

MEMORANDUM OF UNDERSTANDING  
NFS 02-MU-1106000-111

ODOT Misc. Contracts & Agreements

No. 18,944

*between*  
STATE OF OREGON  
DEPARTMENT OF TRANSPORTATION  
*and*  
USDA FOREST SERVICE  
PACIFIC NORTHWEST REGION

Misc. contracts &  
agreements no. 18,944

Forest Highways Over National Forest Lands

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into by and between the State of Oregon, Department of Transportation, hereinafter referred to as ODOT, and the USDA Forest Service, Pacific Northwest Region, hereinafter referred to as the USFS.

### I. PURPOSE AND SCOPE

This MOU documents the understanding ODOT and USFS have reached regarding the steps necessary to coordinate transportation activities of mutual interest involving highways on, or accessing, lands managed by the USFS. The scope of this MOU is limited to construction activities, maintenance and operation of existing highways within the road easement or right of way. USFS Forest Supervisors and ODOT Region Managers are encouraged to coordinate and establish the appropriate document for activities of mutual interest that are not covered by this MOU (e.g., winter recreation, etc.).

### II. STATEMENT OF MUTUAL INTEREST AND BENEFIT

This MOU establishes procedures for coordination of transportation activities involving State highways to and on lands administered by the USFS. Both ODOT and the USFS will benefit from this coordination. ODOT has jurisdiction over the highways, so is responsible for their management and operation. The USFS has a vested interest in them as they provide critical access to National Forest lands it is responsible for managing. Therefore, it is of mutual interest to, as well as the responsibility of, both parties to ensure safe access over these highways.

### III. COORDINATION

1. USFS Forest Supervisors and ODOT Region Managers will coordinate all activities included herein, unless otherwise noted. They will jointly agree on items to be coordinated by the USFS District Rangers and ODOT District Managers or Area Managers.
2. The USFS Regional Engineer and ODOT Technical Services Manager will coordinate programs, final easements, and any items where the Forest Supervisor or the Region Manager request assistance.

### IV. PROGRAMS

1. For State highways accessing, or on, National Forest lands, ODOT will consult with USFS during development of the ODOT four-year Statewide Transportation Improvement Program (STIP). Copies of the draft and approved program will be provided to all Forest Supervisors and Regional Forester by ODOT.

2. ODOT, USFS, and the Federal Highway Administration (FHWA) Federal Lands Highway Office will jointly develop a multi-year Forest Highway Program. Proposed projects will be submitted by Forest Supervisors, ODOT Region Managers, and County Commissioners.
3. ODOT will consult with USFS in development of Public Lands Highway Program proposals. USFS will provide a statement of National Forest benefits on projects affecting National Forest lands.

## V. PLANNING

1. ODOT will coordinate with USFS at project inception for projects using or affecting National Forest lands or interests. USFS will consult with ODOT on projects that may affect State highways, including State highways on National Forest lands by easement.
  - a. ODOT and USFS will agree on needed environmental documents and lead agency responsibility. ODOT will have the primary responsibility for highway related projects.
  - b. ODOT and USFS will cooperate in development of a single set of environmental documents for each project and jointly seek public involvement when necessary.
  - c. Draft and final environmental documents will be circulated to each agency for review before distribution for public comment.
  - d. USFS will publish a decision notice of its intent to issue a Letter of Consent for easement.

## VI. PRECONSTRUCTION

1. ODOT and USFS will coordinate designs and participate in field reviews for projects.
2. ODOT and USFS will agree which requirements will be provided in the plans and specifications and which will be in the stipulations (special provisions). Written stipulations should be kept to a minimum.

## VII. RIGHTS-OF-WAY

1. The standard "U.S. Department of Transportation (USDOT) Easement Deed" will be used on all Forest Highway and Federal-Aid System rights-of-way within National Forest boundaries.
2. ODOT will submit proposed right-of-way and construction plans and specifications to USFS for review and approval. If necessary, USFS will prepare and submit draft stipulations to ODOT. USFS and ODOT will cooperate to prepare easement or right-of-way plan/plat that meets legal requirements for monumentation, based on approved construction plans, specifications and stipulations.
3. ODOT will submit an application (letter) to FHWA Division Administrator requesting a USDOT easement for National Forest System lands needed for the project. The application will include the accepted plan/plat and description of the land.

4. FHWA Division Administrator will determine if application is in order and request Letter of Consent. Regional Forester will issue Letter of Consent with stipulations, if any, and return signed easement or right-of-way plan/plat to FHWA Division Administrator. Said Letter of Consent will provide for immediate entry upon National Forest lands for construction or reconstruction of said highway and for the transfer of right-of-way to ODOT through issuance of a USDOT Easement Deed.
5. Significant changes in easement or right-of-way width occurring during construction will require an amendment to the recorded Easement Deed.
6. Use or occupancy of National Forest lands for other highway related uses outside the easement areas will require a USFS issued Special Use Permit.
7. ODOT and USFS agree to issue each other the appropriate permits and easements necessary for construction in a timely manner, provided that the conditions of Sections III, IV, V and VI of this MOU have been fulfilled.

#### VIII. CONSTRUCTION/RECONSTRUCTION

1. ODOT will designate a project manager who will represent ODOT in all matters pertaining to the project. ODOT will inform USFS of project advertisement and award.
2. ODOT will notify and obtain approval from USFS for any changes that will affect National Forest lands beyond that of the original contract. USFS will act promptly to provide approval.
3. ODOT will notify USFS when the project nears completion, at which time USFS will indicate if they choose to participate in the final review.

#### IX. MAINTENANCE

1. Maintenance is defined as the work performed within the existing roadway prism (including slopes, ditches, and other highway easement or right-of-way features) to preserve and perpetuate the highway, control vegetation, and maintain clear zones. State funded maintenance is not subject to NEPA requirements.
2. The provisions contained in this section pertain only to maintenance work performed under ODOT's control that may affect National Forest lands. ODOT Region Managers will coordinate such maintenance activities with the USFS Forest Supervisors.
3. ODOT maintenance activities to be coordinated with the USFS shall include, but are not limited to:
  - a. All maintenance activities that involve slash burning, the marking of trees over 150 mm dbh (diameter at breast height) to be felled, and the purchase of any timber to be removed.
  - b. All maintenance activities that involve disposal of slough material, changes in road drainage patterns, and similar actions that affect National Forest lands outside the right-of-way.
  - c. The development of any material source or storage area not shown on approved construction plans.
  - d. Snow and avalanche control (removal/storage).

4. The USFS will:
  - a. Expedite review and agreement on maintenance items requiring USFS concurrence.
  - b. Assist ODOT maintenance forces with matters related to equipment parking and materials storage, emergency communications needs, material sources, and designation of slough and slide material disposal areas.
  - c. Advise ODOT of planned USFS activities that may have an impact on highway maintenance.
5. **Danger Tree Removal.** Danger trees are defined as those trees and snags outside the clearing limits that have the potential for, or are of imminent danger, to highway traffic. Tall or rotten snags, rotten or leaning trees affecting traffic clear zones, are the major examples.
  - a. Imminent danger trees, those posing an immediate hazard, will be cleared from, or above, the roadway by ODOT maintenance personnel in an expedient manner and the resultant logs decked as near their point of origin as practical for USFS disposal.
  - b. Potential danger trees, those posing no immediate hazard, will be selected and marked jointly by ODOT and USFS personnel.
  - c. The USFS will dispose of such jointly designated potential danger trees as promptly as possible. ODOT will require posting warnings, flaggers and other safety measures deemed necessary to protect highway traffic during danger tree removal operations.
  - d. When USFS cannot dispose of potential danger trees through its timber sale process, USFS and ODOT will cooperate in removal of those trees.
6. **Vegetation Management.** USFS and ODOT will cooperate in the use of chemical application, or other vegetation management activities. Both USFS and ODOT will be guided by the USFS' most current issue of "A Guide to Conducting Vegetation Management Projects in the Pacific Northwest Region".

## X. SIGNS

1. **Installing and Maintaining Signs.** ODOT has authority and responsibility for the installation and maintenance of all signs within the right-of-way of the State Highway System, except as noted in paragraphs 3.b. and 3.e. in this section. All such signing will be in accordance with the Manual on Uniform Traffic Control Devices (MUTCD), the Oregon Supplements to the MUTCD, and the "Sign Policy and Guidelines for the State highway System".
2. **USFS Post-mounted Signs.** Sign maintenance and/or replacement requests will be made to the ODOT District Manager at least 30 days in advance by the Forest Supervisor. ODOT is responsible for maintaining and replacing existing post-mounted signs in the four categories listed below. Any reimbursement between parties will be authorized by a separate appropriate document.
  - a. Approach signs for National Forest facilities.
  - b. Directional signs will be limited to no more than three (3) destination at any single location, using location names identified on public use maps.

c. Junction signs for National Forest arterial routes will utilize the M 1-7 route marker, and will be provided only for those routes that are signed and marked in accordance with the MUTCD and Oregon State supplements thereto.

d. Boundary, guide, and identification signs for areas of National significance that have been designated by an Act of Congress of the United States and other distinctive design as may be deemed necessary by ODOT and USFS shall be in accordance with the MUTCD. Sign requests under this category will be submitted with a plan showing proposed design and site layout.

3. **Signs Furnished by USFS.** The following category of signs will be furnished by the USFS:

a. USFS recreation and administrative signs within the state highway right-of-way will be furnished by USFS, but installed and maintained by ODOT. USFS may request ODOT to install or remove recreation and administrative signs. Sign requests will be made to the ODOT District Manager at least 30 days in advance by the Forest Supervisor.

b. Signs needed by the USFS on State highways that normally have large bases will be furnished, installed, and maintained by the USFS. The following signs are included in this category: National Forest Boundary (FE or FL); Recreation Site (RS); Headquarters (A or AS); and special interpretive signs. These signs are normally located outside the highway right-of-way or at parking areas. A permit from ODOT is required for placement within the highway rights-of-way. All installations will meet the requirements of applicable Highway Safety Program standards, or will be removed when requested by ODOT.

b. Northwest Forest Pass logo signs will be provided by the USFS. ODOT will install the logo signs on existing guide signs that direct motorists to National Forest facilities where the public can purchase a Pass.

d. USFS will provide National Forest scenic byway signs as appropriate.

e. USFS will furnish, install, and maintain all temporary warning, regulatory, and guide signs; other traffic control devices (such as delineators, barricades, and temporary pavement markings); and all other appropriate devices which are needed to warn and control traffic during emergencies, construction, or maintenance activities, for which the USFS is responsible.

4. **Highway Advisory Radio Signs.** USFS will coordinate with and abide by State requirements to obtain a permit for Highway Advisory Radio (HAR) signs. Requirements are listed in ODOT's "Guidelines for Highway Advisory Radios" and in the "Sign Policy and Guidelines for the State Highway System". These signs will provide the USFS the capability to communicate forest information to motorists using the vehicle's AM radio receiver. The Forest Service "shield", "National Forest" logo, and "Northwest Forest Pass" logo may be incorporated into the HAR sign layout. USFS will reimburse ODOT for all costs involved in the fabrication, installation, and maintenance of the HAR signs. Any reimbursement(s) will be authorized by a separate appropriate document.

5. **Signs Off the Right-of-way.** Signs installed off the right-of-way, and visible to highway travelers, will comply with: The Federal Highway Beautification Act of 1965, Part 750, Subpart B, National Standards for Official and Directional Signs (750.153 and 750.154); the Oregon Motorist Information Act; and ORS 377.505 to 377.545. Permits for such signage will be obtained from ODOT – Outdoor Advertising Unit.

6. **USFS Shield.** The USFS "shield" will be allowed and should be used as agency identification as approved by the USFS. USFS script logo "National Forest" will also be allowed. USFS logo is not needed on a sign if specific words such as "National Forest" are used.
7. **Destination Signs.** The following conditions apply to destination signs:
  - a. At areas where there are more than one agency's facilities from one point on the highway, a generic recreation sign will be used with the represented agencies' logos below the generic message.
  - b. Up to four symbol plaques may be used on single destination signs, but they will not be used on generic multi-agency signs.
  - c. Local road numbers as well as agency road numbers may be used where appropriate. USFS provided distinctive route marker(s) may be used.
  - d. Advance destination signs will ONLY be used where special emphasis is required. Examples are limited sight distance; high traffic volumes; multi-lane (more than 2) highways; and high-speed areas.
  - e. Agencies are encouraged to work together to develop specific signing to multiple destinations. Such signs will be placed off the highway on the intersecting roadway.
8. **Fire Emergency Signs.** During a fire suppression emergency, USFS and ODOT maintenance personnel will coordinate to identify the signing requirements and accomplish the installation of signs and traffic control devices as soon as possible after the emergency occurs. The signs and traffic control devices provided by ODOT are chargeable to the fire suppression activity. ODOT will work with USFS to identify any hazards that may not be visible at night, and have the necessary signs, barricades, and flashers in place prior to darkness to protect both the traveling public and fire fighting personnel.

## XI. ACCESS MANAGEMENT

1. Access to interstate highways will be only by established interchanges, except for emergency use in accordance with the rules and regulations governing the interstate highway system.
2. USFS and its permittees will obtain an approach road permit from ODOT when proposing approaches to State highways. ODOT and USFS will determine where to locate an approach where highway safety will not be jeopardized. New approaches will be at the expense of USFS or its permittee. Future maintenance of approaches will be covered in the Permit to Operate, Maintain and Use an Approach.
3. Except in access-controlled areas, temporary approaches required by USFS during fire fighting or other emergencies may be constructed as necessary without formal ODOT approval. The appropriate ODOT District Manager will be notified as soon as practical. Necessary obliteration and restoration measures will be at no expense to ODOT. USFS will take precautions during such emergencies to safeguard the highway users. In access-controlled areas, the ODOT Right of Way procedures for temporary legal access will be followed.

## XII. THIRD PARTY OCCUPANCY

1. In the case of a public utility, or any other third party occupancy permittee, wishing to exercise its right to locate on highway right-of-way over National Forest lands, ODOT will advise the applicant that it must first apply to the Forest Supervisor for a permit for the land involved. ODOT will make final judgment as to permit applicant's occupancy of the highway right-of-way, and may, after consultation with USFS and receipt of an approved USFS permit, issue a permit to the applicant.
2. ODOT and USFS will consult before any third party occupancy permits, or other encumbrances are acted upon. Placement and location of utilities shall conform to standard AASHTO and FHWA construction practices and procedures.
3. The permittee shall be held responsible for any damage to the highway resulting from utility placement, or any work associated with the permit.
4. ODOT and USFS will ensure the appropriate processes are adhered to for all third party occupancy permits.

## XIII. IT IS MUTUALLY AGREED AND UNDERSTOOD BY AND BETWEEN THE PARTIES THAT:

1. This agreement supersedes Memorandum of Understanding dated February 2, 1993, covering this same subject.

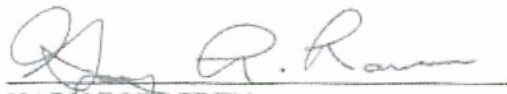
2. COMPLETION DATE. This agreement is executed as of the date of last signature and, unless sooner terminated, is effective for 5 years from that date, at which time it will expire unless renewed.
3. NON-FUND OBLIGATING DOCUMENT. This agreement is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties to this agreement will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This agreement does not provide such authority. Specifically, this agreement does not establish authority for noncompetitive award to the cooperator of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.
4. FREEDOM OF INFORMATION ACT (FOIA). Any information furnished to the Forest Service under this agreement is subject to the Freedom of Information Act (5 U.S.C. 552).
5. MODIFICATION (2). Changes within the scope of this agreement shall be made by the issuance of a bilaterally executed modification.
6. TERMINATION (2). Either party, in writing, may terminate the agreement in whole, or in part, at any time before the date of expiration.
7. PARTICIPATION IN SIMILAR ACTIVITIES. This agreement in no way restricts USFS or ODOT from participating in similar activities with other public or private agencies, organizations, and individuals.


8. PRINCIPAL CONTACTS. The principal contacts for this agreement are:

Richard Sowa  
Director of Engineering  
USDA Forest Service  
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333 SW First Ave., P.O. Box 3623  
Portland, OR 97208-3623  
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Ed Fischer  
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Oregon State Department of Transportation  
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Salem, OR 97301-3871  
Phone: (503) 986-3606  
Fax: (503) 986-4063

IN WITNESS WHEREOF, both parties have executed this Memorandum of Understanding as of the last date written below.

  
HARV FORSGREN  
Regional Forester  
USDA Forest Service  
Pacific Northwest Region

  
JOHN ROSENBERGER  
Executive Deputy Director/~~Chief Engineer~~  
Oregon State Department of Transportation

1/25/02  
Date

2-01-02  
Date