

## RESOLUTION NO. 1281

### A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF OREGON DEPARTMENT OF TRANSPORTATION REGARDING OCHOCO CREEK BRIDGE DETOUR ON HWY 380

WHEREAS, the State of Oregon acting by and through its Department of Transportation (“ODOT”) having determined that the bridge over Ochoco Creek on Paulina Hwy, State Route OR 380, Hwy 380 (the “Bridge”) is structurally deficient and will be replaced by ODOT; and

WHEREAS, ODOT wishes to detour traffic around the Bridge by utilizing City of Prineville (“City”) streets; and

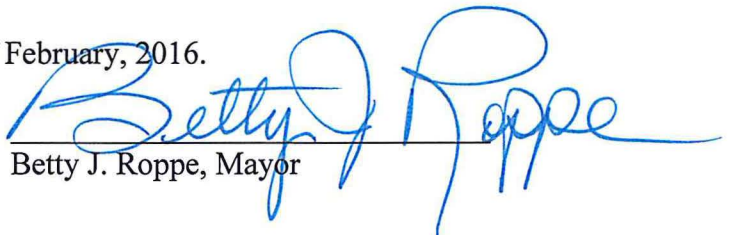
WHEREAS, ODOT has submitted to City Misc. Contract and Agreements No. 30022 setting out the use of the following City streets: Main Street from its intersection with US 26 south to its intersection with SE Lynn Boulevard and SE Lynn Boulevard between Main Street and its intersection with OR 380 as a detour route to divert traffic during the closure of the Bridge; and

WHEREAS, City staff recommends approval of the Agreement;

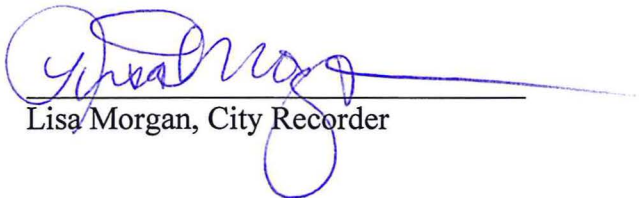
NOW, THEREFORE, the City of Prineville resolves as follows:

1. The Agreement is approved.
2. The Mayor and City Manager are authorized to execute the Agreement on behalf of the City.

Passed by the City Council this 23<sup>rd</sup> day of February, 2016.

  
Betty J. Roppe, Mayor

ATTEST:

  
Lisa Morgan, City Recorder

**INTERGOVERNMENTAL AGREEMENT  
OR380 Ochoco Creek Bridge Detour**

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;" and the CITY OF PRINEVILLE, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

**RECITALS**

1. The Paulina Highway, State Route OR 380, Highway No. 380 is a part of the State highway system under the jurisdiction and control of the Oregon Transportation Committee (OTC).
2. Main Street and SE Lynn Boulevard are a part of the city street system under the jurisdictional and control of the city.
3. State's Bridge No. 07282 on OR 380 at approximately mile point 0.11 which spans the Ochoco Creek has been determined as being structurally deficient and will be replaced in conjunction with State's OR380 Ochoco Creek bridge Replacement (Key No. 19209)
4. States wishes to detour traffic around bridge No. 07282 by utilizing city streets.
5. State wishes to stage construction supplies and equipment on Agency owned right of way.
6. By the authority granted in Oregon Revised Statute (ORS) [190.110](#), state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.

**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. Under such authority, the Parties agree to the following, hereinafter referred to as 'Project':
  - a. That Main Street from its intersection of US 26 south to its intersection with SE Lynn Boulevard and SE Lynn Boulevard from its intersection with Main Street east to its intersection with OR 380, hereinafter referred to as the "detour route", shall be used for the diversion of traffic during the

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 Agency 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.

6. 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'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 it had sole liability in the proceeding.
7. 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.
8. 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.
9. 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 State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

City of Prineville/ODOT  
Agreement No. 30022

**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.

**CITY OF PRINEVILLE**, by and through its  
elected officials

By Bethy Reppe  
Mayor

Date February 23, 2016

By \_\_\_\_\_

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY (if required by Agency)**

By N/A  
Counsel

Date \_\_\_\_\_

**STATE OF OREGON**, by and through  
its Department of Transportation

By \_\_\_\_\_  
Central Oregon Area Manager

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Region 4 Traffic Manager

Date \_\_\_\_\_

**Agency Contact:**

Scott Smith – Street Supervisor  
387 NE 3rd St  
Prineville, OR 97754  
(541) 388-6169 419-3165  
ssmith@cityofprineville.com

**State Contact:**

Wade Luckman – Region 4 Construction  
Project Coordinator  
63055 N. Hwy 97, Bldg M  
Bend, OR 97703  
(541) 388-6087  
[wade.luckman@odot.state.or.us](mailto:wade.luckman@odot.state.or.us)

**EXHIBIT A**  
**Detour Route**

