

IN THE BOARD OF COMMISSIONERS OF LANE COUNTY  
STATE OF OREGON

ORDER NO.

10-12-15-9

( In the matter of approving a reimbursable  
( agreement with Federal Highway  
( Administration (FHWA) for Five Rivers Road  
( Culvert Replacement Project to be funded  
( through the Oregon Forest Highway Program  
( and that Public Works Staff be authorized to  
( prepare the necessary Right of Way Plan and  
( amend the Capital Improvement Program FY  
( 11-15 to reflect the funding source change, and  
( that the County Administrator is authorized to  
( execute all related agreements, amendments,  
( and construction contracts

**WHEREAS**, ORS 190.110 provides that units of local government may enter into agreements for any lawful purpose with a United States governmental agency; and

**WHEREAS**, On May 19, 2010, Board Order No. 10-5-12-1 (in the matter of the Public Works Five-Year Capital Improvement Program for FY 2010/2011 - FY 2014/2015) was signed by the Lane County Board of Commissioners approving the Five Rivers Road Culvert Replacement Project, which involves the replacement of five (5) existing aging culverts with new fish passage culverts on Five Rivers Road and estimated at a total cost of \$900,000; and

**WHEREAS**, On July 7, 2010, Board Order No. 10-7-7-9 was signed by the Lane County Board of Commissioners authorizing Lane County to submit an application for funding from the Federal Highway Administration (FHWA) through the 2010 Enhancement Project under the Oregon Forest Highway Program for Culvert Replacement; and

**WHEREAS**, Lane County submitted the application for the project requesting \$600,000, but after further project scoping and available federal funding, FHWA approved and granted funding for the project to include a sixth culvert replacement, in the amount of \$1,300,000; and

**WHEREAS**, the total Project expense, excluding right-of-way acquisition costs, is estimated at \$1,300,000, which includes \$400,000 for preliminary engineering, environmental clearance and construction engineering, and \$900,000 for construction; and

**WHEREAS**, Lane County will perform preliminary engineering and environmental clearance, and the majority of construction engineering and will also bid and administer the project and be reimbursed as costs are incurred; and

**WHEREAS**, the Board has determined that it is necessary and in the public's interest to acquire fee or other interests in certain properties as needed for the Five Rivers Culvert Replacement Project and as listed in Exhibit A, attached hereto and made a part hereof, from owners and others as their interests may appear of record to serve the needs of Lane County, and that the public welfare will be benefited by the improvement of said public improvement and the Board being fully advised; **NOW THEREFORE, BE IT**

**RESOLVED AND ORDERED**, that the Department of Public Works is authorized to enter into a reimbursable agreement with FHWA; **AND, BE IT**

**FURTHER ORDERED**, that the Director of the Department of Public Works or the Director's representative is hereby delegated the authority to purchase the necessary real property required for the Five Rivers Road Culvert Replacement Project in accordance with Lane Manual Chapter 21, and to execute related instruments to accomplish the property acquisition. If Lane County is unable by negotiations to reach an agreement for the acquisition of the necessary real property rights, the Office of Legal County of Lane County is hereby authorized to commence and prosecute in the Circuit Court of Lane County, in the name of Lane County, any necessary proceedings for the condemnation and immediate possession of necessary real property rights and the assessment of damages for the taking thereof; **AND, BE IT**

**FURTHER ORDERED**, that the Public Works Capital Improvement Program Fiscal Year 2011 through 2015 (CIP) be amended to reflect the new project cost of \$1,300,000, excluding right-of-way acquisition costs, and that the project is fully funded with grant dollars; **AND, BE IT**

**FURTHER ORDERED**, that the County Administrator is authorized to execute the reimbursable agreement in substantially the form as Exhibit 'B' to this Order and also is authorized to execute any related amendments and construction contracts in accordance with the terms of LM 21.145.

**ENACTED** this 15th day of December, 2010.

  
\_\_\_\_\_  
William A. Fleenor, Chair  
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 12-10-10 Lane County

  
\_\_\_\_\_  
OFFICE OF LEGAL COUNSEL

"In the matter of approving a reimbursable agreement with Federal Highway Administration (FHWA) for Five Rivers Road Culvert Replacement Project to be funded through the Oregon Forest Highway Program and that Public Works Staff be authorized to prepare the necessary Right of Way Plan and amend the Capital Improvement Program FY 11-15 to reflect the funding source change, and that the County Administrator is authorized to execute all related agreements, amendments, and construction contracts"

**List of Affected Properties – Five Rivers Road Culvert Replacement Project**

Real Property from which portions thereof may be acquired for Five Rivers Road culvert projects at:

- Milepost 1.75
- Milepost 2.50
- Milepost 2.72
- Milepost 3.13
- Milepost 3.90
- Milepost 5.18

<b>Parcel No.</b>	<b>Tax Map &amp; Lot number</b>	<b>Owner and Address</b>
1469-01	15-09-08-00-00100	Yola Faire Bodtker, TE 94213 River Road Junction City, OR 97448
1469-02	15-09-00-00-00200	Jacoba Curtis 96749 E. Five Rivers Rd Tidewater, OR 97390
1469-03	15-09-00-00-00200	Jacoba Curtis 96749 E. Five Rivers Rd Tidewater, OR 97390
1469-04	15-09-00-00-00100	U.S. Government PO Box 1148 Corvallis, OR 97330
1469-05	15-09-00-00-00100	U.S. Government PO Box 1148 Corvallis, OR 97330
1469-06	15-09-22-00-00801	Kelly & Shelley Hockema 135 SW Wakonda Beach Rd Waldport, OR 97394
1469-07	15-09-22-00-00500	Prindel Creek Farm, Inc 95520 Five Rivers Rd Tidewater, OR 97390
1469-08	15-09-22-00-00700	Michael S. Morgan 95725 E. Five Rivers Rd Tidewater, OR 97390
1469-09	15-09-22-00-00701	Mike Morgan 95725 E. Five Rivers Rd Tidewater, OR 97390

**FHWA AGENCY AGREEMENT**Project: Five Rivers Road Culvert ReplacementFHWA Agreement No: DTFH70-11-E-00002Project: OR PEH 168(1)

Other Agency's Agreement No: \_\_\_\_\_

(check one)

 FHWA is the Requesting Agency FHWA is the Servicing AgencyEFFECTIVE DATE: See Block 8c, Signature DateEXPIRATION DATE: December 31, 2011

Page 1 of 10

1. AGREEMENT. This Reimbursable Agreement (including the attached standard conditions) constitutes the entire agreement between the requesting agency and the servicing agency.

## 2a. AUTHORITY OF REQUESTING AGENCY: (check all that apply)

23. U.S.C. 204, Highways, Federal Lands Highway Program. (Applies when FHWA is the requesting federal agency and Federal, state agencies, civil subdivisions of a state, or Tribes who will perform services relating to planning, research, engineering, construction of roads/bridges, or transit facilities within public lands/NPS/Indian reservations.)
- 31 U.S.C. 1535, The Economy Act (Applies when 23 U.S.C. 308 does not apply. Authorizes one federal agency to secure items/services from another federal agency.)

## 2b. AUTHORITY FOR SERVICING AGENCY:

23. U.S.C. 308, Highways, Cooperation with Federal and State Agencies & Foreign Countries. (Applies when FHWA is the Servicing Agency who will be performing engineering or other services to another Federal agency or to State/local government agencies.)
23. U.S.C. 204, Highways, Federal Lands Highway Program. (Applies when FHWA is the requesting federal agency and Federal, state agencies, civil subdivisions of a state, or Tribes who will perform services relating to planning, research, engineering, construction of roads/bridges, or transit facilities within public lands/NPS/Indian reservations.)
- 31 U.S.C. 1535, The Economy Act (Applies when 23 U.S.C. 308 does not apply. Authorizes one federal agency to secure items/services from another federal agency.)

## 3a. REQUESTING AGENCY ADDRESS

Federal Highway Administration  
Western Federal Lands Highway Division  
610 East Fifth Street  
Vancouver, WA 98661-3801

## 3b. SERVICING AGENCY ADDRESS

Lane County  
3040 N. Delta Highway  
Eugene, OR 97408

## 4a. FHWA Accounting &amp; Appropriation Data:

1517411680001 531.D0.F15E.41 1741000000 25304 \$200,000  
1517411680001 531.A0.F15E.41 1741000000 25304 \$200,000  
1517411680001 531.00.F15E.41 1741000000 25304 \$900,000

## 4b. SERVICING AGENCY Accounting &amp; Appropriation Data:

## 5. FUND AMOUNT

Amount Obligated by this Action: \$ 1,300,000.006. PAYMENT AND BILLING The other party to this agreement is a:  
(Check one)

- Federal Agency. Bill via Interagency Payment and Collection (IPAC) to Requesting Agency's Location Code (see block 7a or 7b, as applicable.)
- Other than a Federal Agency. Agencies must submit an acceptable invoice in a format and frequency designated in Section IV of Agreement.

See "Financial Administration" portion of this document for further details.

## 7a. FHWA FINANCE CONTACT

- 8-digit Agency Location Code (ALC): 69-05-0001
- Dunns Number: 139-768-597
- TAS #: 69-8083
- Finance Office Contact: Katie Johnson
- Finance Phone: (360) 619-7660
- Finance FAX: (360) 619-7945
- Finance email: Katie.Johnson@dot.gov

## 7b. SERVICING AGENCY FINANCE CONTACT

- 8-digit Agency Location Code (ALC): N/A
- Dunns Number: 030-786-248
- Finance Office Contact: Cheri Gooddion
- Finance Phone: (541) 682-6916
- Finance FAX:
- Finance email: Cheri.Gooddion@co.lane.or.us

## 8a. FHWA APPROVAL (Name &amp; Title - (type or print)

Marlene M. Marcellay, Contracting Officer

## 9a. OTHER AGENCY APPROVAL (Name &amp; Title - type or print)

b. Signature

c. Date

b. Signature

c. Date

d. Phone: (360) 619-7565

Email: Marlene.Marcellay@dot.gov

d. Phone:

Email:

<b>FHWA AGENCY AGREEMENT</b>	
Project: <u>Five Rivers Road Culvert Replacement</u>	FHWA Agreement No: <u>DTFH70- 11-E-00002</u>
Project: <u>OR PFH 168(1)</u>	Other Agency's Agreement No: _____
(check one)	EFFECTIVE DATE: <u>See Block 8c, Signature Date</u>
<input checked="" type="checkbox"/> FHWA is the Requesting Agency	EXPIRATION DATE: <u>December 31, 2011</u>
<input type="checkbox"/> FHWA is the Servicing Agency	

**FIVE RIVERS ROAD CULVERT REPLACEMENT PROJECT**

**I. INTRODUCTION**

**A. Background**

Funding is being provided under the Forest Highway Program for a proposed project on Five Rivers Road. The County will be responsible for all work on the project except the National Environmental Policy Act of 1969 (NEPA) decision document(s), as more fully detailed below in II. STATEMENT OF WORK.

**B. Location**

The project is located in Lane County, Oregon (Township 15 South, Range 9 West, and Section 8). The project consists of 6 culvert replacements located along Five Rivers Road at approximate Mileposts (MP) 1.75, 2.50, 2.72, 3.13, 3.90, and 5.18. .

**C. Project Description**

The proposed project is to replace existing deficient culverts that are barriers to fish passage. Construction will include installation of culvert, construction of retaining walls, and construction of a new pavement structure.

**II. STATEMENT OF WORK**

**A. General**

This Statement of Work sets forth the pre-NEPA decision requirements and possible post-NEPA decision requirements of FHWA and Lane County (the County) for the OR PFH 168(1), Five Rivers.

This agreement provides for funding of a progression of project activities. Phase 1 includes preliminary engineering and NEPA Compliance activities. If the NEPA decision document determines that a project should be constructed, Phase 2 will include procurement and construction. Phase 2 work may not be performed until the County receives written notification from FHWA that a NEPA decision has been reached to proceed with a project and the parameters of that project. Phase 2 work performed prior to a NEPA decision will not be eligible for reimbursement.

If the NEPA decision is to proceed with the proposed project, utility relocation is anticipated. County will coordinate and require any necessary utility relocation to occur according to Oregon Law.

If the NEPA decision is to proceed with the proposed project, rights-of-way and/or easement acquisitions are anticipated for the project. Any funding of property acquisition and easements will be the responsibility of the County.

The County has jurisdictional and maintenance responsibilities for the road. If a project is constructed, the County will continue with jurisdictional responsibility and operate and maintain the road at the County's expense.

FHWA and the County may amend or terminate this agreement to adjust the project development needs.

**B. Design Standards**

If the NEPA decision is to proceed with a project, the project will be developed in accordance with applicable County design standards. Deviations from applicable standards will be documented.

**C. Project Management**

Coordinate with FHWA to develop a project schedule and scope of service for a RFP for consultant design services.

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Organize and attend a project kickoff meeting and document results of the meeting.

Manage the work throughout the duration of the project. Manage the project scope, schedule and budget and notify FHWA of issues affecting scope, schedule and budget. This includes the work necessary to manage analysis and production efforts, coordinate with FHWA, administer this reimbursable agreement, monitor progress, and direct quality control activities for the Project Development tasks.

Specific project management activities include:

- Hold informal progress meetings with FHWA staff as needed to discuss project status. The purpose of these meetings is to monitor the project schedule, review work, and maintain a close working relationship.
- Submit a progress report with each reimbursement request indicating dates the reimbursement request covers, work associated with the reimbursement request that has been completed and anticipated dates of major project milestones.
- Prepare and maintain a project schedule.
- Contact the FHWA project manager by phone at least every month to discuss status and progress.
- Coordinate production and quality control activities.
- Establish project budgets and monitor costs.
- Prepare invoices and backup data.
- Maintain project files
- Manage consultant design services

Primary responsibility for project development services is indicated in the following checklist (The activities beginning with "Roadway Design" are all dependent on the NEPA decision.):

<u>County</u>	<u>FHWA</u>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Project Management
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Public Coordination
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Agency Coordination
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Hydraulic Studies and Reports
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Prepare NEPA decision document
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Prepare all Required Permit Applications
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Permit Acquisition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Roadway Design
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Prepare Right-of-Way Documents
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Right-of-Way Acquisition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Prepare Plans, Special Contract Requirements, Quantities and Cost Estimates
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Prepare Utility Relocation Documents
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Coordinate Utility Relocation

**D. Environmental Compliance**

Coordinate environmental compliance efforts with FHWA environmental staff. Utilizing the information provided by this reimbursable agreement, FHWA will write an independent environmental decision document(s).

To support environmental compliance efforts, coordinate, develop and complete tasks including resource surveys, studies and assessments for documentation. Environmental compliance tasks are anticipated to include the following:

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**National Historic Preservation Act (NHPA)**

- A qualified archeologist shall perform resource surveys of the area of potential effect (APE) for the project area in compliance with Department of Interior guidelines. If the APE includes land owned or controlled by the federal government, then obtain a permit from the federal land management agency to conduct resource surveys in accordance with the Archaeological Resources Protection Act.
- Tribal consultation is a federal-agency-to-tribal-government relationship; therefore tribal contacts and consultation will be performed by FHWA. Submit a draft letter to FHWA for use in initiating tribal consultation.
- Submit a written report documenting findings, including recommendations of draft findings to FHWA that comply with applicable State Historic Preservation Office (SHPO) standards for use in Section 106 of the National Historic Preservation Act (NHPA) consultation.

**Wetlands**

- A qualified biologist shall identify the presence or absence of wetlands or other waters of the U.S. within the area of potential impacts (API). Wetlands believed to be under the U.S. Army Corps of Engineers (USACE) should be identified. This may include but is not limited to referencing the National Wetland Inventory or local wetland inventory, NRCS soil survey maps, and field observations.
  - If no potential wetlands are observed within the API, these findings can be documented in a short report.
  - If potential wetlands exist in the API, delineate wetlands in accordance with the USACE 1987 Wetland Delineation Manual.

**Threatened & Endangered (T&E) Species and Essential Fish Habitat (EFH)**

- A qualified biologist or botanist shall perform threatened and endangered species and essential fish habitat studies within the API.
- The biologist will obtain updated T&E species lists for the project area from the US Fish and Wildlife Service (USFWS) and, if appropriate, NOAA Fisheries Service.
- If there are no T&E species or EFH within the API or the proposed project would have *no effect* to any T&E species or no adverse effect on EFH within the API, the biologists/botanist shall submit a finding to FHWA documenting their finding and the basis for their conclusion.
- If there are T&E species within the API and the project *may affect* these species, submit a written Biological Assessment (BA) following USFWS guidelines to FHWA.
- If the project may affect threatened or endangered species, perform Section 7 consultation as appropriate with USFWS and NOAA Fisheries Service. If appropriate, include consultation for EFH.
- Following consultation, submit as appropriate a copy of Section 7 concurrence letter or Biological Opinion from the USFWS and NOAA Fisheries Service to FHWA.

**Other Environmental Issues**

Identify, as soon as possible, other environmental issues. These may include:

- Coastal Zones
- Floodplains
- Hazardous Materials

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**Permits**

- Identify all permits necessary for construction and submit a list of permits to FHWA.
- Submit a copy of completed permit applications to FHWA for all necessary permits.
- Obtain permits necessary for construction.

**E. Final Design**

If the NEPA decision is to proceed with the project, develop a final plans, specifications, and construction estimate package (PS&E) for 70%, 95%, and 100% PSE submittals. The plans and specifications shall provide sufficient details and information to ensure the described work is fully constructible. Insure that mitigation requirements identified in the Environmental Document(s) and environmental permits are included in the PS&E.

Submit the 95%, and 100% PSE package to FHWA for approval.

**F. Construction**

Any construction activities are dependent on the NEPA decision document.

Procure construction services for the project and construct and administer the project in conformance with the approved PS&E, the FHWA environmental decision document(s) and permits.

The project is to comply with the Davis-Bacon Act, which requires payment of prevailing wages.

During administration of the construction contract provide advance notification to the FHWA project manager and request a modification of this agreement for any construction contract modifications requiring additional Forest Highway funding.

**G. Post Construction**

The project will be owned and maintained by the County.

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**H. Summary of Deliverables**

Final design, right-of-way acquisition, utility relocation, and construction procurement activities are dependent on the FHWA NEPA decision. If the decision is not to proceed with the project, the project will be completed and these deliverables will not be needed on this project.

<b>CULTURAL SURVEYS REPORT</b>	1/23/11
<b>SECTION 7 CONCURRENCE - BIOLOGICAL RESOURCE SURVEYS REPORT</b>	1/23/11
<b>BIOLOGICAL EVALUATION FOR FOREST SERVICE SENSITIVE SPECIES</b>	1/23/11
<b>WETLAND DETERMINATION</b>	1/23/11
<b>LEVEL 1 HAZARDOUS MATERIALS INVESTIGATION</b>	1/23/11
<b>PERMIT APPLICATIONS</b>	ACTIVITY COMPLETE
<b>NEPA PROCESS &amp; PRELIMINARY DESIGN COMPLETED</b>	1/28/11
<b>DESIGN</b>	
<b>UTILITY RELOCATION PLAN, SCHEDULE, AND ESTIMATE</b>	12/23/10
<b>PERMIT AUTHORIZATION</b>	1/28/11
<b>RIGHT-OF-WAY EASEMENTS AND CERTIFICATION</b>	1/28/11
<b>95% PS&amp;E DELIVERY</b>	12/10/10
<b>95% REVIEW COMMENTS DUE</b>	12/17/10
<b>100% PS&amp;E DELIVERY</b>	12/23/10
<b>CONSTRUCTION</b>	
<b>ADVERTISE</b>	1/28/11
<b>BID OPENING</b>	2/18/11
<b>CONTRACT AWARD</b>	
<b>NTP</b>	3/25/11
<b>START CONSTRUCTION</b>	6/1/11
<b>SUBSTANTIAL COMPLETION</b>	11/1/11
<b>PROJECT COMPLETION</b>	12/31/11

**I. Cost Budget**

The cost of the work is Not to Exceed \$1,300,000.00, unless an amendment to the Agreement is made in writing and agreed to by both parties. Lane County shall submit all invoices to FHWA for actual and

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reasonable costs incurred for reimbursement. See Section IV, D. Method of Billing and Proper Submission of Invoices.

Refer to Attachment I – Estimated Project Budget

### III. TERM OF AGREEMENT – Period of Performance

The terms and conditions of this agreement shall become effective with and upon execution by FHWA Contracting Officer and shall remain in effect for the Period of Performance through December 31, 2011, unless modified in writing by mutual agreement or terminated by either party upon thirty (30) days written notice. Full credit shall be allowed for each party's reimbursable costs and all non-cancelable obligations properly incurred up to the effective date of termination.

### IV. FINANCIAL ADMINISTRATION

A. Total Agreement Amount: See block #5, cover page, for funds obligated by this agreement.

Funding Citations: See blocks 4a & 4b. of cover page.

B. Reimbursable Payment: The servicing agency will receive payment on a reimbursable basis, upon receipt of invoice of costs incurred and authorized. The servicing agency is limited to recovery of actual costs only, to include back-up data with each request for payment. Back-up data includes all documents needed to support the requested reimbursement, such as record of contract payments, receipts, payrolls, and so on.

C. Prompt Payment: The Government considers payment as being made the day a check is dated or the date of an electronic funds transfer (EFT). All days referred to in this clause are calendar days. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make the payment on the following working day without incurring a late payment penalty. The due date for making payments by the designated payment office is the 30<sup>th</sup> day after the designated billing office receives a proper invoice from the agency, or the 30<sup>th</sup> day after Government acceptance of services performed or supplies delivered. The Prompt Payment regulations do not require the Government to pay interest penalties if based on improper submission of invoices and incorrect EFT information provided by the Servicing Agency. The Government will compute any interest penalty in accordance with the Office of Management and Budget prompt payment regulations (5 CFR Part 1315).

D. Method of Billing and Proper Submission of Invoices: (See block 6 of cover page)

The Government shall pay the Servicing Agency, upon the submission of proper invoices, the prices stipulated in the agreed upon cost budget for services rendered or supplies delivered, as stated in Section II, I. Cost Budget. All invoices and final payments should reference the Agreement number, Project reference/title, and the COTR's name and be sent to one of the following addresses:

**US MAIL**

Western Federal Lands A/P Branch, AMZ-150  
PO Box 268865  
Oklahoma City, OK 73125

**FedEx**

Western Federal Lands A/P Branch, AMZ-150  
6500 S. MacArthur Blvd.  
Oklahoma City, OK 73169

Invoices may also be sent in .PDF format by electronic mail to WFLInvoices@faa.gov. The subject line of the message must include Agreement Number, Project reference/title, and invoice number. If the invoice is NOT Prompt Net 30, Terms should also be identified in the subject line, (for example, Prompt Net 14).

The following correct information constitutes a proper invoice and is required as payment documentation:

<b>FHWA AGENCY AGREEMENT</b>		FHWA Agreement No: <u>DTFH70- 11-E-00002</u>
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Project: <u>OR PFH 168(1)</u>		
(check one)		EFFECTIVE DATE: <u>See Block 8c, Signature Date</u>
<input checked="" type="checkbox"/> FHWA is the Requesting Agency		EXPIRATION DATE: <u>December 31, 2011</u>
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- 1) Name of Organization
- 2) Invoice Date
- 3) Agreement Number
- 4) Vendor Invoice Number
- 5) Organization Invoice Amount
- 6) Description and quantity of goods and services rendered
- 7) Performance Period
- 8) Shipping and payment terms
- 9) Other substantiating documentation required by the Agreement

E. Administrative Fee: Unless otherwise explicitly stated in this Agreement, FHWA shall not be liable for any additional administrative fees.

**V. KEY OFFICIALS**

**REQUESTING AGENCY – FHWA/Western Federal lands Highway Division WFLHD**

Contact: Michael Odom, Contracting Officer's Technical Representative (COTR)  
 Voice: (360) 619-7568  
 Fax: (360) 619-7846  
 Email: [Mike.Odom@dot.gov](mailto:Mike.Odom@dot.gov)

**SERVICING AGENCY- LANE COUNTY**

Contact: Kerry Werner, Supervising Design Engineer  
 Voice: (541) 682-6960  
 Email: [Kerry.Werner@co.lane.or.us](mailto:Kerry.Werner@co.lane.or.us)

**VI. SPECIAL PROVISIONS**

- A. All allowable costs are in accordance with OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments.
- B. Single Audit Requirement: Non-Federal entities that expend \$500,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments. Upon completion of the audit, Ravalli County shall provide a copy to the COTR who will forward to the WFLHD Acquisition Office, ATTN: Contracting Officer.
- C. Lane County will award the construction contract(s) by competitive bid procedures or offered to eligible Small or Minority Owned Business interests.
- D. Any resultant contract must be issued with the Davis Bacon wage rate regulations.
- E. **Right of Way and Utilities**: Right-of-way and Utilities are contingent responsibilities, subject to the FHWA NEPA decision.
- F. Costs associated with right-of-way acquisition are the responsibility of the County.
- G. County will be responsible for the preparation of any needed RW plats and legal descriptions to affected private property and acquisition of private right-of-way.
- H. County will coordinate and require any necessary utility relocation to occur according to Oregon Law.
- I. **NEPA Decision Document**: FHWA is responsible for completing the NEPA decision document.

<b>FHWA AGENCY AGREEMENT</b>		FHWA Agreement No: <u>DTFH70- 11-E-00002</u>
Project: <u>Five Rivers Road Culvert Replacement</u>		Other Agency's Agreement No: _____
Project: <u>OR PFH 16B(1)</u>		
(check one)		EFFECTIVE DATE: <u>See Block 8c, Signature Date</u>
<input checked="" type="checkbox"/> FHWA is the Requesting Agency		EXPIRATION DATE: <u>December 31, 2011</u>
<input type="checkbox"/> FHWA is the Servicing Agency		

- J. **Construction:** Construction is a contingent responsibility, subject to the FHWA NEPA decision. The County will be responsible for construction procurements. Do not initiate construction procurement until notified in writing that FHWA has completed NEPA decision documents for the project.
- K. During the construction phase of the project, the County will be responsible for providing construction support personnel to conduct contract oversight to ensure a quality product.
- L. Upon completion of the construction contract, the County and FHWA will hold a final inspection. When it is determined that the project has been constructed in substantial conformity with the approved plans and specifications, the County will notify FHWA of final acceptance of the work and submit a hard copy of the final invoice to FHWA.
- M. **Maintenance:** The County has jurisdictional and maintenance responsibility for the proposed project. If the NEPA decision is to perform construction and after construction has been completed, the County will continue with jurisdictional responsibility, and operate and maintain the road at the County's expense.
- N. Road maintenance is defined as the act of keeping the road in acceptable condition. Maintenance includes preventive maintenance, normal repairs, replacement of parts and structural components, and other activities needed to preserve the road so that it continues to provide acceptable service and achieves its expected life.
- O. **Funding:** Funding for the project will be provided from the Oregon Forest Highway Program.
- P. The funds listed above have been or are forecasted to be allocated to perform the work described in this agreement. Changes in project cost and scope must be approved by FHWA.
- Q. **Third Party Liability:** The agencies' liability shall be subject to their respective tort claim limitations and other applicable statutes and Constitutional provisions.

**VII. MODIFICATIONS**

Any modifications to the Agreement must be made in writing and agreed to by both parties. Such authorizations are not binding unless they are in writing and signed by personnel authorized to bind each of the agencies.

**VIII. AGREEMENT COMPLETION**

When the Requesting Agency has accepted all deliverables, the Servicing Agency will provide a written project evaluation and final accounting of project costs to the requesting agency contact.

**IX. TERMINATION**

Either agency may terminate this agreement upon 30-calendar day (or as designated in the statement of work) prior written notification to the other agency. If this agreement is terminated by the Servicing Agency, its liability shall extend only to the release of its work products and related materials to the Requesting Agency by the effective date of termination. If this agreement should be terminated by the Requesting Agency, its liability shall extend only to pay for the actual and reasonable costs of the items/services rendered and the costs of any non-cancelable obligations incurred in accordance with the terms of this agreement prior to the effective date of termination. Otherwise, the Agreement will terminate upon the expiration date of December 31, 2011 unless the period of performance is extended by amendment to the agreement and as agreed by both parties.

<b>FHWA AGENCY AGREEMENT</b>		FHWA Agreement No: <u>DTFH70- 11-E-00002</u>
Project: <u>Five Rivers Road Culvert Replacement</u>		Other Agency's Agreement No: _____
Project: <u>OR PFH 168(1)</u>		
(check one)		EFFECTIVE DATE: <u>See Block 8c, Signature Date</u>
<input checked="" type="checkbox"/> FHWA is the Requesting Agency		EXPIRATION DATE: <u>December 31, 2011</u>
<input type="checkbox"/> FHWA is the Servicing Agency		

## X. Agreement Standard Conditions

### Financial

- Funding.** In no case will the Servicing Agency make commitments or expenditures beyond 100% of funds obligated under this agreement as modified.
- Additional funds.** The Requesting Agency and the Servicing Agency shall closely monitor funds. The Requesting Agency may increase the total obligation by modifying this agreement.
- Duration of the agreement.** When agreement performance is expected to extend beyond the funding limits of the Requesting Agency's appropriation, the agreement may be extended provided the agencies have executed a modification using new funding.
- Agreement Closeout.** Upon receipt of the final accounting of project costs, the Requesting Agency will close the Servicing Agency account. The remaining balance in the agreement account will be de-obligated by the Requesting Agency Finance Office upon receipt of approved close-out documentation by the Contracting Officer.

### Laws

- Compliance with Applicable Laws.** Both parties agree to comply with authorities, laws and regulations cited in this document.
- 508 Compatibility.** Each Electronic & Information Technology (EIT) item/service furnished under this agreement shall comply with Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), as updated in 1998.
- Competition Requirements for Servicing Agency.** All acquisitions awarded by the servicing agency in performance of this agreement shall comply with the Competition in Contracting Act (CICA), public law 98-369. (Applicable to agreements with other Federal agency)

### Administration

- Responsibilities.** The Requesting Agency COTR and the Servicing Agency designated official shall be responsible for technical oversight of the specified item/service, as set forth in the attached statement of work.

**9. Third Party Liability.** With respect to third-party liability for acts arising out of the performance of official duties by a government employee of the Servicing Agency, the Servicing Agency undertakes responsibilities for the investigation, adjudication, settlement, and payment of any claim asserted against the United States; except that, in all cases, the responsibility for the investigation, adjudication, settlement, and payment of any claim with respect to third-party liability arising out of the use, damage, or destruction of loaned personal property shall be the responsibility of the particular agency that has custody and control of the said personal property. In addition, the Servicing Agency representative shall have the duty of investigating and reporting, in accordance with the Servicing Agency's regulations and policies, incidents occurring on, or involving that Servicing Agency's real property, and the Requesting Agency agrees to cooperate fully in such investigations.

**10. Disputes.** Agency employees responsible for the administration of this agreement will be the initial points of contact for any disputes arising under this agreement. Disputes may be submitted in writing to either of these persons. Any disputes that are not resolved at this level may be referred to their respective agency's reviewing official for resolution. Pending the resolution or claim pursuant to this article, the parties agree that performance of all obligations shall be pursued diligently in accordance with terms and conditions of the Agreement.

### Other

- Property.** Purchase of equipment required for performance of the work must be authorized by the agreement.
- Travel.** All travel under this agreement shall be in accordance with the Federal Travel Regulations, unless otherwise agreed to by both agencies.