

**INTERGOVERNMENTAL AGREEMENT  
OR380 Ochoco Creek Bridge Detour**

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;" and the CITY OF PRINEVILLE, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

**RECITALS**

1. The Paulina Highway, State Route OR 380, Highway No. 380 is a part of the State highway system under the jurisdiction and control of the Oregon Transportation Committee (OTC).
2. Main Street and SE Lynn Boulevard are a part of the city street system under the jurisdictional and control of the city.
3. State's Bridge No. 07282 on OR 380 at approximately mile point 0.11 which spans the Ochoco Creek has been determined as being structurally deficient and will be replaced in conjunction with State's OR380 Ochoco Creek bridge Replacement (Key No. 19209)
4. States wishes to detour traffic around bridge No. 07282 by utilizing city streets.
5. State wishes to stage construction supplies and equipment on Agency owned right of way.
6. By the authority granted in Oregon Revised Statute (ORS) [190.110](#), state agencies may enter into agreements with units of local government 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.

**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. Under such authority, the Parties agree to the following, hereinafter referred to as 'Project':
  - a. That Main Street from its intersection of US 26 south to its intersection with SE Lynn Boulevard and SE Lynn Boulevard from its intersection with Main Street east to its intersection with OR 380, hereinafter referred to as the "detour route", shall be used for the diversion of traffic during the

closure of State's Ochoco Creek Bridge. The detour route is approximate as shown on Exhibit A, attached hereto and by this reference made a part thereof. The dates that the detour route will be utilized shall be contingent upon the reopening date of OR 380.

- b. That a section of Mason Drive to be identified and agreed upon by both Parties shall be utilized to stage required construction supplies and equipment during the duration of the Project.
2. The Parties agree to jointly inspect the detour route prior to its use. Parties agree to identify, agree and document in writing any preexisting conditions that shall be exempt from STATE OBLIGATIONS, Paragraph 3 below. Upon reopening of OR 380, the Parties, at the request of Agency, agree to jointly inspect the detour route within 30 days to determine the condition of the roads after use as the detour route. Should damage be discovered upon completion of said inspection, State agrees to assume responsibility for any needed repairs and/or expenses associated with the detour route as specified in STATE OBLIGATIONS, Paragraph 3, below.
  3. Parties agree to jointly review the detour route upon Agency's request to determine if any measures will be required to mitigate the effects of increased traffic along the detour and to agree to the identified mitigations. State shall be responsible for implementing the identified mitigations and maintaining the mitigations until the termination of this Agreement.
  4. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon the reopening of OR 380 and completion of any repairs to the detour route resulting from use as specified in TERMS OF AGREEMENT, Paragraph 2, above.
  5. Parties agree that all maintenance responsibilities for the detour route shall revert to Agency upon termination of this Agreement. All other maintenance responsibilities shall remain unchanged.

## **AGENCY OBLIGATIONS**

1. Agency authorizes the use of the detour route for the diversion of northbound and southbound traffic OR 380 until such time that OR 380 is permanently reopened to the traveling public.
2. Agency authorizes State to enter Agency right of way to complete the Project as described in TERMS OF AGREEMENT, Paragraph 1.
3. Agency, if a City, by execution of Agreement, gives its consent as required by ORS 373.030(2) and ORS 105.760 to any and all changes of grade within the Agency limits, and gives its consent as required by ORS 373.050(1) to any and all closure of streets intersecting the highway, if any there be in connection with or arising out of the Project covered by the Agreement.

4. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
5. Agency's Project Manager for this Project is Scott Smith – Street Supervisor, 387 NE 3rd St., Prineville, OR 97754, (541) 419-3165, [ssmith@cityofprineville.com](mailto:ssmith@cityofprineville.com), 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.

## **STATE OBLIGATIONS**

1. State shall be responsible for the cost of installation, maintenance and repair of all measures that are required to make the detour route safe and operational for the increased traffic as a result of the detour.
2. State agrees that the detour route described in TERMS OF AGREEMENT, Paragraph 1(a) shall be in place no longer than two (2) weeks from the date that it is first placed into operation unless extended by the mutual agreement of both Parties..
3. State or its contractor shall be responsible for the removal of the measures, if any, referenced in Paragraph 1 above when the detour is no longer needed and prior to termination of this Agreement.
4. State shall upon reopening of OR 380 be responsible for all costs associated with returning the detour route to a condition consistent with those determined per TERMS OF AGREEMENT, Paragraph 2 and acceptable to Parties.
5. State shall install signs designating the detour route within Agency's right of way.
6. State or its contractor shall be responsible for providing notice to Agency at least 7 days prior to starting the detour and for notification of general public and emergency services.
7. State or its contractor shall be responsible for returning the staging area to a condition similar to what existed prior to its use for the Project unless otherwise agreed to by the Parties.
8. State or its contractor agree to obtain all required Agency permits for work within city limits, including right of way permits, excavation permits, night work permits and lane closure permits, as applicable.
9. State's Project Manager for this Project is Wade Luckman, Region 4 Construction Project Coordinator, 63055 N Highway 97, Bldg M, Bend, OR 97703, (541)-388-6087, [wade.luckman@odot.state.or.us](mailto:wade.luckman@odot.state.or.us) or assigned designee upon individual's

absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

## **GENERAL PROVISIONS**

1. This Agreement may be terminated by either party upon thirty (30) days notice, in writing and delivered by certified mail or in person.
2. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
  - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
  - b. If Agency 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 State fails to correct such failures within ten (10) days or such longer period as State may authorize.
  - c. 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.
  - d. 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 State 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 Agency 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 Agency (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 Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency 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 Agency 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 Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency 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 Agency 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 Agency 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. Agency'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. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
8. 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.
9. 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, and agree to be bound by its terms and conditions.

**CITY OF PRINEVILLE**, by and through its  
elected officials

By \_\_\_\_\_  
Mayor

Date \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY (if required by Agency)**

By \_\_\_\_\_  
Counsel

Date \_\_\_\_\_

**STATE OF OREGON**, by and through  
its Department of Transportation

By \_\_\_\_\_  
Central Oregon Area Manager

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Region 4 Traffic Manager

Date \_\_\_\_\_

**Agency Contact:**

Scott Smith – Street Supervisor  
387 NE 3rd St  
Prineville, OR 97754  
(541) 388-6169  
ssmith@cityofprineville.com

**State Contact:**

Wade Luckman – Region 4 Construction  
Project Coordinator  
63055 N. Hwy 97, Bldg M  
Bend, OR 97703  
(541) 388-6087  
[wade.luckman@odot.state.or.us](mailto:wade.luckman@odot.state.or.us)

**EXHIBIT A**  
**Detour Route**

