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AMENDMENT NO. 1 TO MEMORANDUM OF UNDERSTANDING

This Amendment No. 1 to Memorandum of Understanding between Klamath County, Oregon ("County") and Klamath River Renewal Corporation ("KRRRC") is made and dated as of this 3rd day of January 2023.

WHEREAS, the Parties entered into a Memorandum of Understanding, dated March 26, 2019 (the "MOU") concerning the transfer and surrender of the Federal Energy Regulatory Commission ("FERC") license for the Lower Klamath Project (FERC No. P-14803);

WHEREAS, the MOU states Recommended Terms and Conditions submitted by the Parties to FERC as proposed enforceable terms and conditions of the Final Order in the License Surrender proceeding; and

WHEREAS, the Parties desire amend the Recommended Terms and Conditions by updating Exhibit A (with respect to construction traffic) and by deleting Exhibit B in its entirety.

NOW THEREFORE, in consideration of the foregoing, the MOU is amended as follows:

1. **Amendments.** Exhibit A of the MOU is amended and is restated in its entirety in Exhibit A, attached hereto. Exhibit B of the MOU is deleted in its entirety.
2. **Savings.** Except as noted above with respect to Exhibit A and Exhibit B of the MOU, the MOU is unchanged by this Amendment No. 1, and the MOU is and shall remain in full force and effect.

The Parties hereto have caused this Amendment No. 1 to be executed by their duly authorized representatives all as of the day and year first above written.





BOARD OF COMMISSIONERS, KLAMATH COUNTY, OREGON	KLAMATH RIVER RENEWAL CORPORATION
 By: Kelley Minty, Vice-Chair	 By: Mark Bransom
 By: Derrick DeGroot, Chair	Chief Executive Officer
 By: David A. Henslee, Commissioner	

EXHIBIT A

Recommended Terms and Conditions

Recommended Condition 1. KRRC shall implement the Traffic Management Plan.

This condition is intended to be consistent with the requirements of KCLDC Chapter 70, Article 71: Vehicular and Non-Vehicular Access and Circulation.

Appendix O2 of the Definite Plan (June 2018) sets forth the draft Traffic Management Plan (TMP) for the implementation of the Definite Plan. ~~The draft TMP is attached hereto as Exhibit B to this MOU. On or before [date],~~ KRRC will, in consultation with the County, review and revise this TMP as appropriate to satisfy the County's traffic management requirements. This plan will establish Best Management Practices, as the Project does not require improvements to County roads. KRRC shall allow a minimum of 30 days for the County to comment and to make recommendations prior to filing the final TMP with the Federal Energy Regulatory Commission (FERC). KRRC will include with the final TMP documentation of consultation and copies of comments and recommendations provided by the County on the final TMP, and specific descriptions of how the County's comments are accommodated by the final TMP. If KRRC does not accept a County recommendation, the filing with FERC will include KRRC's reasons, based on Project-specific information.

In revising the draft TMP, KRRC will address the following elements.

1. **Topsy Grade Road Culvert at Unnamed Creek.** KRRC will monitor this culvert during and following drawdown to determine if improvements or repairs are needed. If erosion of reservoir sediments affects this culvert, KRRC will install riprap armor on the downstream face of the embankment and remove sediment and debris from the culverts, if needed, to protect the road embankment.

2. **Construction Traffic.** As specified in the TMP, KRRC shall implement measures to maintain efficient and safe movement of vehicles through the construction zone in compliance with any applicable County standards. These measures shall include:

(a) Prior to construction:

(i) KRRC shall cause an investigation of public roads **identified in the TMP that may be** potentially impacted by Project construction traffic. ~~to be conducted by an appropriately licensed civil or geotechnical engineer. The A~~ **licensed civil or geotechnical** engineer shall prepare and provide the County with a summary report of existing conditions of such public roads and identify any repairs that are needed to maintain the efficient and safe movement of Project construction traffic.

(ii) A traffic study of potential impacts to public roads caused by Project construction traffic shall be prepared by KRRC that identifies the number of trucks, weight of trucks, and volume of materials being removed. This study shall use industry standards such as Equivalent Single Axle Loads (ESALs) to calculate the amount of usage of the road. ~~KRRC~~

~~shall compute the degradation of the roads caused by Project construction traffic based on the ESALs and identify the tail end repairs (and the cost of such repairs) to "buy back" the ESALs' uses (i.e., the Project shall be responsible for the amount of ESAL's used minus the normal ESALs that the road would have seen during the same period of time).~~ Traffic counts during construction shall be performed by the County to verify the number of trucks and weight of trucks utilizing the road.

(iii) Traffic control drawings of public roads that may be impacted by Project construction traffic shall be developed by KRRC and submitted to the appropriate roadway jurisdictions (Public or County Road = County; Highway = ODOT) for review.

(iv) Erosion control drawings of public roads that may be impacted by Project construction traffic shall be prepared by KRRC and submitted to the County for review. Tracking of mud and debris onto the roads by Project construction traffic shall be monitored to ensure that sediment laden runoff does not leave the site or get into the existing drainage systems.

(v) Any proposals for Project construction within the public right of way shall be submitted by KRRC to the County for review. The County may require driveway and encroachment permits prior to such work occurring.

(b) During construction:

(i) The condition of the existing road(s) that may be impacted by Project construction traffic shall be inspected bi-annually by KRRC (spring and fall) and reported to Public Works. Dust abatement measures (e.g., road watering) for Project construction traffic on Topsy Grade Road shall be implemented by KRRC in compliance with appropriate roadway jurisdiction standards.

(ii) KRRC shall provide roadway maintenance of Topsy Grade Road (winter and summer) as needed to mitigate impacts caused by Project construction traffic. Maintenance activities may include adding aggregate base, vegetation management, noxious weed control, replacing signs, dust control, pot hole repair, snow plowing, and drainage/culvert repairs.

(iii) KRRC shall follow weight restrictions on Project construction traffic that may be imposed by the Board of Commissioners as provided by ORS 810.030. Weight restricted bridges are designated at

<https://kcgis.maps.arcgis.com/apps/View/index.html?appid=7c2677e566a34912b54dedfb6f116d7>

(iv) KRRC acknowledges that it is preferred by the County that loaded trucks utilize OR 66 (not Keno Worden Road) for access to the site from Highway 97. Additional conditions may need to be implemented during construction for Keno Worden Road if Project construction traffic causes congestion and/or damage to the road.

(v) KRRC shall provide construction area signs to provide for advance warnings to trucks and other road users to improve safety.

(vi) KRRC shall provide measures to ensure compliance with any applicable County

requirements or guidelines for movement of extralegal loads.

(c) After construction:

(i) A licensed civil or geotechnical engineer shall prepare and provide the County with a final road condition report of public roads identified in the TMP. KRRC shall perform the identified tail end repairs pursuant to the final road condition report. ~~KRRC shall make a payment to the County to perform tail end repairs, based on construction traffic projections as adjusted (i.e., increased or refunded) to reflect actual use pursuant to (a)(ii), and as further adjusted to reflect any repairs KRRC has completed pursuant to (b)(ii). A final road condition report completed by KRRC pursuant to (b)(i), along with traffic counts performed by the County pursuant to (a)(ii), shall be used to determine the need for tail end repairs.~~

Condition 2. Construction Trailers.

Klamath County recognizes the need for construction trailers to facilitate efficient completion of the Project. Construction Trailers are approved via a Temporary Use Permit (TUP); however, this MOU addresses the criteria of a TUP. Therefore, the County finds it redundant for the applicant to apply for a TUP. Consider this MOU as approval to place construction trailers within the Limits of Work.