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AGREEMENT

Vol. M / Page 1020

THIS AGREEMENT, made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, Highway Division, hereinafter referred to as "State"; KLAMATH COUNTY, a political subdivision of the State of Oregon, acting by and through its Board of County Commissioners, hereinafter referred to as "County"; and the CITY OF KLAMATH FALLS, a municipal corporation, acting by and through its Mayor and Recorder, hereinafter referred to as "City".

WITNESSETH

RECITALS

1. Under the provisions of ORS 366.290(1) the Department may select, locate, establish, designate, improve and maintain out of the highway fund a system of State Highways, and for that purpose, may by mutual agreement with several Counties, select county roads or public roads, designate and adopt such roads as State Highways. Thereafter the construction, improvement, maintenance and repair of such roads shall be under the jurisdiction of the Department.
2. Under the provisions of ORS 366.290(3) with written consent of a County in which a particular highway or part hereof is located, the Department may, when in its opinion the interest of the State will be best served, eliminate from the State Highway System any road or highway or part hereof. Thereafter the road or highway or part thereof eliminated shall become a County Road or Highway, and the construction, repair, maintenance or improvement, and jurisdiction of such highway shall be exclusively under the County in which such highway or road is located.
3. By the authority granted in ORS 271.330(1) State, or any political subdivision within the State, has the express power to relinquish the title to any of its property to any other governmental body or political subdivision within the State, provided such property shall continue to be used for public purposes.
4. Under the provisions of ORS 366.320(3) all rights-of-way owned or held by the several counties over and along any road adopted as state highways are vested in the State, by and through its Department of Transportation.
5. Under the provisions of ORS 373.010, whenever the route of any State Highway passes through the corporate limits of any City, State may alter or change such routing when in its opinion the interest of the motoring public will be better served.

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6. Under ORS 366.770, State may enter into a cooperative agreement with any one or more cities, counties, road districts, or other municipalities of the state for the construction, improvement, reconstruction, repair or maintenance of any state highway, and provide for an allocation of the cost of the project to the contracting parties. 1021

7. WHEREAS, ORS Chapter 190 provides authority for County and City to enter into this agreement.

8. For the purpose of furthering the development of a State Highway System adopted in all particulars to the needs of the people of the State of Oregon, State, County and City have determined that future jurisdictional exchanges of certain highways and roads in Klamath County and the City of Klamath Falls should be accomplished.

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

THINGS TO BE DONE BY STATE

1. State approves the RECITALS herein, EXHIBIT A, THINGS TO BE DONE BY COUNTY, THINGS TO BE DONE BY CITY and all other provisions of this agreement.

2. Following completion of construction and improvement to acceptable highway standards, State shall, by resolution, designate the Klamath Falls Southside By-Pass as a part of the State Highway System and shall accept all right, title, interest, jurisdiction, maintenance and control of said road as hereinafter described and shown colored in green on the sketch map attached hereto, marked "Exhibit A", and by this reference made a part hereof. Said road is further described as follows:

All the land within the right-of-way boundaries of the Klamath Falls Southside By-Pass from its junction with a common junction of The Dalles-California Highway, State Primary Highway No. 4 and the Green Springs Highway No. 21; thence easterly to a junction with the Klamath Falls-Malin Highway, State Primary Highway No. 50, a distance of approximately 9.7 miles.

3. State shall, by resolution, transfer certain state highways, or portions thereof hereinafter described, to County and City and shall furnish to County and City any maps, records and data pertinent to said highways to be transferred.

THINGS TO BE DONE BY COUNTY

1. County approves the RECITALS herein, EXHIBIT A, THINGS TO BE DONE BY STATE, THINGS TO BE DONE BY CITY and all other provisions of this agreement.

2. County shall, upon transfer by State, accept those portions of state highways hereinafter described and shown colored in red on the attached Exhibit A and all right, title, interest, jurisdiction, maintenance and control therein or thereupon shall pass to and vest in County. Said portions of state highways are more particularly described as follows:

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- a. All the land within the right-of-way boundaries of the Chiloquin Highway, State Secondary Highway No. 422 (M.P. 5.34 to M.P. 9.51) from its junction with The Dalles-California Highway, State Primary Highway No. 4; thence westerly to a junction with the Modoc Point Highway, State Secondary Highway No. 427, a distance of 4.17 miles.
- b. All the land within the right-of-way boundaries of the Lower Klamath Highway, State Secondary Highway No. 423 (M.P. 0.00 to M.P. 7.02), from its junction with The Dalles-California Highway, State Primary Highway No. 4; thence easterly to a junction with the Klamath Falls-Malin Highway, State Primary Highway No. 50, a distance of 7.02 miles.
- c. All the land within the right-of-way boundaries of the Modoc Point Highway, State Secondary Highway No. 427 (M.P. 0.00 to M.P. 12.89), from its junction with the Crater Lake Highway, State Primary Highway No. 22 at Klamath Agency; thence southerly to a junction with The Dalles-California Highway, State Primary Highway No. 4 at Modoc Point, a distance of 12.89 miles.

3. County shall furnish to State any field notes, maps, records or other data pertinent to the Klamath Falls Southside By-Pass as described in Paragraph 2 of THINGS TO BE DONE BY STATE and shown on Exhibit A.

4. County shall execute this agreement during a duly authorized session of its Board of County Commissioners.

THINGS TO BE DONE BY CITY

1. City approves the RECITALS herein EXHIBIT A, THINGS TO BE DONE BY STATE, THINGS TO BE DONE BY COUNTY and all other provisions of this agreement.

2. City shall, upon transfer by State, accept those portions of state highways hereinafter described and shown colored in orange and blue on the attached Exhibit A and all right, title, interest, jurisdiction, maintenance and control therein or thereupon shall pass to and vest in City. Said portions of state highways are more particularly described as follows:

1023

- a. That portion of the Klamath Falls-Lakeview Highway, State Primary Highway No. 20, as shown colored in orange on Exhibit A, from the easterly end of the Off Ramp, M.P. 0.19 of said Klamath Falls-Lakeview Highway northerly and easterly over portions of the Klamath Avenue, Main Street, 5th and 6th Streets one-way Couplet to the Southern Pacific Railroad Spur Crossing at M.P. 1.00W of said Klamath Falls-Lakeview Highway, a distance of approximately 1.3 miles.
 - b. That portion of the Esplanade Spur of the Klamath Falls-Malin Highway, State Primary Highway No. 50, as shown colored in blue on Exhibit A, from the Southern Pacific Railroad Overpass, M.P. Y5.10 of said Klamath Falls-Malin Highway southerly over Esplanade, Main Street and the Main Street, Klamath Avenue one-way couplet to a junction of the Klamath Falls-Lakeview Highway, State Primary Highway No. 20, M.P. 0.55 of said Klamath Falls-Malin Highway, a distance of approximately 0.4 mile.
3. City shall adopt an ordinance or resolution, as the case may be, authorizing the Mayor and Recorder of City to enter into this agreement, and the same shall be made a part hereof and attached hereto.

GENERAL PROVISIONS

1. The State and County agree that the Klamath Falls Southside Bypass, estimated to be completed by or before 1987, shall be mutually constructed by State and County utilizing various funding sources. Based on available funding, it is understood that State shall be solely responsible for the design and construction of the separation structures over the Klamath River and railroads, whereas, the County shall provide funds to acquire right-of-way, and be responsible for related grading, paving and other activities, either by local funding or FAS-C funding as matched on a pro-rata basis.

2. Funding of construction shall be subject to an additional agreement or agreements pertaining to specific items.

3. The parties hereto agree this agreement shall take effect at such time as the Klamath Falls Southside By-Pass, as set out in Exhibit A hereto, becomes operational. 1024

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written. The Oregon Transportation Commission, by a duly adopted delegation order, authorized its Chairman or Vice Chairman to act in its behalf in approving this agreement. Approval was given for this agreement on Dec. 29, 1980 by CHAIRMAN ANTHONY YTURRI, which approval is on file in the Commission records. The delegation order also authorized the State Highway Engineer to execute the contract on behalf of the Commission.

STATE OF OREGON, by and through
its Department of Transportation,
Highway Division

[Signature]
State Highway Engineer

ATTEST

Legal Counsel

RECOMMENDED BY:

[Signature]
Regional Engineer

APPROVED AS TO FORM

[Signature]
Chief Counsel

KLAMATH COUNTY, by and through its
Board of Commissioners

By Chairman

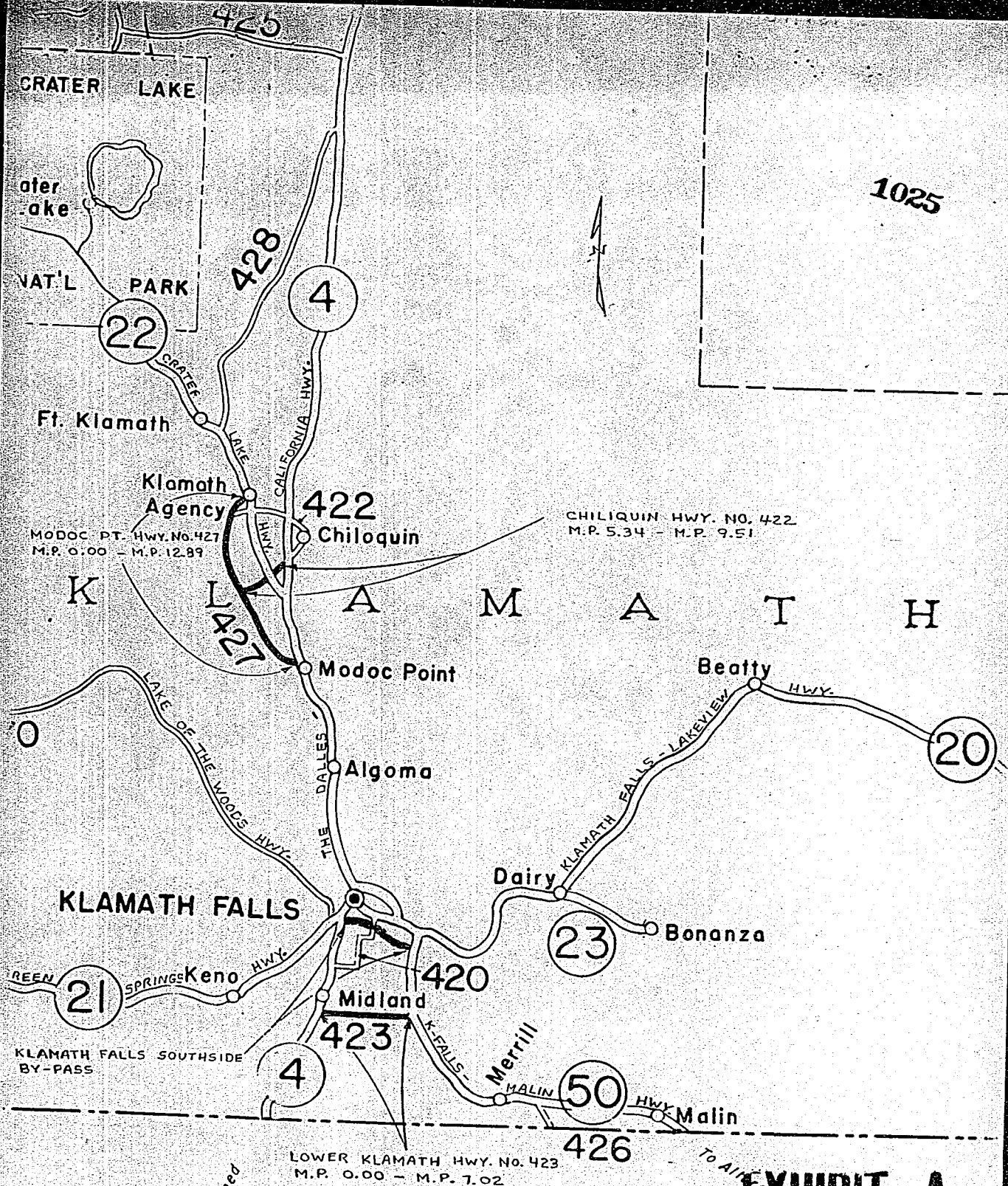
By [Signature] 11/12/80
Commissioner

By [Signature] 11/12/80
Commissioner

CITY OF KLAMATH FALLS, by and through
its Mayor and Recorder

By [Signature]
Mayor

By [Signature]
Recorder



TO BE TRANSFERRED TO COUNTY

TO BE TRANSFERRED TO STATE

Klamath Falls 1026

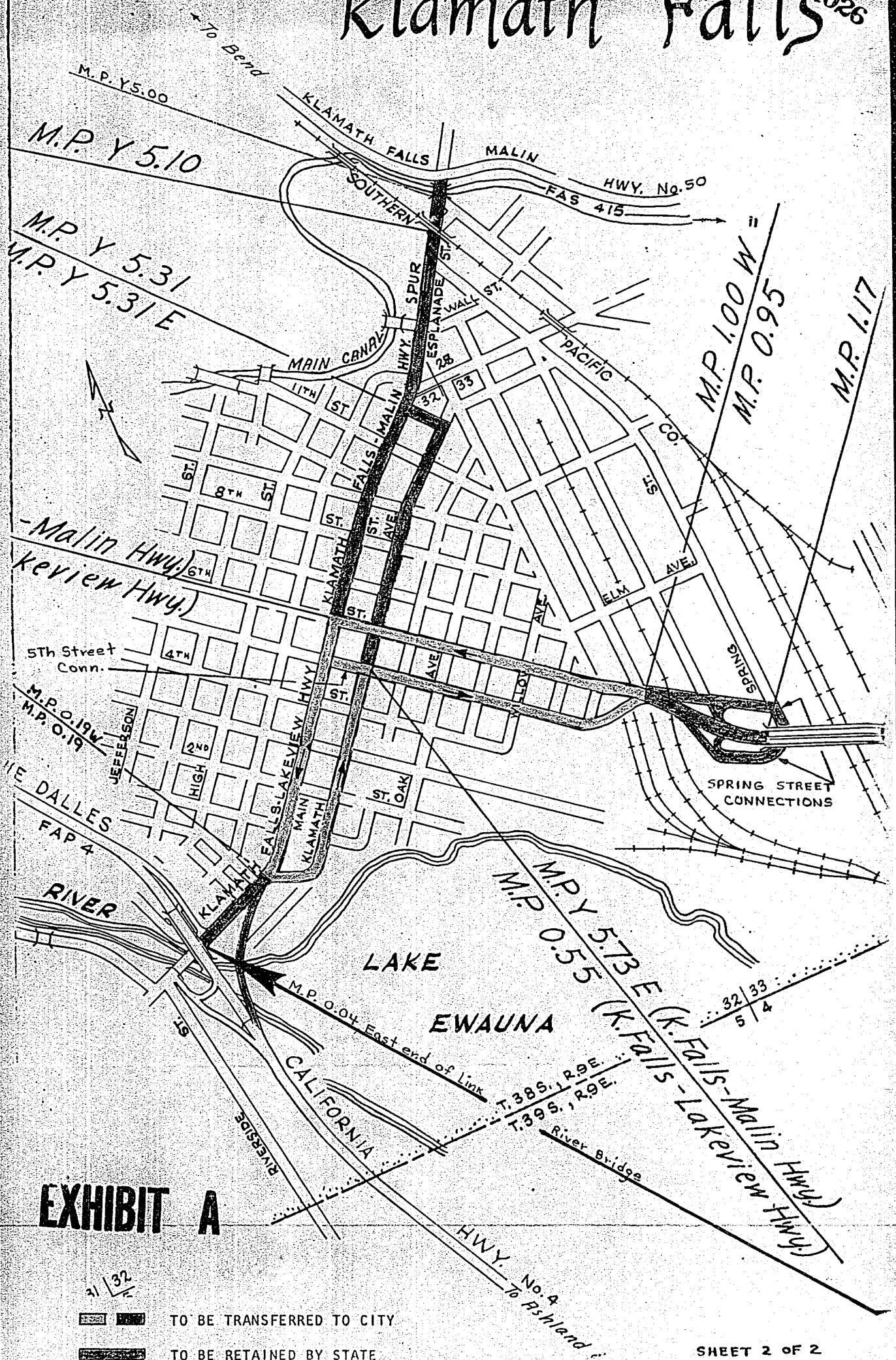


EXHIBIT A

A RESOLUTION AUTHORIZING THE SIGNING OF AN AGREEMENT BETWEEN THE CITY OF KLAMATH FALLS, OREGON, KLAMATH COUNTY, AND THE STATE OF OREGON, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION, HIGHWAY DIVISION IN PART, TRANSFERRING JURISDICTION OF PORTIONS OF FIFTH, SIXTH, KLAMATH AVENUE, MAIN, AND ESPLANADE STREETS TO THE CITY AND RESCINDING RESOLUTION NO. 2768.

WHEREAS, pursuant to construction of the Southside By-Pass, the State of Oregon, by and through its Department of Transportation, Highway Division, desires to eliminate certain portions of the State Highway System located within the City of Klamath Falls; and

WHEREAS, an agreement has been prepared transferring jurisdiction of said State Highway portions of Fifth, Sixth, Klamath Avenue, Main, and Esplanade from the State to the City; NOW, THEREFORE,

THE CITY OF KLAMATH FALLS RESOLVES AS FOLLOWS:

Section 1.

That the proposed agreement between the State of Oregon, Klamath County and the City of Klamath Falls, Oregon, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference, be and it is hereby approved.

Section 2.

That the Mayor and City Recorder, be and they are hereby authorized to sign said agreement and forward it to the State and the County for their signature with a request that one signed copy thereof be returned to said City.

Section 3.

That four certified copies of this resolution be forwarded to the State and the County with said agreement.

Section 4.

That Resolution No. 2768 authorizing signing of a prior draft agreement be rescinded.

Passed by the Council of the City of Klamath Falls, Oregon, this 20th day of October, 1980.

Presented to the Mayor and by him approved and signed this 20th day of October, 1980.

George C. Eltrott
Mayor

ATTEST:

Harold Derrah
City Recorder

STATE OF OREGON)
COUNTY OF KLAMATH,) ss.
CITY OF KLAMATH FALLS.)

I, Harold Derrah, Recorder for the City of Klamath Falls, Oregon, do hereby certify that the above and foregoing is a true and correct copy of a Resolution duly adopted by the Council of the City of Klamath Falls, Oregon, at the regular meeting held on the 20th day of October, 1980, and thereafter approved and signed by the Mayor and attested by the City Recorder.

Harold Derrah
City Recorder

HARRY D. BOIVIN
ROBERT D. BOIVIN

BOIVIN & BOIVIN
ATTORNEYS AT LAW
110 NORTH SIXTH STREET
KLAMATH FALLS, OREGON 97601

RECEIVED
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COMMISSIONERS

TELEPHONE
AREA CODE 503
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December 1, 1980

TO: Klamath County Board of Commissioners
Attention: Dorothy Clark
FROM: Robert D. Boivin, County Counsel
RE: Agreement for Southside By-Pass

Pursuant to the request of the Public Works Department, I have reviewed the contract between the State of Oregon, Klamath County, and the City of Klamath Falls regarding jurisdiction over the Southside By-Pass and things to be done by the various parties, and I approve it as to form. I assume that the statutory references are correct and that it was executed pursuant to the directive of subparagraph 4 of "Things to be Done by County." This fact should be reflected by resolution in the minutes.



RDB:ljp

cc: Earl Kessler

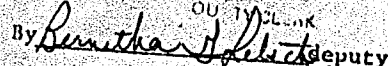
APPROVED THIS 9th DAY OF December, 1980.

BOARD OF COUNTY COMMISSIONERS


CHAIRMAN OF THE BOARD


COUNTY COMMISSIONER

COUNTY COMMISSIONER

STATE OF OREGON; COUNTY OF KLAMATH; ss.
I hereby certify that the within instrument was received and filed for record on the
22nd day of January A.D., 19 81 at 11:54 o'clock A M., and duly recorded in
Vol M81 of Deeds on Page 1020
Fee \$ None

EVELYN BIEHN
COUNTY CLERK
By  Deputy