

JURISDICTIONAL TRANSFER AGREEMENT
US 30 to County Line Section
Cornelius Pass Highway, State Highway Number 127
Multnomah County
Milepoints 0.00 to 4.09

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 "State" or "ODOT"; and the MULTNOMAH COUNTY, acting by and through its elected officials, hereinafter referred to as "Agency", herein each referred to individually as "Party" and collectively as "Parties."

RECITALS

1. NW Cornelius Pass Road starting at the intersection of Highway 30, mile point 0.00 to the Multnomah County line, mile point 4.09, as described in Exhibit A and depicted in Exhibit B (hereafter "Unit A") is a part of the Agency road system under the jurisdiction and control of Agency.
2. By the authority granted in Oregon Revised Statute (ORS) 190.110 and 366.290(1), State may select, locate, establish, designate, improve, and maintain out of the Highway Fund a system of state highways within the State, which highways shall be designated by name and by the point of beginning and terminus thereof, and for that purpose may, by mutual agreement with several counties, select county roads or public roads. By Resolution by the Oregon Transportation Commission, State may designate and adopt such roads as state highways. Thereafter, the control, construction, improvement, maintenance and repair of such roads shall be under the jurisdiction of the State.
3. ORS 366.483(3)(d) as amended by House Bill 4059 section 35 (2018) directs Multnomah County and Washington County to transfer jurisdiction of the portion of Cornelius Pass Road beginning where the road intersects with U.S. Highway 30 and ending where the road intersects with U.S. Highway 26 to the Agency. The counties may transfer portions of the road in phases.
4. The 2019-2021 State Transportation Improvement Program ("STIP") identifies a project on Unit A, NW Cornelius Pass Rd: US30 - NW Kaiser Rd, STIP number 18147. The project is currently active and expected to be completed by December 2020.
5. The National Highway System (NHS) was adopted by Congress as part of the National Highway System Designation Act of 1995. The Federal Highway Administration (FHWA) administers this program and must approve all changes to the system and is subject to Title 23, Title 49 of the Federal Regulations and all applicable FHWA policies. 23 USC 131 and the Oregon Motorist Information Act, ORS 377.700 to

377.840 and 377.992. Unit A is a part of the NHS, or part of the federal aid primary system in existence on June 1, 1991 or added to the NHS through subsequent legislation.

6. Highways that have previously been designated as part of the Federal National Network "NN" or National Highway System "NHS" continue to be subject to the requirements of 23 USC 131 and the Oregon Motorist Information Act, ORS 377.700 to 377.840 and 377.992 after jurisdiction is transferred and State retains authority to enforce those laws. In accordance to those laws, State is required to continue regulating outdoor advertising signs, which includes conducting surveillance along these highways. Oversight is the responsibility of the Outdoor Advertising Sign Program in the State Right of Way Program Management Unit. In addition, highways that have previously been designated as part of the NHS system must retain reasonable access to ramp terminals consistent with CFR 23 Part 658.19. Unit A is a part of the NHS.
7. Pursuant to ORS 366.220, State may select, locate, establish, designate, construct, maintain, operate and improve or cause to be constructed, maintained, operated and improved a system of state highways within the state, which highways shall be designated by name and by the point of beginning and terminus thereof. The system of state highways shall include such other highways as may from time to time be selected and adopted by resolution of the commission pursuant to law and all highways adopted and classified as secondary state highways which are subject to and qualified for construction, improvement, betterment and maintenance as are other state highways. State may by a resolution of the commission classify and reclassify the highways comprising the state highway system as primary and secondary highways. Secondary highways may consist of newly established highways, reclassified primary highways and county roads selected pursuant to ORS 366.290.
8. State maintains a State Route system and a US Route System to assist the traveling public in their travels. Designated routes may be composed of both state highway and local roads. Designation and elimination of state routes are under authority of the Oregon Transportation Commission. US Route designations are administered by the Special Committee on US Route Numbering of the American Association of State Highway and Transportation Officials (AASHTO).

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. Transfer of Jurisdiction and Control

State and Agency agree that upon approval of a Jurisdiction Transfer Resolution by the Oregon Transportation Commission (OTC), jurisdiction and control of Unit A as described in Exhibit A and shown on Exhibit B, attached hereto and by this reference

made a part hereof, shall vest in State; and that State shall control, operate and maintain Unit A as a part of its state highway system.

2. Transfer of Property Interests

State and Agency agree that all property rights, title, interests and access rights in Unit A, including all traffic signals, signs, illumination, and all things and appurtenances within the transferred right of way and excluding those rights reserved below, shall be conveyed from Agency to State by recording a Jurisdictional Transfer Conveyance Document after the OTC Commission approves the Jurisdiction Transfer Resolution. The State interest in Unit A is subject to the rights of any easement holders and utilities located within Unit A, including but not limited to the right to operate, reconstruct, and maintain their utility facilities.

3. Highway designation

At the time of transfer, this section of roadway will be designated State Route OR 127. This new route number (127) will be the same as the new highway number.

4. Construction of Improvements

Unit A shall be transferred to State in its current condition.

5. Management of Roadway after Transfer

- a. State shall have authority to enforce terms of utility permits issued by Agency prior to the date the Oregon Transportation Commission passes a resolution to accept jurisdiction of Unit A.
- b. State shall maintain any existing and future traffic control devices.
- c. State shall own and maintain any intelligent transportation systems (ITS) equipment.
- d. Unit A will remain on the NHS and is subject to Title 23, Title 49 of the Federal Regulations and all applicable FHWA policies, 23 USC 131, and the Oregon Motorist Information Act, ORS 377.700 to 377.840 and 377.992.
- e. State will maintain authority to enforce federal NHS regulations and the regulation of outdoor advertising signs.
- f. State shall design improvements to Unit A to NHS standards in accordance with 23 CFR 625.

6. Effective Date

This Agreement becomes effective on the last date all required signatures are obtained. The Agreement terminates upon the adoption of the OTC Jurisdictional Transfer Resolution and recording of the Jurisdictional Transfer Conveyance Document or two (2) calendar years after the effective date of the Agreement,

whichever is earlier, unless otherwise extended or renewed by a formal amendment executed between the Parties.

STATE OBLIGATIONS

1. After the completion of the NW Cornelius Pass Rd: US30 - NW Kaiser Rd, STIP key number 18147 project, State shall prepare and present a Jurisdiction Transfer Resolution and Highway Plan Amendment to the OTC to add Unit A to the state highway system (State Highway number 127). Jurisdiction, control and maintenance responsibilities of Unit A shall vest with the State at the time the OTC approves the Jurisdiction Transfer Resolution. All property rights, title and interest of Unit A as described in Exhibit A and shown in Exhibit B, shall be transferred to State when the Jurisdictional Transfer Conveyance Document is recorded.
2. State agrees to accept jurisdiction and control of Unit A to operate and maintain as a portion of the state highway system, including all traffic signals, signs and illumination, and all things and appurtenances within the transferred right of way as long as it is needed for the service of persons living thereon or a community served thereby.
3. State agrees to accept all Agency property rights and interests as described in Exhibit A and Exhibit B upon the recording of the Jurisdictional Transfer Conveyance Document.
4. State shall own and maintain traffic detector loops for signals in Unit A and in the approach roads.
5. State's contact for this Agreement is Ted Miller, 123 NW Flanders Street Portland, OR 97209, 503-731-8559, Theodore.c.miller@odot.state.or.us, or assigned designee upon individual's absence. State shall notify Agency in writing of any contact information changes during the term of this Agreement.

AGENCY OBLIGATIONS

1. On the Transfer Effective Date, except as stated herein, Agency agrees to transfer jurisdiction and control of Unit A to State to operate and maintain as a portion of its road system, including all traffic signals, signs and illumination and all things and appurtenances within the transferred right of way.
2. On the transfer effective date, Agency agrees to transfer to State all right, title, and interest of Unit A as described on Exhibit A and shown on Exhibit B. Agency is responsible for the survival of all plant material for Unit A for the project area of its NW Cornelius Pass Rd: US30 - NW Kaiser Rd, STIP number 18147 project during its plant establishment period for one (1) year from the date of the plant establishment period, consistent with Agency's contract terms in Section 1040 of Agency Contract No. DCS-

CNSTR-11004-2019. The plant establishment period, per Section 1040 of Agency Contract No. DCS-CNSTR-11004-2019, begins when all original planting is complete as determined by Agency. Agency and State shall inspect plant material bi-annually during the one-year plant establishment period to determine if the landscaping is successful. If upon inspection during the one-year plant establishment period, State and Agency determines that the landscaping has been unsuccessful, Agency shall work with its project contractor to replace the unsuccessful plant material.

3. Agency represents and warrants that for the period of time during which Agency has owned and controlled Unit A the property is free and clear of any adverse title issues, there are no encroachments, there are no illegal approaches or driveways, and there are no HAZMAT issues
4. Agency agrees to furnish State any maps, records, permits, and other related data available that may be required to administer the operation of Unit A as a part of the state highway system.
5. Agency shall furnish State relevant copies of its approved curb ramp design exceptions and written orders to close crosswalks closures, and any maps, records, permits, and any other related data available that may be required to administer Unit A.
6. Agency shall be responsible for completing any ongoing projects it has underway on Unit A before the transfer.
7. If the OTC approves the Jurisdiction Transfer Resolution, the rights and obligations of Agency set out in this section of this Agreement shall survive Agreement expiration or termination.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of both Parties. State may terminate this Agreement effective upon delivery of written notice to Agency or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency 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 State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the duties and performances under this Agreement are prohibited, or if State is prohibited from paying for such work from the planned funding source.

- d. If OTC fails to adopt a Jurisdictional Transfer Resolution to transfer Unit A from the Agency to State.
2. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
3. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim. This paragraph shall survive the termination of this Agreement.
4. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of County on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding. This paragraph shall survive the termination of this Agreement.
5. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the

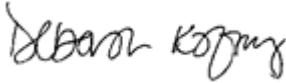
circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding. This paragraph shall survive the termination of this Agreement.

6. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
7. All employers, including State and Agency, 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. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. State and County shall ensure that each of its subcontractors complies with these requirements.
8. Agency 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 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 as amended by the ADA Amendments Act of 2008 and ORS 659A.142; (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.
9. Agency certifies and represents that the individual(s) signing this Agreement are authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
10. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
11. This Agreement and attached exhibits A and B 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 State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

MULTNOMAH COUNTY, by and through its
elected officials

By 

Title County Chair

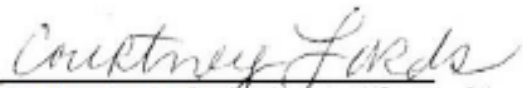
Date 12/18/20

By _____

Title _____

Date _____

LEGAL REVIEW APPROVAL

By 
Courtney Lords, Senior Assistant County Attorney

Date 12/17/20

County Contact:

Jon Henrichsen
1403 SE Water Avenue
Portland, OR 97214
503-988-7126
Jon.p.henrichsen@multco.us

STATE OF OREGON, by and through its
Department of Transportation

By _____
Delivery & Operations Division
Administrator

Date _____

APPROVAL RECOMMENDED

By _____
State Right of Way Manager

Date _____

By _____
Region 1 Manager

Date _____

By _____
Region 1 Right of Way Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By Stacy Posegate
Assistant Attorney General

Date via email dated 11/6/2020

State Contact

Ted Miller
123 NW Flanders
Portland, OR 97209
503-731-8559
Theodore.c.miller@odot.state.or.us

ODOT/Agency
JT Agreement No. 845

MULTNOMAH COUNTY, by and through its
elected officials

By _____

Title _____

Date _____

By _____

Title _____

Date _____

LEGAL REVIEW APPROVAL

By _____

County Counsel

Date _____

County Contact:

Ian Cannon
1403 SE Water Avenue
Portland, OR 97214
503-988-3595
ian.b.cannon@multco.us

STATE OF OREGON, by and through its
Department of Transportation

By Karen Rowe

Delivery & Operations Division
Administrator

Date 12/28/2020

APPROVAL RECOMMENDED

By _____

State Right of Way Manager

Date _____

By [Signature]

Region 1 Manager

Date 12-12-2020

By Kat Halpenny

Region 1 Right of Way Manager

Date 12/11/2020

**APPROVED AS TO LEGAL
SUFFICIENCY**

By Stacy Posegate

Assistant Attorney General

Date via email dated 11/6/2020

State Contact

Ted Miller
123 NW Flanders
Portland, OR 97209
503-731-8559
Theodore.c.miller@odot.state.or.us

MULTNOMAH COUNTY, by and through its
elected officials

By _____

Title _____

Date _____

By _____

Title _____

Date _____

LEGAL REVIEW APPROVAL

By _____
County Counsel

Date _____

County Contact:

Ian Cannon
1403 SE Water Avenue
Portland, OR 97214
503-988-3595
ian.b.cannon@multco.us

STATE OF OREGON, by and through its
Department of Transportation

By _____
Delivery & Operations Division
Administrator

Date _____

APPROVAL RECOMMENDED

By _____
State Right of Way Manager

Date 12/14/2020

By _____
Region 1 Manager

Date _____

By _____
Region 1 Right of Way Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By Stacy Posegate
Assistant Attorney General

Date via email dated 11/6/2020

State Contact

Ted Miller
123 NW Flanders
Portland, OR 97209
503-731-8559
Theodore.c.miller@odot.state.or.us

EXHIBIT A - LEGAL DESCRIPTION

Unit A

N.W. Cornelius Pass Road, situated in Sections 18, 19, 30, and 31 of Township 2 North, Range 1 West, W.M., and Section 6 of Township 1 North, Range 1 West, W.M., State of Oregon, lying Southerly of State Highway 2W (Lower Columbia River Highway) and Northerly of the Multnomah and Washington County Line; consisting of the following County Roads segments:

N.W. Cornelius Pass Road, County Road No. 891- A: established Nov. 23, 1949, from Centerline Station 0+16.87 of County Road No. 891 to Centerline Station 1+25.9 of County Road No. 891-A, as depicted on County Road Map F-7/7.

N.W. Cornelius Pass Road, County Road No. 891: established on Jan. 21, 1918, from Centerline Station 0+16.87 to Centerline Station 184+57.37, as depicted on County Surveys #57186 and #58147. Station 184+57.37 being the point of intersection with N.W. Cornelius Pass Road, County Road No. 1642.

N.W. Cornelius Pass Road, County Road No. 1642: originally established as West Union Road No. 1642 on July 23, 1948 (subsequently re-named Cornelius Pass Road on June 27, 1972), from the point of intersection with Centerline Station 184+57.37 of Cornelius Pass Road, County Road No. 891, to the point of intersection with the Washington-Multnomah County Line, as depicted on County Road Map D-5/7.

The right of way lines for the above-described road segments are to be lengthened or shortened, as necessary, to their points of intersection.

Together with all easements, appurtenances, and deed restrictions acquired for use in conjunction with the above-described segments of N.W. Cornelius Pass Road.

