

INTERAGENCY AGREEMENT

This Agreement is between the **Oregon Department of Transportation** (“ODOT”) and the **Oregon Department of Forestry** (“ODF”), individually without distinction designated as “Agency”, and collectively as “Agencies.”

SECTION 1: Authority

- 1.1** This Agreement is entered into, pursuant to the authority granted by ORS [190.110](#), [283.110](#) allowing state agencies to enter into agreements with other state agencies to cooperate in performing duties, exercising powers, or administering policies or programs.
- 1.2** ODF is authorized under the authority of the 2017 Legislative Session SB 5506 to acquire, plan, construct, and furnish equipment for land and improvements for the Toledo Unit Office Replacement Project.
- 1.3** ODOT is authorized under the authority of the 2017 Legislative Session SB 5506 to acquire, plan, construct, and furnish equipment for land and improvements for the Toledo Maintenance Station Phase 1 Project.

SECTION 2: Purpose

- 2.1** Due to the multi-agency nature of the Co-Locate Facilities Construction Project, effective governance is essential. It assures that all Agencies have a voice in decisions, that no one Agency dominates, and that a culture of collaboration is created and maintained.
- 2.2** The Agencies intend to collaborate in executing their respective duties, as described in 1.2 and 1.3, above. To collaborate, the Agencies intend to co-locate their Lincoln County facilities. The development and execution of the Lincoln County Co-Located Facility (“LCCF”) shall be overseen by the LCCF Design Work Group (“DWG”) under the direction of the LCCF Charter (“Charter”). The purpose of this Agreement is to set out the terms of the Agencies’ cooperative efforts on the development and execution of the LCCF, hereinafter the “Project.”

SECTION 3: Effective Date and Duration

- 3.1** This Agreement shall become effective upon full signature approval of the two Agencies, and shall remain in effect through the completion of the LCCF, or if participating Agencies terminate this Agreement in accordance with Section 9 of this Agreement.

SECTION 4: Administration of Agreement

4.1 Unless otherwise specified in this Agreement, ODOT designates Brian Morey as its authorized representative in the administration of this Agreement, and ODF designates Mike Totey, as its authorized representative. Either Agency may change its designated representative by providing written or email notice to the other Agency.

4.2 Principal Contact:

ODOT	ODF
Brian T. Morey	Mike Totey
ODOT Interim District 4 Manager	Western Oregon District Forester
3700 SW Philomath Boulevard	24533 Alsea Highway
Corvallis, OR 97333	Philomath, OR 97370
Phone: (541) 757-4211	Phone: (541) 929-9151
Fax: (541) 757 -4111	Fax: (541) 929 - 5549
Email: Brian.T.Morey@odot.state.or.us	Email: Mike.A.Totey@oregon.gov

SECTION 5: Responsibilities

- 5.1** The Agencies shall uphold the values expressed in the Charter, adhere to the standards of program governance outlined in the Charter, and perform the responsibilities as outlined in the Charter. The current version of the Charter is attached hereto as Exhibit A and is incorporated into this Agreement .
- 5.2** The Agencies may execute written amendments to the Charter, and such changes shall be incorporated into this Agreement as of the effective date of the amended Charter without separate amendment of this Agreement by the Agencies. ODF shall be responsible to maintain a complete and accurate history of any amendments to the Charter of this Agreement under Section 8.2 or 10.1. ODF shall provide a copy of the history to ODOT upon request.

SECTION 6: Funds Available and Authorized

- 6.1** The Agencies certify at the time this Agreement is written that funds are available and authorized for expenditure to finance costs of this Agreement within current appropriation and limitation.

SECTION 7: Contract Administration

- 7.1** Obligations of ODOT: ODOT will be the lead contracting agency and assume all contract administration duties.
- 7.2** Obligations of ODF: ODF agrees ODOT will serve as the lead contracting agency and contract administrator and will provide input through the duration of the Project via the DWG.

SECTION 8: Compensation and Payment of Terms

- 8.1** Each Agency will be responsible to pay the Project direct costs incurred by its own employees. The Agencies will agree in writing to any modifications and changes that affect the Project, and will determine a cost allocation method to cover expenditures established by the Agencies.
- 8.2** The Agencies agree to pay for all costs associated with development and execution of the Project. Shared costs shall be based on a mutually agreed upon percentage of real property ownership, public planning, system development charges and public improvement costs. The percentage allocation between the Agencies will be determined by the Agencies in writing. The Agencies shall cooperate in developing a final allocation of actual costs based on actual proportions of property and building areas used by each Agency, respectively.
- 8.3** The table below outlines an initial assumption of the division of costs, but this initial assumption may be evaluated and validated by the Agencies during the design process. On-site and facilities development, design and construction costs, including appropriate fees and soft costs, shall initially be determined utilizing the architectural document developed by ODOT which outlines the business needs of the two Agencies within the facilities (“LCCF Program”) and then may be refined by the Agencies based on any refinements of the LCCF Program made by the architectural and engineering design consultant retained by ODOT during the design process.

LCCF	Costs of Real Property	Costs of Public Processes/Improvements	Costs of Site and Facility Development
ODOT	80%	80%	Costs of site and facilities development phases shall be divided in the proportions initially estimated in the LCCF Program but may be subsequently refined during the design process with the written agreement of both Agencies.
ODF	20%	20%	
Total	100%	100%	

- 8.4** The Agencies anticipate conferral on cost allocation at periodic intervals during the course of the Project, including at each Project phase. Modifications to the initial estimates and any cost allocation for a project phase not identified in Section 8.3 above shall be executed by the Agencies in writing as amendments to this Agreement pursuant to Section 10. If cost allocations change, each Agency shall execute the written amendment within a reasonable period of time.
- 8.5** The Agencies are not obligated to continue performance under this Agreement or otherwise incur costs in excess of the cost specified in the budget provided in 2017 Legislative Session SB 5506, until each Agency notifies the other in writing that the cost

has been increased. An amendment to this Agreement pursuant to Section 10 must be signed by both Agencies, which provides a revised total cost of performing this Project, before any budget increase is effective.

- 8.6** ODOT shall keep accurate cost accounting records. ODOT shall prepare and submit monthly itemized, progress invoices for Project work directly to ODF's Principal Contact listed under Section 4.2 for review and approval. Such invoices will be in a form identifying the Project, the Agreement number, the invoice number or the account number or both, and will itemize all expenses for which reimbursement is claimed. Under no conditions shall ODF's obligations exceed **\$3,832,965**, including all expenses.
- 8.7** In consideration for the services performed, ODF agrees to pay ODOT for its Project expenses, not to exceed the amount of specified in provision 8.6. ODF shall make payment to ODOT within forty-five (45) days of receipt of the monthly invoice.

SECTION 9: Termination

- 9.1** This Agreement may be terminated at any time by mutual written agreement of the Agencies.
- 9.2** Either Agency may terminate this Agreement upon mutual 30 days written notice to the other Agency.
- 9.3** Either Agency may terminate this Agreement upon mutual 30 days written notice to the other Agency, or at such later date as the terminating Agency may specify in such notice upon the occurrence of any of the following events:
- 9.3.1** The terminating Agency fails to receive funding, appropriations, limitations, allotments, or other expenditure authority at levels sufficient in the terminating Agency's reasonable administrative discretion, to perform its duties under this Agreement;
 - 9.3.2** Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the terminating Agency's performance under this Agreement is prohibited or the terminating Agency is prohibited from paying for such performance from the planned funding source;
 - 9.3.3** Either Agency materially breaches a covenant, warranty or obligation under this Agreement, or fails to perform its duties within the time specified in this Agreement or any extension of that time, or, so fails to pursue its duties as to endanger that Agency's performance under this Agreement in accordance with its terms, and such breach or failure is not cured within 20 days after delivery of the terminating Agency's notice to the breaching Agency of such breach or failure, or within such longer period of cure as the terminating Agency may specify in such notice.

9.4 Participating Agencies that terminate this Agreement in accordance with Section 9 shall not be granted a refund for funds expended, invoiced, or obligated to-date.

SECTION 10: Amendments

10.1 The terms of this Agreement may not be waived, altered, modified, supplemented or otherwise amended, in any manner whatsoever, except by written mutual agreement of the Agencies. Any amendment shall be effective as of the date on which each Agency has signed the amendment . All amendments to this Agreement shall comply with applicable statutes and administrative rules.

SECTION 11: Notice

11.1 Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement shall be given in writing by email, to the Principal Contacts in Section 4.2.

SECTION 12: Survival

12.1 All rights and obligations shall cease upon termination of this Agreement, except for those rights and obligations that by their nature or express terms survive termination of this Agreement. Termination shall not prejudice any rights or obligations accrued to the Agencies prior to termination.

SECTION 13: Severability

13.1 The Agencies agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Agencies shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SECTION 14: Counterparts

14.1 This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that both Agencies are not signatories to the same counterpart. Each copy of the Agreement so executed shall constitute an original.

SECTION 15: Liability and Insurance

15.1 The Agencies understand that each Agency is insured with respect to tort liability by the State of Oregon Insurance Fund, a statutory system of self-insurance established by [ORS](#)

[Chapter 278](#), and subject to the Oregon Tort Claims Act ([ORS 30.260 - 30.300](#)). Each Agency agrees to accept that coverage as adequate insurance of the other Agency with respect to personal injury and property damage.

- 15.2** The Agencies agree that any tort liability claim, suit, or loss resulting from or arising out of the Agencies' performance of, or activities under, this Agreement shall be allocated, as between the Agencies, in accordance with law by Risk Management of the Department of Administrative Services for purposes of the Agencies' respective loss experiences and subsequent allocation of self-insurance assessments under [ORS 278.435](#). Each Agency agrees to notify Risk Management and the other Agency in the event it receives notice or knowledge of any claims arising out of the Agencies performance of, or activities under this Agreement.

SECTION 16: DAS Reporting Requirement

- 16.1** ODF shall report this Agreement on behalf of both Agencies to the Department of Administrative Services as required by [ORS 190.115](#). ODF shall submit a summary of this Agreement through the electronic Oregon Procurement Information Network (ORPIN), within the 30-day period immediately following the Effective Date of the Agreement.

SECTION 17: Records

- 17.1** ODOT shall create and maintain records documenting their performance under this Agreement. The Oregon Secretary of State's Office, the federal government, each Agency, and their duly authorized representatives shall have access to the books, documents, papers, and records of either Agency that are directly related to this Agreement for the purposes of making audit, examination, excerpts, and transcripts for a period of six years after termination of this Agreement.

SECTION 18: Compliance With The Law

- 18.1** In connection with their activities under this Agreement, the Agencies shall comply with all applicable federal, state and local laws and regulations.

SECTION 19: No Third Party Beneficiaries

- 19.1** The Agencies are the only parties to this Agreement and only the Agencies are entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

SECTION 20: Subcontracts and Assignments

- 20.1** Neither Agency may enter into any subcontracts for the performance of any of its obligations under this Agreement, without the prior written consent of the other Agency.
- 20.2** Neither Agency may assign, delegate or transfer any of its rights or obligations under this Agreement, without the prior written consent of the other Agency.

SECTION 21: Occupancy Agreement

- 21.1** Both agencies will enter into a co-locate occupancy agreement prior to occupancy. The Agencies shall draft and execute the occupancy agreement prior to the occupancy of the LCCF.

SECTION 22: Merger Clause, Waiver, and Modification

- 22.1** This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Agencies 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 Agency unless in writing and signed by both Agencies. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. Both parties, by the signature below of its authorized representative, hereby acknowledge that s/he has read this Agreement, understands it and agrees to be bound by its terms and conditions.

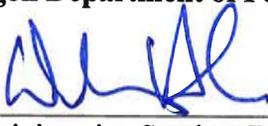
Signature page to follow.

IN WITNESS WHEREOF, the Collaborating Agencies have executed this Agreement as of the dates set forth below.

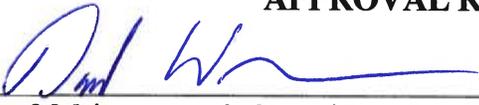
STATE OF OREGON acting by and through its
its
Oregon Department of Transportation

By: 
Chief Administrative Officer
9/27/18
Date

STATE OF OREGON acting by and through
Oregon Department of Forestry

By: 
Administrative Services Division Chief
19 SEP 18
Date

APPROVAL RECOMMENDED

By: 
Region 2 Maintenance & Operations Manager
9-25-18
Date

By: 
Facilities Services Manager
9-24-18
Date

By: 
District Forester, Western Oregon District
9/20/18
Date

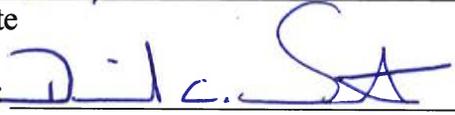
By: 
Facilities Director
9/18/2018
Date

Exhibit A Project Charter



1. Purpose

The purpose of this charter is to establish clear guidelines for membership, roles, and responsibilities of the Lincoln County ODOT/ODF Co-location Facility (LCCF).

2. Background

The 2017 Legislature approved the design and construction of a new Oregon Department of Transportation (ODOT) Maintenance Station to replace the current Ona Beach Maintenance Station, and a new Oregon Department of Forestry (ODF) Unit Office intended to replace the existing West Oregon District, Toledo Unit Office. ODOT and ODF have agreed to enter into an Interagency Agreement to facilitate the co-location of both facilities in the greater Toledo/Newport area outside of the tsunami inundation zone boundary.

3. Authority

The LCCF Design Working Group (DWG) is hereby established under the authority of the legislature via SB 5506 and the leadership teams of both the ODOT and the ODF.

ODOT Facilities Services, in consultation with ODF Salem Facilities, will be responsible for the land purchase and project management for design and construction of a co-located facility that meets the intent as defined in SB 5506.

4. DWG Membership and Roles

The DWG follows the same roles and responsibilities as other ODOT and ODF leadership team charters. A listing of the members, roles, and the areas they represent are included in Appendix A.

1. Chair/Co-Chair Roles and Responsibilities
2. Team Member Expectations
3. Leadership Team Facilitation and Support Expectations

5. DWG Meetings and Functions

1. Frequency and times of DWG meetings will be mutually agreed upon by the DWG chair and co-chair. Anticipation is to hold bi-weekly meetings in the initial phases of the project in order to assure timely identification of issues, discussions, solutions and path forward. As the project progresses frequencies and times of the meetings may be adjusted as required.



2. It will be the responsibility of the individual DWG member to assure attendance or provide proxy to other DWG members.
3. At each meeting an agenda and preceding meeting minutes will be provided by the DWG chair, or designee, for review.

6. Staff Support and Administrative Support

1. **Staff Support** in the form of reports, presentations, and other information needed to enable the DWG to perform its tasks will be provided by the respective team members as it applies to their specific program requirements. Compilation will be by ODOT staff.
2. **Administrative Support** for purposes of taking minutes of each meeting, scheduling and performance of other DWG functions will be by ODOT DWG chair or designee.

7. Problem Solving and Issue Resolution Process

1. Define Need:
2. Build Understanding:
3. Take Action:
4. Confirm and Sustain Results:

8. Project Execution Process

1. An overall schedule will be developed by the DWG defining both internal and external deliverables for each step of the project.
2. The schedule will have defined activities and review durations for each phase of the project.
3. At all phases of the project the DWG team will produce/collect appropriate information, develop a proposed program and produce materials/concepts/designs for presentation to leadership/stakeholders/landowners/users at scheduled dates.
4. Leadership/stakeholders/landowners/users shall review materials/concepts/designs in preparation for discussion at review meetings.
5. Chair/co-chair of the DWG will be responsible for obtaining review comments from their respective leadership/stakeholders/landowners/users.
6. Chair/co-chair shall review and adjudicate all review comments within their respective groups.
7. Unresolved comments will be brought to the DWG for discussion and action.
8. Decisions will be made in a cooperative process during review meetings.
9. As appropriate, review sessions will be held in a group setting with all stakeholders invited.
10. DWG will incorporate review comments from leadership/stakeholders/landowners/users, as appropriate, prior to proceeding to next phase.



9. Sub-teams

1. Sub-teams are not anticipated at this point.

10. Relationship to Others (e.g. Commission, Stakeholders, etc.)

1. It will be the responsibility of each DWG chair/co-chair to share materials with their respective managers, stakeholders/landowners/users etc. in a timely manner in order to maintain schedule milestones.

11. Responsibilities

1. Although primary and secondary responsibilities are noted in the table below it is expected that joint decisions/consultations will be made on all actions throughout this project.

Action	Primary Responsibility	Secondary Responsibility
Property Acquisition	ODOT	ODF
Interagency Agreement	ODF	ODOT
A&E Procurement	ODOT	ODF
Construction Contracts	ODOT	ODF



Appendix A: CCCF Design Working Group

Name	Title	Committee Role	Representing
DESIGN WORKING GROUP			
<i>[Signature]</i> Mark Fletchall	Facilities Construction Project Manager	Chair	ODOT – Region 2
Chris Stewart	Facilities Director	Co-Chair	ODF
Jon Doughton	Facilities Engineer	Team Member	ODOT
<i>[Signature]</i> Raul Koreiva	Facilities Operations Specialist	Team Member	ODF
<i>[Signature]</i> Mike Schweitzer	Facilities Architect	Team Member	ODOT
<i>[Signature]</i> Matt Thomas	Unit Forester	Team Member	ODF-West Oregon Region ^{District}
<i>[Signature]</i> Mike Totey	District Forester	Team Member	ODF-West Oregon Region ^{District}
Advisor/User Representatives			
<i>[Signature]</i> Robert Dibble	Facilities Construction & Special Projects Unit Manager	Advisor	ODOT
<i>[Signature]</i> Brian Morey	Interim District Manager	User Representative	ODOT – District 4
TBD		User Representative	ODF
TBD		User Representative	ODF

Name	Title	DWG Role	Representing
Randy Gengler	Facilities Services Manager	Charter Signatory	ODOT
D. Chris Stewart	Facilities Director	Charter Signatory	ODF



Oregon Department of Transportation & Oregon Department of Forestry
Lincoln County ODOT/ODF Co-location Facility Charter



Adopted 2-6-18

Name	Title	Signature	Date
Randy Gengler	Facilities Services Manager		2-6-18
D. Chris Stewart	Facilities Director		2/6/2018

Name	Title	Signature	Date
David Warren	Region 2 Manager of Manintenance		2-6-18
Sonny Chickering	Region 2 Manager		2-7-18
James Short	Administrative Services Division Chief (acting)		2/14/2018