administrative or judicial review, or any right, whether substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees or any other person.



## Oregon State Marine Board CLEAN VESSEL ACT BILLING FORM

Recipient Name:		OSMB Grant No:	
Project Name:			
Billing Period ~ mm/yyyy	from:	to:	
Percent of work complete or materials stored:		Partial Payment:	Final Payment:

PROJECT FUNDING ~ IN-KIND FUNDS (soft funds) <i>NOT eligible for Reimbursement</i>			
CATEGORY	CURRENT COSTS	PREVIOUSLY INCURRED	TOTAL COSTS TO DATE
Administration			\$0.00
Force Account Labor/Materials			\$0.00
Force Account Equipment			\$0.00
Force Account Inspection			\$0.00
Force Account Permits			\$0.00
System Development Charges			\$0.00
Other: _____			\$0.00
TOTAL IN-KIND FUNDS	\$	\$	#VALUE!

PROJECT CONSTRUCTION COSTS ~ CASH FUNDS <i>(All funding parties) Eligible for Reimbursement</i>			
CATEGORY	CURRENT COSTS	PREVIOUSLY INCURRED	TOTAL COSTS TO DATE
Construction Contract			\$0.00
Material/Equipment			\$0.00
Consultant Contract			\$0.00
TOTAL CONSTRUCTION COST	\$	\$	#VALUE!

Less Recipient Cash Match			\$0.00
Less Other Cash Match			\$0.00
AMOUNT DUE FROM OSMB	\$	\$	#VALUE!

**Certification:** I certify that this is a true and correct statement of all expenditures and that appropriate billing documentation to support this statement is available for inspection in the recipient's fiscal records. I further understand that payment will be withheld until all documentation is provided.

Print/Type Name: _____
Title: _____

Signature - Authorized Official: _____
Date: _____

FOR OSMB USE ONLY	Amount: \$ _____	Date: _____	Approved by: Wayne Shuyler, Facilities Manager INITIALS: _____
Payment Method: _____	Reversion: _____		

## **Appendix D**

### **Synopsis State Marine Board Private Vessel Waste Collection Grant Program Rules**

Note: The following are excerpts of the program rules. For a complete copy of all administrative rules please contact the Boating Facilities Department at 503-378-2727 or visit our website at [www.boatoregon.com](http://www.boatoregon.com)

#### **OREGON ADMINISTRATIVE RULES CHAPTER 250 –Division 14**

##### **Marine Boating Facility Program Rules**

- 250-14-001 Definitions
- 250-14-002 Eligibility
- 250-14-003 Marine Boating Facility Grant Program  
(Not included-Public Agencies Only)
- 250-14-004 Maintenance Assistance Program  
(Not included-Public Agencies Only)
- 250-14-005 Vessel Waste Collection Grant Program

## **250-14-001**

### **Definitions**

For the purposes of OAR-250-14-001 to 250-14-005, the following definitions shall apply:

- (1) "Annual Maintenance" means routine maintenance and operation activities performed on an annual basis when the facility is open to public use.
- (2) "Biennium" means the 24-month period beginning July 1 of each odd numbered year and ending June 30 of the next odd numbered year.
- (3) "Board" means the State Marine Board.
- (4) "Boarding Float" means a floating structure on or adjacent to a launch ramp used for temporary short term use for loading or off loading from a boat. Floats are normally 6 to 8 ft. wide.
- (5) "Boating Facility Grant Program" means the program authorized by ORS 830.150. Funds are available for the acquisition, development and rehabilitation of public boating facilities available to, and ordinarily used by, motorized boats.
- (6) "Boat Ramp" means an inclined hard surface consisting of asphalt or concrete used to launch and retrieve boats. One lane normally is 15 to 20 ft wide.
- (7) "Boating Infrastructure Grants Program" (BIG) means the federal program authorized by 50 CFR Part 80 and ORS 830.150. Funds are available for the development and rehabilitation of transient tie-up facilities at public and private facilities used principally by non-trailer recreational boats.
- (8) "Clean Vessel Act (CVA) Grant Program" means the federal program authorized by 50 CFR Part 85 and ORS 830.150. Clean Vessel Act grants can be used to develop, refurbish, or maintain floating restrooms and vessel waste collection systems ordinarily used by recreational boats at public and private boating facilities.
- (9) "Director" means the State Marine Board Director.
- (10) "Emergency Maintenance Assistance Program" (E-MAP) means emergency funds provided to eligible facilities with extraordinary or emergency maintenance that occurs beyond routine or annual activities.
- (11) "Fiscal Year" means the twelve-month period beginning July 1 of any year and ending June 30 of the next year.
- (12) "Floating Restroom" means a floating structure moored in open water that provides toilet facilities to boaters.
- (13) "Grounds" means the area at or immediately adjacent to an improved boating facility and includes garbage pickup and maintenance activities to include, turf, vegetation, trees/shrubs, bank stabilization and small picnic areas.

(14) "Improved Public Boating Facility" means improved public facilities with boat ramps, boarding floats, parking areas, access roads, restrooms, grounds, transient tie-up floats or vessel waste collection facilities.

(15) "Maintenance Assistance Program" (MAP), means funding assistance to eligible public participants for the routine maintenance and operations of improved public boating facilities. Funds are provided on an allocation basis.

(16) "Mixed Use Site" means a boating facility where annual use is mixed (31%-69%) between registered and non-registered boats.

(17) "Motorized Use Site" means a boating facility where annual use by registered boats is 70% or more of all boat use.

(18) "Non-Motorized Use Site" means a boating facility where the annual use by registered boats is 30% or less of all boat use.

(19) "Off-Season" means the six month period of lowest registered boat use generally the period from October 15 to April 15.

(20) "Parking Area" means a developed gravel and/or asphalt surface with a least 6 boat trailer spaces (10' x 40') and two single car spaces (10' x 20') associated with a boat ramp. This includes any required accessible parking spaces.

(21) "Peak Season" means the three month period of heaviest boat use generally the period from June 1 to August 31.

(22) "Public Boating Facility Grant Project" means a project to acquire property, or develop, improve, rehabilitate or replace public boating facilities.

(23) "Private Boating Facility Grant Project" means a project to develop, improve, rehabilitate or replace private marina facility vessel waste collection systems and transient tie-up facilities that are available/open for public use.

(24) "Public Boating Facility" or "Public Marine Facility" means public launch ramps, parking, boarding floats, transient tie-up facilities, restrooms, access roads, floating restrooms, vessel waste collection systems, signing and water markers, potable water systems and related facilities for the use and convenience of the boating public.

(25) "Private Marine Facility" or "Private Marina Facility" means private facilities that have the capability to provide vessel waste collection systems or transient tie-up facilities that are open and available for public use.

(26) "Public Project Sponsor," "Eligible Public Participants," or "Public Entity" means cities, counties, park and recreation districts, port districts and state agencies that own and or operate public marine facilities as specified in these rules.

(27) "Private Project Sponsor," "Eligible Private Participants," or "Private Entity" means any individual firm, corporation, association, partnership, consortium, joint venture, industry, or any other nonpublic entity that operates a marina facility as specified in these rules.

(28) "Restroom" means all types of landside facilities used to collect human waste to include flush, vault, composting and portable toilets. A restroom may include one or more stalls (urinal and/or toilet).

(29) "Routine Maintenance" means all types of ordinary maintenance activities completed on a regular basis (daily, weekly or monthly).

(30) "Shoulder Season" means the three month period of moderate boat use generally the period from April 15 to May 31 and September 1 to October 15.

(31) "Transient Tie-Up" means a floating structure at least 100 feet used for short term boat tie-up and broadside tie-up or space for mooring at least 6 non-trailer boats. Transient tie-up does not include tenant based moorage or facilities that allow longer than a 10 consecutive day stay.

(32) "Use Fee" means any form of user fee charged to boaters for access or use of a boating facility. This includes day use, launch, parking, tie-up or any other general entrance or use fee.

(33) "Vessel Waste Collection System" means all types of stationary or portable systems that pump or remove human waste from a recreational boat holding tank or portable potties. This includes pumpouts, dump stations, related forward sewage lift stations, necessary floats, piles, and gangways, and related facilities.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 830.110 & 830.150

Stats. Implemented ORS 830.150

Hist.: MB 18-1985, f. & ef. 10-21-85; MB 11-1987, f. 5-20-87, ef. 6-1-87; MB 12-1987, f. & ef. 6-15-87; MB 7-1992, f. & cert. ef. 5-15-92; MB 8-1995, f. & cert. ef. 11-6-95; OSMB 6-1998, f. & cert. ef. 4-15-98; OSMB 8-2001, f. & cert. ef. 7-30-01; OSMB 10-2006, f. 11-22-06, cert. ef. 7-1-07

## **250-014-0002**

### **Eligibility**

(1) The Boating Facility Grant Program is available to eligible public project sponsors.

(2) The Clean Vessel Act and Boating Infrastructure Grant programs are available to eligible public and private project sponsors.

(3) The Maintenance Assistance Program is available to eligible public project sponsors.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 830.110 & 830.150

Stats. Implemented: ORS 830.150

Hist.: MB 18-1985, f. & ef. 10-21-85; MB 11-1987, f. 5-20-87, ef. 6-1-87; MB 12-1987, f. & ef. 6-15-87; MB 7-1992, f. & cert. ef. 5-15-92; MB 8-1995, f. & cert. ef. 11-6-95; OSMB 6-1998, f. & cert. ef. 4-15-98; OSMB 8-2001, f. & cert. ef. 7-30-01; OSMB 10-2006, f. 11-22-06, cert. ef. 7-1-07

## **250-014-0005**

## **Vessel Waste Collection and Boating Infrastructure Grant Program**

### (1) Program Descriptions:

(a) The Board is authorized to provide federal Clean Vessel Act and Boating Infrastructure Grant funds made available through the U.S. Fish and Wildlife Service, in the form of grants in accordance with ORS 830.150(2)(a), for the construction, rehabilitation or replacement of facilities, such as vessel waste collection systems, transient tie-ups and related support facilities.

(b) Federal Clean Vessel Act and Boating Infrastructure Grant funds are provided to the Board contingent on availability and approval by the U.S. Fish and Wildlife Service. Federal Clean Vessel Act and Boating Infrastructure Grant funds require at least a 25% non-federal match. For Clean Vessel Act projects, the required non-federal matching funds are generally provided by the Board. All participants must agree to comply with any and all federal funding requirements including but not limited to compliance with the Single Audit Act, federal OMB Circular A-133.

(c) Clean Vessel Act Grant Funds may be used for the construction/renovation of pumpouts, dump stations and floating restrooms.

(d) Clean Vessel Act Grant Funds may not be used for the construction/renovation of upland restroom facilities; or the construction/renovation, operation and maintenance of on site sewage treatment plants such as package treatment plants and septic systems, or municipal sewage treatment plants for primary and secondary treatment.

(e) Boating Infrastructure Grant funds may be used for the construction/renovation of docks and piers, gangways, fixed and floating breakwaters, debris booms, vessel waste collection systems, utilities and restrooms that principally support tie-up facilities serving non-trailer boats.

(f) Boating Infrastructure Grant funds may not be used for the construction/renovation of any trailer boat facilities, routine maintenance activities, dry stack storage, annual, seasonal or homeport moorage or other related facilities.

### (g) Eligibility:

(A) Applications for grants may be submitted by:

(i) Cities;

(ii) Counties;

(iii) Park and Recreation Districts;

(iv) Port Districts;

(v) State Agencies; and

(vi) Private Project Sponsors;

(B) In addition, Counties with consent of the County Commission may sponsor a Federal Agency participant such as U.S. Forest Service, Bureau of Land Management or Corps of Engineers.

### (2) Procedures:



(a) Pre Application:

(A) Cities, counties, park and recreation districts, port districts, state agencies and private project sponsors that have developed long-range plans for development of boating facilities are encouraged to file a copy with the State Marine Board.

(B) Prior to submitting an application for a Marine Board facility grant, the applicant should contact the Marine Board for a pre-application conference to discuss the proposed project. This will provide applicants with an opportunity to ask any questions regarding the grant program, and will permit the Marine Board staff to assist the applicant in the early planning stages of a project. Requests for application forms, guidance, and assistance may be obtained from: Facility Program, Oregon State, Marine Board, PO Box 14145, 435 Commercial St. NE, Salem, OR 97309-5065, Phone: 503-378-8587. [www.boatoregon.com](http://www.boatoregon.com)

(C) *The Public Boating Facility Grant Procedure Guide*, adopted by the Board shall set forth policies, application form and sample cooperative agreement for use by all eligible public participants.

(D) *The Private Grant Procedure Guide* shall set forth policies, application form and sample cooperative agreement for use by all eligible private participants.

(b) Application: When an applicant for a grant has completed the planning phase, application shall be made to the Board on such forms and manner as described in the Public or *Private Procedure Guide*. The application must include the following enclosures:

(A) A completed original application form and enclosures, and five (5) copies, for a total of six (6) copies.

(B) For Public Project Sponsors, a resolution or statement from the governing body authorizing the project.

(C) For Private Project Sponsors, a statement from the legal owner, corporation or entity authorizing the project.

(D) Permits and Environmental Assessment:

(i) Certification is from the local city or county planning agency that the project is in compliance with local comprehensive plans and zoning ordinances or statement that the project is not subject to these.

(ii) For certain projects, various regulatory permits, leases, licenses, certifications, and plan reviews must be obtained. It is the responsibility of the applicant to secure the necessary clearances prior to implementing any project. The applicant shall indicate to the Board the status of any such permits, etc., as part of its application.

(iii) For all projects, a brief Environmental Checklist describing the anticipated environmental impacts of the project is required.

(E) The following planning attachments must be submitted:

(i) Location map of the city or county, showing geographic reference location of the project.

(ii) Vicinity map showing entire facility, boundaries, geographical features and land use adjacent to the project.

(iii) Site Plan showing the area to be developed with the grant. All items should be clearly labeled on the plan as existing or proposed development including dimensions to scale.

(iv) Photographs of the existing project site. These should be sufficient to show major site features and any special characteristics. (An aerial photo is desirable if available).

(v) A preliminary cost estimate, with calculations and quantities, including all proposed facilities and work tasks. For projects where proposed boating facilities are only a portion of the total cost, the estimate must indicate the boating related facilities to be developed with Marine Board funds.

(vi) Preliminary Plans of all proposed structures, including a plan view (top) and elevation view (side) of each proposed structure.

(vii) Third Party Agreements including copy of leases, special use permits, or intergovernmental agreements if the applicant manages but does not own the project site. If applicable, a cooperative agreement between the eligible applicant and a third party participant outlining scope and nature of the project should be included.

(viii) A description and chronology of notice given to the public of the application or proposed project and the opportunities for public input and the comments received.

(c) Application Evaluation:

(A) Marine Board staff shall evaluate each and every complete grant application using evaluation criteria as established by the Board.

(B) Marine Board staff shall prepare a report and funding recommendation for the Board. A copy of this report will be forwarded to the applicant prior to the Board meeting when the application will be considered.

(C) Incomplete applications will not be considered by the Board.

(D) Board Consideration:

(a) Except as provided in the Consent Agenda Grant Consideration Policy applicants shall plan to attend the Marine Board meeting at which their facility grant request is being considered. The Marine Board staff shall inform applicants as to the date, time, and location of the Board meeting. Failure to appear at the meeting may result in a deferral of the grant request. The Director may waive this requirement for smaller projects or if special conditions prevent the applicant from being present.

(b) Following Board consideration, the applicant shall be advised in writing of the Board's decision. If a denial is made based on the protection of water quality, specific notice shall be provided indicating the point or points of the plan which are inadequate (ORS 830.150(4)).

(c) Prior to issuing any grant, the Board shall hold a public hearing in the area where a facility is to be constructed or land acquired if, in the judgment of the Board, use of the facility would stimulate significant change in the character of the recreational use of the waters.

(d) In order to approve a Facility Grant, the Board shall assure that the project complies with the statewide planning goals and is compatible with applicable acknowledged comprehensive plans by following the procedures set out in the Board's state agency coordination program adopted pursuant to ORS 197.180.

(E) Approved Projects:

(a) Following Board approval of a grant, a special cooperative agreement shall be entered into between the applicant, the Board and any third party participant. This agreement shall describe the responsibilities of all parties. Failure by the applicant or any third parties to execute the grant agreement within 90 calendar days of project approval by the Board may result in the cancellation of the grant.

(b) The Board requires that projects be completed within a biennial budget period or less from the date of grant approval. Exceptions may be allowed by the Director if warranted by extraordinary circumstances. The Director is authorized to approve project time extensions up to 90 days, provided this is reported to the Board.

(F) Project Closeouts:

(a) Upon completion of the project, the public or private project sponsor shall notify the Board. A final billing with cost documentation shall be provided to the Board. After a satisfactory review of billing documentation and final inspection by Marine Board staff, final reimbursement will be authorized.

(B) Upon final approval and inspection by the Marine Board staff, ownership of all facilities (and components) developed with partial or full grant funds shall remain with the public or private project sponsor subject to the terms of the Cooperative Agreement.

(3) Priorities:

(A) Funding:

(a) The funds are available to eligible participants on a full grant or matching basis.

(b) In granting funds, the Board shall give first priority to applications for public facilities and to those facilities which appear to have the greatest public need as determined by the Marine Board.

(c) Grant funds are available each biennial period as prescribed by the Board. Large projects may be phased in over a period of years or bienniums to maximize leverage, distribution and availability of funds.

(d) Notice of grant fund availability will be given once to all interested applicants on or about February 15 for the ensuing new biennial period.

(B) Need:

(a) The Board shall provide grants for Marine facilities as the need for facilities appear to the Board ORS 830.150(2).

(b) When applications for grants exceed funds available, the Marine Board will, pursuant to ORS 830.150(2), consider the results of the Boating Survey conducted in accordance with ORS 830.115 in determining areas of greatest need. The Statewide Six Year Boating Facilities Plan,

prepared under ORS 830.110(6), and the Statewide Boat Waste Facility Plan prepared for the federal Clean Vessel Act of 1992, with input from cities, counties, park districts, port districts, state and federal agencies, and private project sponsors, shall also be used to guide the allocation of funds for boat waste collection facilities.

(c) The Board's Public and Private Procedures Guides shall prescribe specific ranking criteria and project priorities.

(4) Policies:

(A) Matching Funds:

(a) It is the policy of the Board to encourage applicants to make use of matching funds. As a part of this policy, applicants will be encouraged to seek other sources of matching monies and/or to provide some form of matching contribution. This public or private matching contribution may be a "hard" match of cash and/or a "soft" match may consist of "in-kind" materials such as project administration, design, engineering, force account labor, permit fees exclusively related to the eligible grant component, and in the case of private participants long term maintenance costs. The Board recognizes that, in some instances, this matching contribution may be beyond the applicant's capabilities. In such cases, the Board may provide a grant covering the full eligible project costs.

(b) Grants will be limited to actual certified expenditures for materials, equipment, labor, and services directly related to construction. Applicants are encouraged to supply "in-house" administrative, design, labor, equipment and engineering services as a form of match to the Marine Board grant. "In-kind" participation shall be documented to the maximum extent possible.

(B) Fees:

(a) Since the Board intends to provide the majority of capital development costs in the form of grants, public and private project sponsors shall not charge any type of user fee for the use of vessel waste collection facilities during the term of the Agreement.

(b) To encourage public use, all public and private vessel waste collection facilities developed in whole or in part by grant funds shall be available free for public use during the term of the Agreement.

(c) Approval must be obtained by the Board prior to charging any user fees for all facilities funded by Boating Infrastructure Grant funds. Any fees charged shall be reasonable and based on the prevailing rate charged by other public and private facilities in the area.

(C) Signs:

(a) The Board requires public and private project sponsors to place a credit sign at facilities developed with a Marine Board grant. The use of any federal Clean Vessel Act or Boating Infrastructure Grant funds requires placement of a credit sign at the facility indicating use of federal funds.

(b) The sponsor shall place a standard logo pumpout and/or dump station sign at each facility developed with federal Clean Vessel Act grant funds.

(c) The cost of design, fabrication and installation of required signs is an eligible cost and may be included in the construction contract.

(D) Applications:

(a) Grant applications must be received 30 calendar days or more prior to scheduled State Marine Board meetings to be considered by the Board. Applicants should contact the Facilities Program Manager concerning grant application deadlines and availability of funds.

(b) Applications will be considered by the Board at regular or special meetings as determined by the Board. Funding periods (rounds) shall be established on or about February 15 for the ensuing new biennium period. Notice will be given to any interested applicant.

(E) Public Use and Access:

(a) All vessel waste collection and transient tie-up facilities developed with Facility Grant funds must be open and available for public use. Reasonable hours of operation may be prescribed if necessary. The facility may be closed for short periods to protect against cold weather damage.

(b) Public and private project sponsors shall agree to provide unrestricted and/or unencumbered access to the general public by either land or water to vessel waste collection facilities or Boating Infrastructure Grant facilities developed in whole or part with Facility Grants and/or federal funds.

(F) Cooperative Agreements:

(a) Public and private project sponsors shall enter into an agreement with the Board in the manner and form prescribed by the Board. This agreement, which outlines the terms and conditions of funding and other obligations by all parties, must be executed by the Director and the project sponsor and any third party participant prior to commencing any project work. Failure by the applicant and any third party to execute the agreement within 90 calendar days of project approval by the Board may result in the cancellation of the grant.

(b) The term of the Cooperative agreement for Vessel Waste Collection Systems shall be 10 years and Boating Infrastructure Grant facilities shall be 20 years, the assumed average useful life span of these facilities.

(c) The public or private project sponsor or third party participant shall provide ordinary and routine maintenance activities during the term of this agreement.

(d) The public or private sponsor or third party participant shall agree to allow unencumbered facility access to the Board or its authorized agents during the term of the Cooperative Agreement.

(e) Funding recipients shall maintain accurate records on the expenditure of project funds, provide the Board with these records consistent with the agreement and upon request, and permit the Board to audit the use of grant funds in accordance with generally accepted audit practices and standards.

(f) Private project sponsors are not required to follow State of Oregon Public Contract Laws but must procure goods and/or services at reasonable cost and avoid any favoritism with contractors, vendors or suppliers.

(g) In the event the public or private project sponsor or third party participant fails to maintain the facility or converts the use of the facility, the public or private project sponsor shall reimburse the Board for all grant funds provided by the Board.

(G) Operation and Maintenance:

(a) Grants will not be approved for the routine maintenance of facilities.

(b) Private Project Sponsors -- Since the Board intends to provide the majority of all capital development costs in the form of grants, the private project sponsor shall agree to furnish long term ordinary and routine operation and maintenance costs as "match" to the project. Annual usage reports will be submitted to the Marine Board in the manner and form described.

(H) Engineering and Design Criteria:

(a) All projects must be designed and engineered by a registered engineer or architect unless completed using force account labor or otherwise provided by law. This will assure the applicant and the Board that proper and necessary provisions are being met with respect to public health, life and safety through the best use of materials and labor at a minimal cost.

(b) Applicants shall forward one copy of the final plans and specifications to the Marine Board staff for review, prior to procuring any contractor or material supplier or commencing any work at the project site. Marine Board staff will notify applicants of plan approval, at which time they may commence implementation of the approved plan.

(c) The Marine Board staff has the capability to provide some design-engineering services for grant applicants. Requests for technical engineering assistance should be directed to the Facilities Program Manager.

(d) A publication by the Board titled **Vessel Waste Collection System Guidelines or Layout and Design Guidelines for Recreational Boat Launching and Transient Tie-up Facilities** provides basic technical specifications and design criteria for the development of facility grant projects. All projects must comply with these guidelines or other approved methods.

(I) Payments and Inspection:

(a) Partial reimbursement can be made monthly based upon percentage of project completion with submittal of appropriate documentation (invoices, receipts, photographs, etc.). Final reimbursement will be forwarded upon receipt and approval of appropriate final billing documentation, and a satisfactory final inspection by Board staff;

(b) Project sponsors must inform the staff of any alterations to the project, and should provide an early indication of any possible cost overruns or delays which will necessitate a time extension beyond the two year limit;

(c) Reimbursement will not be made for projects initiated or completed prior to approval by the Board and federal granting agency. Recognizing that emergencies may arise, necessitating quick action, applicants with emergencies should contact the Facilities Program Manager for instructions before initiating any improvements;

(d) The Director is authorized to approve minor cost overruns (not to exceed \$10,000). Project sponsors must notify the Board of possible overruns prior to incurring them in order to be eligible for possible reimbursement;

(e) Marine Board staff will, within budgetary limitations, inspect each proposed facility site with the grant applicant prior to Board consideration of any grant. A final inspection will, within budgetary limitations, also be made by Marine Board staff prior to the final grant reimbursement;

(f) On-site visits by Marine Board staff shall be made to assure that the facts presented in the application are correct, to furnish Board members such additional data as may be desired, to inspect work in progress, and to perform final project inspections. The public or private project sponsor or third party participant shall agree to give the Board and its authorized agents unrestricted access to the project at all times during the term of the Cooperative Agreement.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 830.110 & 830.150

Stats. Implemented: ORS 830.150

Hist.: MB 8-1995, f. & cert. ef. 11-6-95; OSMB 6-1998, f. & cert. ef. 4-15-98; OSMB 8-2001, f. & cert. ef. 7-30-01; OSMB 10-2006, f. 11-22-06, cert. ef. 7-1-07