

Analysis

Item 11: Department of Transportation

Wildfire Debris Removal

Analyst: Gregory Jolivette

Request: Allocate \$36,750,000 General Fund from the Emergency Fund to the Department of Transportation for wildfire debris removal.

Analysis: The Oregon Department of Transportation (ODOT), in collaboration with the Department of Environmental Quality and the Office of Emergency Management, has embarked on a major project to clean up the massive amounts of debris left behind by the 2020 Labor Day fires. The project encompasses the removal of hazard trees from the sides of roads and highways, as well as removal of ash and debris from burned out homes and businesses in the eight Oregon counties most impacted by the fires. ODOT estimates the project cost will be \$663 million. The Federal Emergency Management Agency (FEMA) is expected to reimburse 75%-90% of eligible costs.

For the purpose of tracking the different sources of project funding, it is helpful to think of the project as having two distinct components: (1) hazard tree removal, which is estimated to cost \$295.7 million; and (2) ash and debris removal, which is projected to cost \$367.3 million. Both are eligible for FEMA funds, but the source of the state match differs. For hazard tree removal, the state match will be met using the State Highway Fund reserves; whereas the state match for ash and debris removal will be covered by the General Fund. The latter is not an eligible use of State Highway Fund monies.

October Emergency Board Meeting

At its October 23rd meeting, the Emergency Board approved ODOT's initial request for the project. Specifically, the Emergency Board approved an Other Funds expenditure limitation increase of \$295.7 million to fully fund hazard tree removal from State Highway Fund monies and allocated \$50 million General Fund from the Emergency Fund as an initial installment for ash and debris removal. There was an expectation that the \$50 million General Fund would allow the state to draw down \$150 million in FEMA funds. The timing of the receipt of federal funds was an open question.

December Emergency Board Meeting

At its December 11th meeting, due to limited resources in the Emergency Fund, the Emergency Board approved only \$7 million of the agency's \$43.75 million General Fund request and established a Federal Funds expenditure limitation of \$150 million, with the understanding that ODOT would return to the Emergency Board at its earliest opportunity for the balance of \$36.75 million. Funds for this request were included in the special purpose appropriation established for wildfire recovery, prevention, and preparedness activities during the 3rd special session of 2020.

It should be noted that the Chief Financial Office (CFO) recently determined that ODOT actually needs \$150 million in Other Funds expenditure limitation, rather than the \$150 million Federal Funds expenditure limitation requested by ODOT and approved by the Emergency Board at its December meeting. This issue is addressed in Item 15 on today's Emergency Board agenda.

Legislative Fiscal Office Recommendation: The Legislative Fiscal Office recommends that the Emergency Board allocate \$36,750,000 General Fund from the special purpose appropriation made to the Emergency Board during the 3rd special session of 2020 for the state's wildfire recovery, prevention, and preparedness activities to the Oregon Department of Transportation's Maintenance Program for wildfire debris removal.

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Request: Allocate \$36.75 million from the State Emergency Fund for wildfire debris clean up and removal.

Recommendation: Approve the request with the follow modification: Allocate \$36.75 million from the special purpose appropriation made to the Emergency Board for the state's wildfire recovery, prevention, and preparedness activities to support wildfire debris clean up and removal.

Discussion: Oregon Department of Transportation (ODOT) has requested an increase in General Fund appropriation of \$36.75 million relating to the cleanup and removal of structural debris from the 2020 Labor Day wildfires.

The following eight of Oregon's 36 counties were significantly impacted from the fires: Clackamas, Douglas, Jackson, Klamath, Lane, Linn, Lincoln, and Marion. The state's Disaster Cabinet and the Wildfire Economic Recovery Council is managing the cleanup and recovery in a locally coordinated approach. Oregon Department of Environmental Quality, the Office of Emergency Management, and ODOT formed a Debris Management Task Force to coordinate, facilitate, and lead efforts to clean up debris created by the Labor Day wildfires. It has been determined that structural debris cleanup is not a constitutionally eligible use of state highway funds. Because of this, during the October 2020 meeting of the Emergency Board, the Legislature approved \$50 million General Fund for Federal Emergency Management Agency (FEMA) match funding. The estimate for the non- FEMA eligible cleanup is \$43.75 million. In December 2020, the Emergency Board provided \$7.0 million and ODOT is requesting the balance of \$36.75 for the non-eligible costs for the remainder of biennium.

ODOT will likely need to seek additional General Fund and Federal Funds resources in the 2021-23 biennium.

Legal Reference: Allocation of \$36,750,000 from the State Emergency Fund, set aside by the Special Purposes Appropriation under section 3, chapter _____, Oregon Laws 2020 (third special session) (Enrolled Senate Bill SB 5731) to supplement the appropriation made by chapter 614, section 1, Oregon Laws 2019, for the Oregon Business Development Department emergency student aid for the 2019-21 biennium.



Oregon

Kate Brown, Governor

Department of Transportation

Office of the Director

355 Capitol St NE

Salem, OR 97301

January 4, 2021

The Honorable Senator Peter Courtney, Co-Chair
The Honorable Representative Tina Kotek, Co-Chair
State Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairpersons:

Nature of the Emergency/Request

The Oregon Department of Transportation (ODOT) requests an increase in General Funds appropriation of \$36.75 million relating to the cleanup and removal of structural debris from the Labor Day wildfires in 2020.

Agency Action

Oregon's 2020 Labor Day fires constitute the largest and most expensive disaster in our state's history. Historic winds caused numerous new ignitions and existing fires to spread rapidly across both rural and urban areas of the state, burning over 1,000,000 total acres and destroying over 5,000 residential and commercial structures. The state of Oregon and its federal and local partners have begun work to clean up, recover, and rebuild in the wake of the fires' devastation. Of Oregon's 36 counties, eight are significantly impacted from the Labor Day fires: Clackamas, Douglas, Jackson, Klamath, Lane, Linn, Lincoln, and Marion.

The state, under leadership from Governor Brown's Disaster Cabinet and the Wildfire Economic Recovery Council, is managing the cleanup and recovery efforts in a state managed, locally coordinated approach. The Oregon Department of Transportation (ODOT), the Department of Environmental Quality (DEQ), and the Office of Emergency Management (OEM) formed a Debris Management Task Force to coordinate, facilitate, and lead efforts to clean up debris created by the fires and prepare impacted areas for further recovery and rebuilding.

The Federal Emergency Management Agency (FEMA) plays a critical role in providing financial aid to states and local governments in the wake of natural disasters. FEMA assistance requires a non-federal cost share that starts at a standard 25% but may be reduced at the president's discretion to 10% or even 0%. FEMA has indicated that total eligible costs of more than \$570 million would likely tip this disaster into a 10% non-federal cost share.

Structural debris cleanup is estimated at \$302 million in costs eligible for FEMA reimbursement and \$65.3 million in costs that FEMA will likely determine are not eligible. ODOT is working with FEMA to determine which costs of structural debris cleanup are eligible for federal participation and which costs are not.

Because the structural debris cleanup is not a constitutionally eligible use of the Oregon State Highway Fund dollars, the Legislature approved \$50 million in General Funds at the October 2020 Emergency Board to match FEMA funding that could be received starting in January 2021.

The state through Governor Brown's Disaster Cabinet and the Wildfire Economic Recovery Council has determined that funding should be made available for properties determined to be non-eligible for FEMA Assistance. The estimate for these non-eligible properties for the 2019-21 biennium is \$43.75 million General Fund. Since the Emergency Board provided \$7 million in funding at its December meeting, ODOT is requesting the balance of \$36.75 million in estimated funding needed for non-eligible costs for the remainder of the biennium.

ODOT will seek additional General Fund resources and Federal Funds limitation in the 2021-2023 biennium for structural debris removal, and DEQ will seek General Fund resources for the non-federal share of about \$15 million in household hazardous waste cleanup that the federal Environmental Protection Agency recently completed.

Action Requested

Approve ODOT's request to increase General Fund appropriation by \$36.75 million for the 2019-2021 biennium.

Legislation Affected

Increase the General Fund appropriation by amending Chapter 614 Section (1) Oregon Laws by \$36.75 million General Funds for the 2019-21 biennium.

Sincerely,



Kristopher W. Strickler, Director
Oregon Department of Transportation