BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 19-02-05-09

IN THE MATTER OF APPROVING THE JURISDICTIONAL TRANSFER OF TERRITORIAL HIGHWAY (OREGON ROUTE 200) FROM ODOT TO LANE COUNTY, AND GRANTING AUTHORITY TO THE COUNTY ADMINISTRATOR TO EXECUTE THE JURISDICTIONAL TRANSFER AGREEMENT.

WHEREAS, Lane County (County) and ODOT (State) staff have entered into discussions for the jurisdictional transfer of a section of Territorial Highway (OR 200) from ODOT to Lane County; and

WHEREAS, County and State have collectively come to terms, and an agreement has been prepared for execution, said agreement referred to as Jurisdictional Transfer Agreement No. 828, hereinafter referred to as “Agreement”, a draft of which is attached hereto; and

WHEREAS, the section of Territorial Highway to be transferred to the County is described as Unit A in Exhibit A of said Agreement; and

WHEREAS, State has agreed to terms as substantially outlined in the Agreement under State Obligations, Paragraphs 1 through 14; and

WHEREAS, County has agreed to terms as substantially outlined in the Agreement under County Obligations, Paragraphs 1 through 6.

NOW, THEREFORE, the Board of County Commissioners of Lane County ORDERS as follows:

1. The jurisdictional transfer of Territorial Highway (OR 200) from ODOT to Lane County is hereby approved.

2. The County Administrator is granted authority to execute Jurisdictional Transfer Agreement No. 828 in substantially the form as attached as Attachment A.

ADOPTED this 5th day of February 2019.

__________________________
Pete Sorenson, Chair
Lane County Board of Commissioners
JURISDICTIONAL TRANSFER AGREEMENT
Territorial Highway (Mile Point 2.03 to Mile Point 42.08) Section
Oregon Route 200 (OR 200)
County of Lane

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State," or "ODOT;" and LANE COUNTY, acting by and through its elected officials, hereinafter referred to as "County," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. Territorial Highway is under the jurisdiction and control of the Oregon Transportation Commission (hereinafter "OTC"). Territorial Highway, State Highway number 200 is also designated as State Route OR 200. State Bridge number 04037 is located at mile point 4.59, State Bridge number 04042 is located at mile point 7.07, State Bridge number 04049 is located at mile point 17.92, State Bridge number 04050A is located at mile point 18.72, State Bridge number 01699A is located at mile point 18.98, State Bridge number 01700A is located at mile point 19.28, State Bridge number 07271 is located at mile point 25.49, and State Bridge number 04059 is located at mile point 37.93 on Territorial Highway.

2. By the authority granted in Oregon Revised Statute (ORS) 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting Parties.

3. By the authority granted in ORS 366.395, State may relinquish title to any of its property not needed by it for highway purposes to any other governmental body or political subdivision within the State of Oregon, subject to such restrictions, if any, imposed by deed or other legal instrument or otherwise imposed by State.

4. Under the provisions of ORS 366.290(3) with the written consent of the county in which a particular highway or part thereof is located, the State may, when in its opinion the interest of the State will be best served, eliminate from the state highway system any bridge, road, or highway or part thereof. Thereafter the bridge, road, or highway or part thereof eliminated shall become a county road, highway, or bridge, and the construction, repair, maintenance or improvement of, and jurisdiction over, such highway shall be exclusively under the county in which such road, highway or bridge is located.
5. By the authority granted in ORS 810.210, State is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where State deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than State, except with its written approval. Traffic signal work will conform to the current standards and specifications.

6. The Oregon Legislature in House Bill 2017 Section 71d and further described in Section 134 (2017), approved $30,000,000 to be paid to County for the transfer of Territorial Highway (OR 200) and Springfield-Creswell Highway (OR 222) (described in Jurisdictional Transfer Agreement number 829). The funds available under House Bill 2017 are State Highway Funds and may be distributed under this agreement or Jurisdictional Transfer Agreement number 829.

7. Additional state funds in the total amount of $2,372,341.32, identified in the 2018-2021 Statewide Transportation Improvement Program, will be paid to County as part of the transfer of Territorial Highway.

8. For the purpose of furthering the development of a state highway system for the people of the State of Oregon, the Parties agree to eliminate from the state highway system the identified portion of Territorial Highway, as described in Exhibit A, hereinafter referred to as Unit A, and transfer jurisdiction and ownership to the County in phases.

9. Each bridge is one continuous structure which includes the substructure, superstructure, deck, and retaining walls, erosion control material, guardrail, impact panels, or other components that are attached to the structure that carries a designated route, as defined in the Bridge Inspection Program Manual (4.4.2) (dated January 2013) found at:


The point of demarcation of each bridge is the identifiable deck joint on each bridge approach. Each particular bridge unit may include all or some of these components. Any specific bridge unit configuration can be found on file with the State Bridge Program office.

10. The National Network (NN) was authorized by the Surface Transportation Assistance Act of 1982. The National Highway System (NHS) was adopted by Congress as part of the National Highway Designation Act of 1995. The Federal Highway Administration (FHWA) administers this program and must approve all changes to the system. Roadways on the NN or NHS or that were part of the federal aid primary system in existence on June 1, 1991 continue to be subject to those federal requirements after jurisdiction is transferred from the State and State retains authority to enforce those laws. These provisions include but are not limited to 23 USC 131
and the Oregon Motorist Information Act, ORS 377.700 to 377.840 and 377.992 and reasonable access requirements of CFR Title 23 Part 658.19 and Part 658.23. Unit A is not part of the federal aid primary system and is not subject to these provisions. At the time of this Agreement, Oregon Travel Experience signs located along Unit A are identified in “Exhibit E,” attached hereto and made a part of this agreement.

11. State maintains a state route system to assist the traveling public in their travels. Designated routes may be composed of both state highway and local roads. Designation and elimination of state routes is under authority of the OTC.

12. The permanent vehicle carrying capacity of identified freight routes shall not be permanently reduced after a jurisdictional transfer (ORS 366.215). Unit A is not on a designated freight route and is not subject to this requirement.

13. Freight movements within cities will not be restricted after a highway segment is transferred (ORS 374.329). Portions of Unit A are located within the City of Veneta between mile points 19.35 and 20.72 and are subject to this provision.

NOW THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT:

1. Transfer of Jurisdiction and Control

State and County agree, upon approval of a Jurisdictional Transfer Resolution, hereinafter “Resolution” by the OTC, and subject to the provisions of this Agreement, that:

   a. The roadway sections of Unit A shall be eliminated from the state highway system; that jurisdiction of the roadway sections of Unit A shall pass to and vest to County; and that County shall control, operate, and maintain the roadway sections of Unit A, (subject to the terms of this Agreement), including all traffic signals, illumination, and signage, except for the traffic signal located at the intersection of Territorial Highway and Oregon Route 126, and Fern Ridge Automatic Traffic Recorder (ATR) located on Territorial Highway 3.46 miles south of the Mapleton-Junction City Highway (OR 36) intersection, as a part of its county road system as long as needed for the service of persons living thereon or a community served thereby.

   b. State Bridge 04037, State Bridge 04042, State Bridge 04049, State Bridge 04050A, State Bridge 01699A, State Bridge 01700A, State Bridge 07271, and State Bridge 04059 shall be eliminated from the state highway system at the time State replaces or repairs each respective bridge to a condition described in State Obligations, paragraph 4. At the time of replacement or repair, jurisdiction of each
respective bridge shall pass to and vest to County and County shall control, operate, and maintain the bridge as a part of its county road system as long as needed for the service of persons living thereon or a community served thereby.

2. Transfer of Property Rights
   a. State and County agree that all property rights, title and interests and access rights in Unit A, including property rights of all bridges, traffic signals (except for the signal located at the intersection of Territorial Highway and Oregon Route 126, and Fern Ridge ATR), illumination, slope, utility, wetland water quality, storm water facilities, and similar easements shall be conveyed from State to County by recording a Jurisdiction Transfer Conveyance Document, hereinafter “Transfer Document” with the County after approval of a Resolution by the OTC. Unit A is described in “Exhibit A,” and the location is as shown in “Exhibit B,” both attached hereto and by this reference made a part hereof. If said right of way is no longer used for public road purposes, it shall automatically revert to State.
   b. The transfer of property rights in Unit A is subject to the rights of any utilities located within said properties and further subject to the rights of the owners of said existing facilities, if any there be, to operate, reconstruct, and maintain their utility facilities presently located within said properties.

3. Designation of Highway Segments
   Unit A will not retain the State Route OR 200 designation.

4. Considerations
   The Parties agree to a phased payment of $30,000,000 in state funds from State to County for future costs of preservation, improvements, and maintenance of Territorial Highway and Springfield-Creswell Highway. Payments shall be made as follows:
   a. $5,000,000, available to be paid in Fiscal Year (FY) 2019, upon the recording of the Transfer Document for either Territorial Highway or Springfield-Creswell Highway, whichever occurs first.
   b. $20,000,000, available to be paid in FY2022, contingent upon the recordings of the Transfer Documents for both Territorial Highway and Springfield-Creswell Highway.
   c. $5,000,000, available for payment in FY2024, contingent upon the recordings of the Transfer Documents for both Territorial Highway and Springfield-Creswell Highway.
Upon the recording of the Transfer Document for Territorial Highway, State will make a one-time payment of $2,372,341.32 to County for future costs of preservation, improvements, and maintenance of Territorial Highway.

5. Effective Date

This Agreement becomes effective on the date all required signatures are obtained. The Agreement terminates on December 31st twenty (20) calendar years after the effective date of the Agreement, unless otherwise extended or renewed by formal agreement of the Parties.

STATE OBLIGATIONS

1. In consideration for future costs of preservation, improvements, and maintenance of Territorial Highway and Springfield-Creswell Highway, State agrees to pay to County $30,000,000. Payments will be made in increments and paid in the following schedule:

   a. $5,000,000, available to be paid in FY2019, upon the recording of the Transfer Document for either Territorial Highway or Springfield-Creswell Highway, whichever occurs first.
   
   b. $20,000,000, available to be paid in FY2022, contingent upon the recordings of the Transfer Documents for both Territorial Highway and Springfield-Creswell Highway.
   
   c. $5,000,000, available for payment in FY2024, contingent upon the recordings of the Transfer Documents for both Territorial Highway and Springfield-Creswell Highway.

Payment is contingent upon the adoption of a Resolution by the OTC that eliminates these sections of highway from the state highway system, and recording of the Transfer Document.

2. A one-time payment of $2,372,341.32 is contingent upon the adoption of a Resolution by the OTC that eliminates sections of Territorial Highway from the state highway system, and recording of the Transfer Document.

3. State shall construct missing curb ramps and upgrade non-compliant curb ramps (Work) along Unit A at the locations identified in “Exhibit C,” attached hereto and by this reference made a part hereof, at State cost prior to January 1, 2033. State shall make reasonable efforts to notify County of construction schedule and perform the Work in a manner to minimize interference with the operation of the public right of way. State shall return public right of way to a condition as good or better than the condition of the right of way prior to the construction of the Work. Following
completion of this Work by State, County shall assume responsibility for maintenance of curb ramps as provided in County Obligations, paragraph 4; however, County shall not be responsible for correction of any deficiency or non-compliance with ADA requirements that were in effect at the time County assumed jurisdiction.

4. State agrees to replace or repair State Bridge numbers 04037, 04042, 04049, 04050A, 01699A, 01700A, 07271, and 04059 to meet a National Bridge Inventory rating of "good or better" (a score of 7 or higher on a scale from 0-9) on each of the three major structural bridge components: the deck, superstructure, and substructure.

5. State agrees to maintain all highway appurtenances (pavement, bridges, traffic signals, illumination, signage, etc.) within OR 200 right of way between mile points 2.03 and 19.49 until July 1, 2022. State will transfer maintenance responsibilities for the bridges as follows: State Bridge 04059 upon the effective date of the OTC resolution; and State Bridge numbers 04037, 04042, 04049, 04050A, 01699A, and 01700A after July 1, 2022.

6. State agrees to maintain all highway appurtenances (pavement, bridges, traffic signals, illumination, signage, etc.) within OR 200 right of way between mile points 19.49 and 32.06 until July 1, 2024. State will transfer maintenance responsibilities for State Bridge 07271 after July 1, 2024.

7. State shall retain jurisdiction and control of the traffic control facilities including but not limited to traffic signals, supports, loops, and controllers at the intersection of Territorial Highway and Oregon Route 126 (Florence-Eugene Highway) located within the corporate limits of the City of Veneta.


9. State agrees to pursue approval of an OTC Resolution to eliminate the roadway and bridges of Unit A from the state highway system. Upon approval of the Resolution by the OTC all jurisdiction, maintenance, and control (subject to the terms of this Agreement) of the roadway in Unit A shall pass to and vest in County. Upon approval of the OTC Resolution and upon State replacing or repairing State Bridge 04037, State Bridge 04042, State Bridge 04049, State Bridge 04050A, State Bridge 01699A, State Bridge 01700A, State Bridge 07271, and State Bridge 04059 to a condition that meet a National Bridge inventory rating of "good or better" (a score of 7 or higher on a scale from 0-9) on each of the three major structural bridge components: the deck, superstructure, and substructure all jurisdiction, maintenance, and control of the respective bridges shall pass to and vest in County.
10. State shall transfer title to Unit A, including title of the bridges, by recording a Transfer Document with the County. Title to Unit A and to the bridges shall pass and vest in County upon the recording of the Transfer Document with the County.

11. State shall be responsible for bridge maintenance and will then transfer maintenance responsibilities for the bridges as follows: State Bridge 04059 upon the effective date of the OTC resolution; State Bridge numbers 04037, 04042, 04049, 04050A, 01699A, and 01700A after July 1, 2022; and State Bridge 07271 after July 1, 2024. Maintenance includes all bridge repair maintenance considered to be beyond routine highway maintenance (said routine maintenance includes: patching, sweeping, striping, guardrail repair, winter operation activities, hazardous material spills, and incident response), and its own expense. State will notify County when each bridge is replaced or repaired by sending "Exhibit D," attached hereto and by this reference made a part hereof, to the County.

12. State agrees to furnish County relevant copies of its pedestrian-activated signal inventory, curb ramp inventory, approved curb ramp design exceptions, and any written orders to close crosswalks and any maps, records, permits, and any other related data available that may be required to administer the Territorial Highway, upon County’s written request.

13. State agrees that it will notify the Oregon Travel Experience (OTE) of the transfer of jurisdiction of OTE signs located on Unit A, in accordance with ORS 377.708.

14. State’s Project Manager for this Project is James Gamble, District 5 Manager, 2080 Laura Street, Springfield, Oregon 97477; phone: (541) 726-2541; email: james.gamble@dot.state.or.us, or assigned designee upon individual’s absence. County’s Project Manager shall be notified in writing of any contact information changes during the term of this Agreement.

COUNTY OBLIGATIONS

1. In consideration of state funds identified in this Agreement, County agrees to:

a. Accept jurisdiction of Unit A to control, operate, and maintain Unit A, including all traffic signals (except for the signal located at the intersection of Territorial Highway and Oregon Route 126, and Fern Ridge ATR), signs and illumination and all things and appurtenances, and all permit activities, as part of its county road system for as long as needed for the service of persons living thereon or a community served thereby upon the approval of the OTC Resolution;

b. Accept the transfer of all State’s property rights and interests as described in Exhibit A, including all bridges, subject to conditions in State Obligations, paragraph 11, traffic signals (except for the signal located at the intersection of Territorial Highway and Oregon Route 126 and Fern Ridge ATR), signs and
illumination and all things and appurtenances within the transferred right of way, upon the recording of the Transfer Document with the County. This intent is also memorialized by the signatures in "Exhibit F, Acceptance of Jurisdictional Transfer and Quitclaim of Active Right of Way," attached hereto and made a part of this agreement. If said property interests are no longer used for public road purposes, it shall automatically revert to State.

2. County shall perform routine highway maintenance and incident response of State Bridge number 04059 upon the effective date of the OTC resolution; of State Bridge numbers 04037, 04042, 04049, 04050A, 01699A, and 01700A after July 1, 2022; and of State Bridge 07271 after July 1, 2024. Said routine maintenance includes: patching, sweeping, striping, guardrail repair, winter operation activities, hazardous material spills, and incident response. County shall perform said duties with its own forces and at its own expense.

3. If any, or portion of, Unit A reverts back to the State, or in the event that the OTC does not approve the transfer, County shall return its pedestrian-activated signal inventory, curb ramp inventory, approved curb ramp design exceptions and written order to close crosswalks and permit files, utility permit files, right of way maps, approved access permits, and as-built files to State.

4. After missing and non-compliant curb ramps are repaired by State under State Obligations, paragraph 3 above, County shall ensure that any portions of the project under County's maintenance jurisdiction are maintained in compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together "ADA"), throughout the useful life of the project. This includes, but is not limited to, County ensuring that:

   a. Pedestrian access is maintained as required by the ADA,

   b. Any complaints received by County identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated,

   c. Any repairs or removals of obstructions needed to maintain project features in compliance with the ADA requirements that were in effect at the time of project construction are completed by County or abutting property owner pursuant to applicable local code provisions,

   d. Any future alteration work on project or project features during the useful life of the project complies with the ADA requirements in effect at the time the future alteration work is performed, and

   e. Applicable permitting and regulatory actions are consistent with ADA requirements.
5. County grants State permission to construct missing curb ramps and upgrade non-compliant curb ramps along Unit A.

6. County’s Project Manager for this Project is Peggy Keppler, County Engineer, Lane County Public Works Engineering and Construction Services, 3050 North Delta Highway, Eugene, Oregon 97408; phone: (541) 682-6900; email: lcpwadministration@co.lane.or.us, or assigned designee upon individual’s absence. State’s Project Manager shall be notified in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. State and County will coordinate efforts to delineate right of way contamination and recuperate the costs of future contamination-related work at the site of the Sumpter Family Market in Veneta, as documented in MOU: Sumpter Market Contamination, included in Exhibit G, attached hereto and by this reference made a part hereof.

2. This Agreement may be terminated by mutual written consent of both Parties. Either Party may terminate this Agreement effective upon delivery of written notice to the other Party, or at such later date as may be established by that Party, under any of the following conditions:

   a. If the other Party fails to provide services called for by this Agreement within the time specified herein or any extension thereof.

   b. If the other Party fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from the other Party fails to correct such failures within ten (10) days or such longer period as the other Party may authorize.

   c. If OTC fails to adopt a Resolution eliminating Unit A from the state highway system and approve the Jurisdictional Transfer of Unit A to County.

   d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.

   e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or either Party is prohibited from paying for such work from the planned funding source.

3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
4. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or County with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

5. With respect to a Third Party Claim for which State is jointly liable with County (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by County in such proportion as is appropriate to reflect the relative fault of State on the one hand and of County on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of County on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

6. With respect to a Third Party Claim for which County is jointly liable with State (or would be if joined in the Third Party Claim), County shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of County on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of County on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

7. If County fails to maintain facilities in accordance with the terms of this Agreement, State, at its option, may maintain the facility and bill County, seek an injunction to
enforce the duties and obligations of this Agreement or take any other action allowed by law. This section of this agreement shall survive Agreement expiration or termination.

8. All employers, including State and County, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than $500,000 must be included. State and County shall ensure that each of its subcontractors complies with these requirements.

9. County shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, County expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act of 2008, and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

10. State and County acknowledge and agree that State, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of State and County which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.

11. County certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of County, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind County.

12. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

13. Each Party hereby grants the other Party authority to enter onto each other's right of way for the purpose of performing any required construction or maintenance services with forty-eight (48) hours prior notification.
14. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, possess the legal authority to sign and legally bind their Party to this Agreement, and agree to be bound by its terms and conditions.

Funding for this Agreement is in the 2018-2021 Statewide Transportation Improvement Program (Key No. 21258), that was adopted by the Oregon Transportation Commission on July 20, 2017 (or subsequently approved by amendment to the STIP).
LANE COUNTY, by and through its elected officials
By ________________________________
County Administrator
Date ________________________________

APPROVED AS TO FORM
By ________________________________
County Legal Counsel
Date ________________________________

County Contact:
Peggy Keppler, County Engineer
Lane County Public Works Engineering and Construction Services
3050 North Delta Highway
Eugene, OR 97408
Phone: (541) 682-6900
Email: lcpwadministration@co.lane.or.us

STATE OF OREGON, by and through its Department of Transportation
By ________________________________
Highway Division Administrator
Date ________________________________

APPROVAL RECOMMENDED
By ________________________________
State Right of Way Manager
Date ________________________________

By ________________________________
State Traffic/Roadway Engineer
Date ________________________________

By ________________________________
Region 2 Manager
Date ________________________________

By ________________________________
Region 2 Right of Way Program Manager
Date ________________________________

By ________________________________
District 5 Manager
Date ________________________________

APPROVED AS TO LEGAL SUFFICIENCY
By ________________________________
Assistant Attorney General
Date ________________________________
Transfer To Lane County

All that portion of the active Right of Way of the existing Territorial Highway No. 200 and the relocated Territorial Highway No. 200 consisting of all properties contiguously attached to and in support of said active Right of Way and lying within Sections 9, 16, 21, 22, 27, and 34, Township 15 South, Range 5 West; Sections 3, 10, 17, 20, 21, 28, 29 and 32, Township 16 South, Range 5 West; Sections 5, 7, 8, 18, 19, and 31, Township 17 South, Range 5 West; Sections 24, 25, and 36, Township 17 South, Range 6 West; Sections 1 and 12, Township 18 South, Range 6 West; Sections 6, 7, 18, 19, 20, 29, 32 and 33, Township 18 South, Range 5 West; Sections 3, 4, 10, 14, 15, 23, 24, 25 and 36, Township 19 South, Range 5 West; Sections 1, 12, 13, 24, 25, and 36, Township 20 South, Range 5 West; and Sections 30 and 31, Township 20 South, Range 4 West, all in Lane County, Oregon, said portion being bounded on the North by the Lane and Benton County Line at approximate mile point 2.03 and on the South by the Lane and Douglas County Line at approximate mile point 42.08.

EXCEPT therefrom the Right of Way boundaries of the Mapleton - Junction City Highway No. 229 and the Right of Way boundaries of the Florence - Eugene Highway No. 062.
EXHIBIT B - Location (continued)

SEC. 3, 10, 17, 20, 21, 28, 29, 32, T. 16 S., R. 5 W., W.M.

Lane County / State of Oregon – Dept. of Transportation
Agreement No. 828

EXHIBIT B SHEET 2 OF 6
EXHIBIT C
ADA Curb Ramps and Push Button Locations
OR 200 (Mile Point 2.03 to Mile Point 42.08)

1. MP 18.45, Midblock Crossing – Ramps
2. MP 18.47, Warthen Road – Ramps
3. MP 18.57, Horn Road – Ramps
4. MP 19.41, Jeans Road – Ramps
5. MP 19.57, Jack Kelly Drive – Ramps
6. MP 19.60, Luther Lane – Ramps
7. MP 19.65, Waldo Lane – Ramps
8. MP 19.70, W. Broadway Avenue (Broadway Avenue) – Ramps
9. MP 19.70, W. Broadway Avenue (Broadway Avenue) – Push Buttons
10. MP 19.75, Dunham Avenue – Ramps
11. MP 19.81, McCutcheon Avenue – Ramps
12. MP 19.87, W. Hunter Avenue (E. Hunter Avenue) – Ramps
13. MP 20.06, Meadowdale Lane – Ramps
14. MP 20.12, W. Bolton Hill Road (E. Bolton Road) – Ramps
15. MP 20.28, Cottage Court – Ramps
16. MP 20.37, Cheney Drive – Ramps
17. MP 20.49, Bleck Drive – Ramps
18. MP 20.63, Territorial Court – Ramps
19. MP 20.68, Perkins Road – Ramps
Jurisdiction and control of Bridge 04037 located at MP 4.5 is now fully transferred to Lane County.

The Oregon Transportation Commission Approved Resolution _______ to transfer jurisdiction of Bridge 04037 to Lane County conditioned upon the replacement or repair of the bridge condition that meets the National Bridge Inventory rating of "good or better" (a score of 7 or higher on a scale of 0-9) on each of three major structural bridge components: the deck, superstructure, and substructure.

Bridge 04037 has a National Bridge Inventory Rating of:

_______ for the Deck

_______ for the Superstructure

_______ for the Substructure

Documentation of the evaluation is on file at ________________________________

Signed by the ODOT Bridge Engineer

____________________________

Date
Lane County / State of Oregon – Dept. of Transportation
Agreement No. 828

Exhibit D

Bridge 04042

Mile point 7.07, Territorial Highway (OR 200)

Lane County

Jurisdiction and control of Bridge 04042 located at MP 7.07 is now fully transferred to Lane County.

The Oregon Transportation Commission Approved Resolution _________ to transfer jurisdiction of Bridge 04042 to Lane County conditioned upon the replacement or repair of the bridge condition that meets the National Bridge Inventory rating of "good or better" (a score of 7 or higher on a scale of 0-9) on each of three major structural bridge components: the deck, superstructure, and substructure.

Bridge 04042 has a National Bridge Inventory Rating of:

_________ for the Deck

_________ for the Superstructure

_________ for the Substructure

Documentation of the evaluation is on file at ________________________________

________________________
Signed by the ODOT Bridge Engineer

________________________
Date
Lane County / State of Oregon – Dept. of Transportation
Agreement No. 828

Exhibit D

Bridge 04049

Mile point 17.92, Territorial Highway (OR 200)

Lane County

Jurisdiction and control of Bridge 04049 located at MP 17.92 is now fully transferred to Lane County.

The Oregon Transportation Commission Approved Resolution ________ to transfer jurisdiction of Bridge 04049 to Lane County conditioned upon the replacement or repair of the bridge condition that meets the National Bridge Inventory rating of “good or better” (a score of 7 or higher on a scale of 0-9) on each of three major structural bridge components: the deck, superstructure, and substructure.

Bridge 04049 has a National Bridge Inventory Rating of:

_______ for the Deck

_______ for the Superstructure

_______ for the Substructure

Documentation of the evaluation is on file at ____________________________

Signed by the ODOT Bridge Engineer

________________________

Date

Page 24 of 35
Jurisdiction and control of Bridge 04050A located at MP 18.72 is now fully transferred to Lane County.

The Oregon Transportation Commission Approved Resolution _______ to transfer jurisdiction of Bridge 04050A to Lane County conditioned upon the replacement or repair of the bridge condition that meets the National Bridge Inventory rating of "good or better" (a score of 7 or higher on a scale of 0-9) on each of three major structural bridge components: the deck, superstructure, and substructure.

Bridge 04050A has a National Bridge Inventory Rating of:

_______     for the Deck

_______     for the Superstructure

_______     for the Substructure

Documentation of the evaluation is on file at ____________________________

Signed by the ODOT Bridge Engineer

____________________________________

Date
Lane County / State of Oregon – Dept. of Transportation
Agreement No. 828

Exhibit D

Bridge 01699A

Mile point 18.98, Territorial Highway (OR 200)

Lane County

Jurisdiction and control of Bridge 01699A located at MP 18.98 is now fully transferred to Lane County.

The Oregon Transportation Commission Approved Resolution ___________ to transfer jurisdiction of Bridge 01699A to Lane County conditioned upon the replacement or repair of the bridge condition that meets the National Bridge Inventory rating of “good or better” (a score of 7 or higher on a scale of 0-9) on each of three major structural bridge components: the deck, superstructure, and substructure.

Bridge 01699A has a National Bridge Inventory Rating of:

__________ for the Deck

__________ for the Superstructure

__________ for the Substructure

Documentation of the evaluation is on file at ____________________________

__________________________
Signed by the ODOT Bridge Engineer

__________________________
Date

Page 26 of 35
Jurisdiction and control of Bridge 01700A located at MP 19.28 is now fully transferred to Lane County.

The Oregon Transportation Commission Approved Resolution to transfer jurisdiction of Bridge 01700A to Lane County conditioned upon the replacement or repair of the bridge condition that meets the National Bridge Inventory rating of "good or better" (a score of 7 or higher on a scale of 0-9) on each of three major structural bridge components: the deck, superstructure, and substructure.

Bridge 01700A has a National Bridge Inventory Rating of:

_______ for the Deck
_______ for the Superstructure
_______ for the Substructure

Documentation of the evaluation is on file at ____________________________

Signed by the ODOT Bridge Engineer

______________________________
Date

Page 27 of 35
Jurisdiction and control of Bridge 07271 located at MP 25.49 is now fully transferred to Lane County.

The Oregon Transportation Commission Approved Resolution ______ to transfer jurisdiction of Bridge 07271 to Lane County conditioned upon the replacement or repair of the bridge condition that meets the National Bridge Inventory rating of "good or better" (a score of 7 or higher on a scale of 0-9) on each of three major structural bridge components: the deck, superstructure, and substructure.

Bridge 07271 has a National Bridge Inventory Rating of:

_________ for the Deck

_________ for the Superstructure

_________ for the Substructure

Documentation of the evaluation is on file at ____________________________

Signed by the ODOT Bridge Engineer

________________________________________

Date

Page 28 of 35
Jurisdiction and control of Bridge 04059 located at MP 37.93 is now fully transferred to Lane County.

The Oregon Transportation Commission Approved Resolution _________ to transfer jurisdiction of Bridge 04059 to Lane County conditioned upon the replacement or repair of the bridge condition that meets the National Bridge Inventory rating of “good or better” (a score of 7 or higher on a scale of 0-9) on each of three major structural bridge components: the deck, superstructure, and substructure.

Bridge 04059 has a National Bridge Inventory Rating of:

_________ for the Deck

_________ for the Superstructure

_________ for the Substructure

Documentation of the evaluation is on file at ________________________________

Signed by the ODOT Bridge Engineer

______________________________

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* Oregon Travel Experience signs on Hwy. 209 (OR200) Data copied by SLR. 3/7/2018
Revised using latitude and longitude by SLR. 3/30/18

Visual data in aerial view's suggest to me that the RP 19.48 post might be inside Hwy. 62 (OR126) right-of-way. SLR

Empty sign posts which could be reactivated. Otherwise, the current plan it to remove them in June.
EXHIBIT F
Acceptance of Jurisdictional Transfer
& Quitclaim of Active Right of Way

Territorial Highway (Mile Points 2.03 to Mile Points 42.08) Section
Oregon Route 200 (OR 200)
County of Lane

The parties agree that signing this Agreement and Acceptance page serves as an indication of approval, pursuant to ORS 93.808, of the following conveyances from the State to Lane County:

All right, title, and interest, including jurisdiction, maintenance and control of Territorial Highway, also designated as State Highway 200, from approximately mile point 2.03 to mile point 42.04, (Unit A) described in Exhibit A and shown on Exhibit B, attached hereto and by this reference made a part hereof, shall be conveyed to Lane County as (a) portion(s) of its County road system as long as needed for the service of persons living thereon or for a community served thereby.

Accepted By:

___________________ County, by and through its elected officials

By ________________________________

Title ______________________________

Date ______________________________

By ________________________________

Title ______________________________

Date ______________________________
Lane County / State of Oregon – Dept. of Transportation
Agreement No. 828

Exhibit G
MEMORANDUM OF UNDERSTANDING
Project Name: Sumpter Market Contamination

This Memorandum of Understanding (MOU) is made and entered into by and between the State of Oregon by and through its Department of Transportation, hereinafter referred to as “State;” and Lane County by and through its elected officials, hereinafter referred to as “County,” both herein referred to individually or collectively as the “Party” or “Parties.”

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110 and 283.110, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a Party to the agreement, its officers, or agents have the authority to perform.

2. ODOT owns certain real property for highway right-of-way purposes as depicted on “Exhibit A,” which is attached hereto and incorporated herein by reference (“the Right-of-Way”).

3. The County will be assuming ownership of the Right-of-Way pursuant to a jurisdictional transfer of the Territorial Highway, MP 2.03 to MP 42.08, from the State.

4. The Sumpter Family Market was, for many years, operated as a combined gasoline service station and convenience store adjacent to the Right-of-Way at 87754 Territorial Road, Veneta, Oregon. As a result of fuel dispensing operations, petroleum hydrocarbons and gasoline additives were released from the underground storage tank system located on the property.

5. Between 1989 and 1993 four underground storage tanks and approximately 100 tons of contaminated soil were removed from the Sumpter Store site. In 2002 the City of Veneta responded to a complaint of gasoline odors emanating from residential tap water at 87812 Blek Drive. Analytical data for tap water sampled at the residence detected gasoline and diesel range hydrocarbons. City of Veneta Public Works replaced a polyethylene service pipe connecting the residence and the water main restoring potable water to the residence. The Sumpters were notified that additional work was required. Between 2003 and 2016 numerous studies have been performed to delineate the vertical and horizontal extent of contamination and magnitude of the contamination onsite and offsite. An additional 200 tons of contaminated soil was removed from one of the former dispenser areas for disposal. The studies have determined that contaminated groundwater and soil remain on adjacent and downgradient properties that do not meet DEQ risk based standards applicable to those properties.

6. The Sumpters have accepted responsibility for the Contamination as described in a file of the Oregon Department of Environmental Quality (DEQ) identified as DEQ Fast File 20-89-4043 (the “DEQ File”).
7. Under supervision of the DEQ, the Sumpters have completed some remediation for the site, and are requesting a determination of No Further Action from the DEQ.

8. The potential exists for ODOT and the County to incur additional costs associated with the removal, disposal, and replacement of impacted soil and groundwater during future construction projects or work on Utilities.

NOW THEREFORE, the Parties agree to the following:

TERMS AND CONDITIONS

1. It is the intent of State and County to document in this MOU, the coordinated efforts it will take to delineate the contamination on the Right-of-Way and to enter into a mutually acceptable settlement agreement with the Sumpters for contamination related costs associated with future work that may need to be done in the Right-of-Way. Any agreement will include the requirement that the Sumpters install trench dams to limit the preferential path spread of any contaminants.

2. State will take 8 probes to 12 feet. Sample interval will be one for every four vertical feet (3 to 4 feet, 6.5 to 8 feet, and 10 to 12 feet). The analytical data will be centered on characterization for disposal which will result in 24 samples for TPH-Gx (gasoline range hydrocarbons) and the DEQ’s 13 risk-based volatile organic compounds and total lead.

3. After the results of the probes are received, the Parties will attempt to reach a mutually acceptable settlement offer which they will extend to the Sumpters. State will take the lead in scheduling any meetings, etc. that are needed.

4. The Parties will negotiate with the Sumpters in an attempt to reach a mutually acceptable settlement agreement.

5. State and County intend that, if an impasse or disagreement should occur on issues pertaining to the MOU, a collaborative process will be initiated to resolve the difference. A collaborative process may be requested by either Party and will conform to the best practices for mediation, as prescribed by the Oregon Resolution Program.

6. This MOU shall become effective when all required signatures have been obtained and shall remain in effect until an agreement with the Responsible Party is entered into by the State and County, then this MOU automatically terminates.

7. The terms of this MOU shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written agreement signed by the Parties.

8. The terms of this MOU may be amended or terminated by mutual written consent of the Parties.
9. The foregoing Memorandum is a nonbinding proposal and is not and should not be construed as a commitment by either Party. Notwithstanding the signing or delivery of the Memorandum, any past, present or future actions; or approvals by either Party based upon this Memorandum, neither Party is under any legal obligation with respect to the intentions outlined above and no binding commitment of any nature whatsoever will be implied.

10. This MOU is not intended to create a legally binding Agreement and is not a commitment by either Party to undertake any cleanup of the contamination at the Sumpter Market site on the Territorial Highway.

11. This MOU may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this MOU so executed shall constitute an original.

THE PARTIES, by execution of this MOU, hereby acknowledge that their signing representatives have read this MOU, understand it, and agree to its terms and conditions.

by and through its elected officials
By ____________________________
Date __________________________

APPROVAL RECOMMENDED
By ____________________________
Date __________________________

Agency Contact:
Name/Title: Peggy Keppler
Address: Comtur
Phone: 541-682-6990
Email: peggy.keppler@lane.co.or.us

State Contact:
Name/Title: Jim Gamble
Address: 208 Darn St, Springfield OR
Phone: 541-726-2541
Email: james.gamble@state.or.us

STATE OF OREGON, by and through its Department of Transportation
By ____________________________
Date __________________________

APPROVAL RECOMMENDED
By ____________________________
Date __________________________

REVIEWED FOR STATE BY
By ____________________________
Date __________________________
Exhibit G

Appendix A: “Right of Way”