

February 26, 2002
Revised August 7, 2003

Vol M03 Page 69535

Misc. Contracts & Agreements
No. 19,454

COOPERATIVE IMPROVEMENT AGREEMENT
Chemult Passing Lanes

State of Oregon, County of Klamath
Recorded 09/18/03 8:39a m
Vol M03 Pg 69535-40
Linda Smith, County Clerk
Fee \$ 41.00 # of Pgs 6

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 "ODOT"; and KLAMATH COUNTY, acting by and through its elected officials, hereinafter referred to as "County".

RECITALS

1. US Highway 97 is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission.
2. By the authority granted in ORS 190.110, 366.770 and 366.775, ODOT may enter into cooperative agreements with the counties and cities or units of local government 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

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. For the purpose of providing acceptable traffic patterns on public highways, ODOT and County plan and propose to construct passing lanes on US Highway 97 from MP 200.00 to MP 202.00 hereinafter referred to as "Project". The location of the Project is approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof.

2. Total estimated cost of Project is \$1,479,892. County agrees to fund 100 percent of the costs associated with the design and construction of Project up to a maximum of \$1,750,000. If Project costs exceed County's maximum commitment of \$1,750,000, ODOT and County agree to meet jointly to allow for identification of additional funding resources or reduce the scope of the Project. In the event ODOT and County are unable to reach agreement, ODOT will make the decision on how to fund the overrun or reduce the scope of the Project.
3. This Agreement shall be effective upon approval by the Oregon Transportation Commission (OTC), and all required signatures have been obtained. Documentation of the OTC approval shall be appended to this Agreement. The Agreement shall terminate upon final payment.

COUNTY OBLIGATIONS

1. County agrees to pay 100 percent of all charges incurred by ODOT for the design and construction of Project, up to a maximum commitment of \$1,750,000.00.
2. County acknowledges and agrees that ODOT, 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 County which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment (or completion of Project).
3. 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 279.312, 279.314, 279.316, 279.320 and 279.555, which hereby are incorporated by reference. Without limiting the generality of the foregoing, County expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (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.
4. County shall, upon execution of this Agreement and receipt of a letter of request from ODOT, forward to ODOT an advance deposit or irrevocable letter of credit in the amount of \$1,479,892 for payment of Project costs. County agrees to make additional deposits as needed upon request from ODOT, up to a maximum amount of \$1,750,000.

ODOT OBLIGATIONS

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1. ODOT agrees to design and perform the construction of Project. County shall be responsible for 100 percent of the funding for Project, up to a maximum commitment of \$1,750,000.
2. ODOT shall, upon execution of this Agreement, forward to County a letter of request for an advance deposit or irrevocable letter of credit in the amount of \$1,479,892 for payment of construction costs. Additional deposits, if any, shall be made as needed upon request from ODOT. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete the Project.
3. Upon completion of the Project and receipt from ODOT of an itemized statement, County shall pay any remaining costs which will equal 100 percent of County's commitment up to a maximum of \$1,750,000.00 for Project. Any portion of said advance deposit(s) which is in excess of total ODOT costs will be refunded to County.
4. ODOT's Project Manager for this Project is Brad Grimm.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of both parties.

ODOT may terminate this Agreement effective upon delivery of written notice to County, or at such later date as may be established by ODOT, under any of the following conditions:

- A. If County fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
- B. If County 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 ODOT fails to correct such failures within 10 days or such longer period as ODOT may authorize.
- C. If County fails to provide payment of 100 percent of cost of the Project, up to a maximum commitment of \$1,750,000, upon receipt of a letter of request from ODOT.
- D. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in the 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 if ODOT is prohibited from paying for such work from the planned funding source.

Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

2. All employers, including 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. County shall ensure that each of its subcontractors complies with these requirements.
3. In the event bid tabs for Project exceed County's maximum commitment of \$1,750,000.00, ODOT and County agree to meet jointly to identify additional funding resources or reduce the scope of the Project. If ODOT and County are unable to reach an agreement, ODOT will make the decision on how to fund the overrun or reduce the scope of the Project.
4. 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 ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

This Project was approved by the Oregon Transportation Commission on June 18, 2003.

The Oregon Transportation Commission on June 18, 2002, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations when the work is related to a Project included in the Statewide Transportation Improvement Program or a line item in the biennial budget approved by the Commission.

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On September 6, 2002, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, in which the Director delegates authority to the Executive Deputy Director for Highways to approve and execute agreements over \$75,000 when the work is related to a Project included in other system plans approved by the Commission.

KLAMATH COUNTY, by and through its elected officials

By [Signature]
Commissioner

By [Signature]
Commissioner

By [Signature]
Commissioner

Date August 19, 2003

REVIEWED FOR COUNTY

By [Signature]
County Legal Counsel

Date 12 Aug 03

STATE OF OREGON, by and through its Department of Transportation

By [Signature]
Executive Deputy Director

Date 9-10-03

APPROVAL RECOMMENDED

By [Signature]
Tech Svcs Mgr./Chief Engineer

Date 9/10/03

By [Signature]
Region 4 Manager

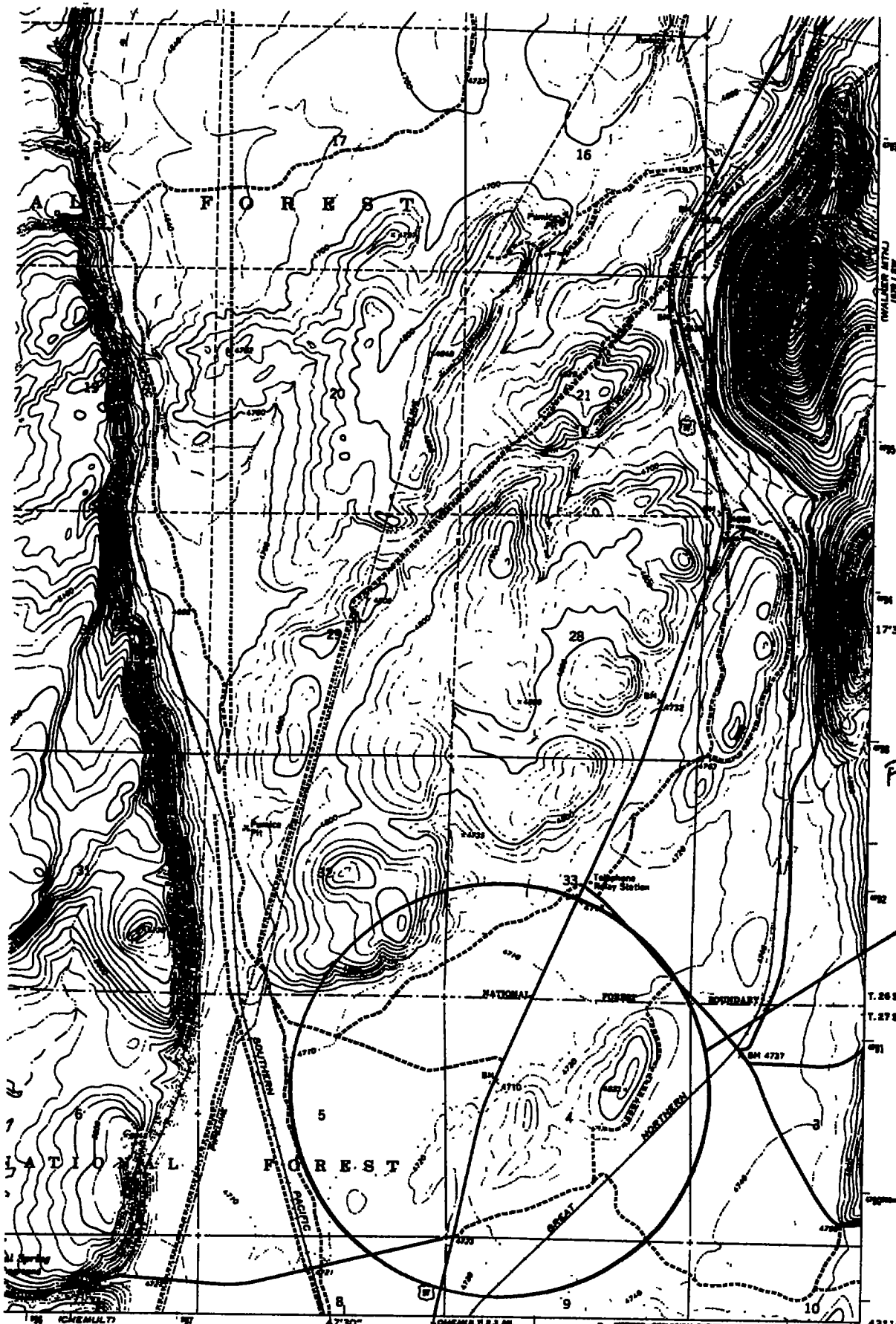
Date 9-02-03

APPROVED AS TO LEGAL SUFFICIENCY

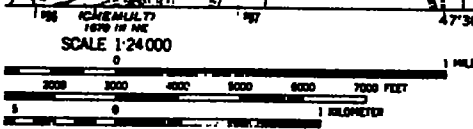
By [Signature]
Assistant Attorney General

Date 9/9/03

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Project:
Chemult Passing Lanes
Ref: IGA # 147
Approx. Project Limits



ROAD CLASSIFICATION

Heavy-duty ——— Light-duty ———

Unimproved dirt ———

□ U.S. Route ○ State Route

LIES WITH NATIONAL MAP ACCURACY STANDARDS
URVEY, DENVER, COLORADO 80225, OR WASHINGTON, D. C. 20242

MUTTONCHOP BUTTE, OREG.
N4318-W12145/7.5

Rt: Dept. of Trans
Trans. Bldg.
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