BLM Agreement No.	OR934-1604
Subject Function Code:	1786, 9215
ODOT Misc. Contracts & Agreements No.	31357

MEMORANDUM OF UNDERSTANDING BETWEEN THE STATE OF OREGON DEPARTMENT OF TRANSPORTATION ODOT Misc. Contracts & Agreements No. 31357 AND THE UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT, OREGON/WASHINGTON

This Memorandum of Understanding (MOU) is hereby made and entered into by and between the State of Oregon acting by and through its Department of Transportation, hereinafter referred to as "ODOT," and the United States Department of the Interior (DOI), Bureau of Land Management, Oregon/Washington, hereinafter referred to as the "BLM," both herein referred to individually or collectively as "Party" or "Parties."

INCIDENT RESPONSE

I. PURPOSE AND SCOPE

The purpose of this MOU is to document the cooperation between the Parties (ODOT and BLM) to coordinate activities of mutual interest involving highways on, or accessing, lands managed by the BLM in accordance with the following provisions.

The scope of this MOU is limited to response to and coordination of incident management activities.

The BLM District Managers and ODOT District 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 BENEFIT AND INTERESTS

This MOU establishes procedures for coordination of incident management activities involving Oregon State highways, hereafter referred to as "Highways/highways or roads" to and on lands administered by the BLM. Both ODOT and the BLM will benefit from this coordination. The ODOT has jurisdiction over the highways, and is responsible for their management and operation. The BLM has a vested interest in the highways as they provide critical access to public lands the BLM 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.

In consideration of the above premises, the Parties agree as follows:

III. INCIDENT MANAGEMENT

A. During an incident management activity such as a fire suppression emergency, the BLM 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 ODOT will work with the BLM 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 firefighting personnel.

1. In addition to the above, the Parties agree as follows:
   a. All temporary traffic control (TTC) devices and activities, including signage, piloting, and flagging on ODOT roads shall comply with the standards and guidelines of the Manual on Uniform Traffic Control Devices (MUTCD), ODOT supplements to the MUTCD, the Oregon Temporary Traffic Control Handbook, and the BLM-provided sign catalog and drawings to the degree practicable.
   b. The ODOT, the Incident Management Team (IMT) for incident activities, and/or local agencies will cooperatively develop TTC plans where warranted.
   c. Traffic control flaggers must be certified to conduct flagging operations on ODOT roads. The ODOT recognizes certification acquired in other states as being valid on ODOT roads. All standards in MUTCD Section 6E shall be followed for all flagging operations. Flaggers shall wear safety apparel meeting the requirements of International Safety Equipment Association of American National Standard for High Visibility Apparel and labeled as meeting the current American National Standards Institute standard performance for Class 2 risk exposure, and these requirements are hereby incorporated herein by reference.
   d. The ODOT is the only authority that can establish speed limits on roads under ODOT jurisdiction. Advisory or regulatory speed zones will not be allowed below 45 MPH unless special circumstances or situations warrant.
   e. The ODOT is the only authority that can designate and legally close roads under ODOT jurisdiction. The ODOT grants Incident Commanders (IC) of incident management activities limited authority to institute initial emergency road closures that are necessary for immediate safety concerns under this MOU. The ODOT will be notified immediately, which is typically within the first hour of an emergency closure. The sooner the notification the sooner traveler information can be disseminated to the traveling public for alternate routing. The decision to keep the road closed and any new closures will remain the responsibility of ODOT.
   f. The ODOT is the only authority that can design and implement a detour of a highway under their jurisdiction.
   g. All Parties will mutually work together within the Incident Command System (ICS).
2. All Parties will document information related to TTC decisions, requests, orders, etcetera, in order to determine appropriate fiscal responsibility, as needed on a

case-by-case basis. Reimbursement is situation dependent and accurate records must be kept. A Resource Order is required for payment purposes.

a. An accurate record is defined as:
   i. A detailed description of work ordered by the IMT (date, time and name of IMT member ordering the work).
   ii. Inclusive dates and locations of work performed.
   iii. Number of ODOT resources (employees, signs, etc.) and rates of each involved.
b. Payment will be made for the cost of services that are necessary due to BLM incident management activities, such as a closure to enable a back burn or to use highway as a firebreak/control line, or signing for establishment of a base camp (except as provided in this section under 3a)
c. Invoices for all incidents should be sent to the BLM incident host office for approval and submission to the National Operations Center.
d. A BLM incident management activity is defined as an activity adjacent to, on, or above the roadway involving: personnel, equipment such as trucks or helicopters, and congestion related to managing the incident, such as traffic in and out of a staging area or command post that alters the primary use of the highway as a transportation structure that provides safe and open travel for the public and therefore requires highway closure, signs, TTC, or other resources to manage.
e. In general the BLM is financially responsible for any road closures, TTC, signing, or other services or resources necessary or requested due to incident management-related activities or decisions, after the initial ODOT response.
f. If there is any incident management activity triggering the need for traffic control in a 24 hour period as defined from midnight to midnight, the costs for the entire 24 hour period is treated in its entirety as an incident management activity for accounting purposes. This will be determined on a daily basis and agreed to by both Parties.
g. Damages may be reimbursable through the appropriate agency claim process.
h. The BLM may request special use or closure of the highway to enable such operations as a back burn or may request special signing for certain instances (such as for establishment of base camp), through the ODOT District Manager or designee.

The BLM and ODOT will coordinate on the removal of incident caused and other hazard trees within striking distance of the highway to alleviate this risk in the most safe and efficient manner as is practical. For example, ODOT may conduct temporary traffic control and the BLM may include tree removal in the Burned Area Emergency Response or Emergency Stabilization and Rehabilitation programs.

B. The BLM shall:
   1. Assume responsibility including financial for furnishing, installing, maintaining, and operating warning and directional signing, flagging, and piloting needed for

incident management activities beyond the initial ODOT response and throughout the duration of any such incident management activities. The initial ODOT response is limited to the first 24 hours. The assumption of this responsibility will only take place after a transfer of responsibility from ODOT to the IC through the ODOT District Manager or designee.

2. Coordinate with the appropriate ODOT District Manager or designee if special circumstances or situations warrant ODOT establishing regulatory speed zones or other regulatory traffic control, such as "no stopping" and "no parking" zones on roads under ODOT jurisdiction. Depending on availability of ODOT signs and personnel, the BLM may be asked by ODOT to provide regulatory signing as necessary for incident management activities.
3. Coordinate with the appropriate ODOT District Manager or designee if special circumstances or situations warrant posting advisory speeds below posted speeds on roads under ODOT jurisdiction.
4. Notify the appropriate ODOT District Manager or designee at the earliest time practicable of planned incident management activities including air operations, back burn, or utilization of the state highway as a firebreak, that can impact traffic on roads under the jurisdiction of ODOT, and include in its notification to the appropriate ODOT District Manager or designee relevant information such as size and duration of the activity.
5. Coordinate with ODOT when standard sign messages do not meet specific on-site conditions, and when circumstances require the use of messages not identified in the catalog.
6. Remove all traffic control devices when no longer appropriate or necessary for incident management activities.
7. Coordinate all proposed state highway traffic detours through the ODOT District Manager or designee.
8. Make available to ODOT a list of appropriate BLM regional and local contacts, including the 24-hour duty officer.

C. The ODOT shall:

1. Assume responsibility including financial for furnishing, installing, and maintaining initial temporary traffic controls as necessary; including regulatory and warning signs, flagging, and piloting operations for the first 24 hours of incident management activities, such as the establishment of an incident base, that impact ODOT highways. After that, ODOT may authorize the BLM to furnish, install, and maintain at the BLM's expense, continued and any additional temporary traffic control signing as deemed necessary by the ODOT District Manager or designee for BLM incident management activities on highways in accordance with the provided catalog and sign placement drawings (noted in 2e). Any additional documents or permits such as encroachments permits will not be required under this MOU for temporary traffic control.
   a. Assume responsibility including financial for furnishing, installing, and maintaining traffic control beyond the initial 24 hours for all services not related to BLM incident management activities, such as smoke caused reductions of visibility or other highway safety related issues.

b. Grant limited authority to the IC to institute initial emergency closures of roads under ODOT jurisdiction where incident effects, such as fire behavior, are changing rapidly and may have substantial immediate effects on public safety. The IC shall notify the ODOT District Manager or designee as soon as feasible to coordinate additional legal closures if warranted.
c. Furnish liaison officer to the IC where substantial impacts from incident management activities are or may involve roads under ODOT jurisdiction.
d. Make available to the BLM each year an electronic (pdf) map and supplemental documents that details ODOT:
   i. Maintenance district areas.
   ii. District Manager names and phone numbers.
   iii. Maintained routes with route numbers and reference points.
   iv. List of RWIS (Remote Weather Information System) sites.
   v. List of permanent variable message sign locations.
   vi. The ODOT HAR (Highway Advisory Radio) system and Fixed and Portable Variable Message signs, if available, for public and/or overall safety messages as appropriate for incident management. Messages will be developed on a case-by-case basis as conditions warrant in coordination with ODOT. Variable Message Sign messages will be in compliance with "Guidelines for the Operation of Variable Message Signs on State Highways" (Oregon Department of Transportation, 2013 or most recent revision) and "Standard Message List for Portable Variable Message Signs On State Highways". Highway Advisory Radio messages will be in compliance with "Guidelines for the Operation of Highway Advisory Radio and Traveler's Advisory Radio on State Highways".

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

A. ESTABLISHMENT OF RESPONSIBILITY. This MOU is not intended to and does not create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

B. RESPONSIBILITIES OF PARTIES. The BLM and ODOT and their respective agencies and office will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each Party will carry out its separate activities in a coordinated and mutually beneficial manner.

C. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this agreement.

Principal ODOT Contacts:

ODOT Program Contact	ODOT Administrative Contact
Lucinda M. Moore State Maintenance and Operations Engineer Office of Maintenance and Operations 800 Airport Road Salem, OR. 97301-3871 Telephone: (503) 986-3005 FAX: (503) 986-3032 Email: lucinda.m.moore@odot.state.or.us	Patti Caswell Environmental Manager Office of Maintenance and Operations 800 Airport Road Salem, OR 97301 Telephone: (503) 986-3008 FAX: (503) 986-3032 Email: patti.caswell@odot.state.or.us

Principal BLM Contacts:

BUREAU OF LAND MANAGEMENT Program Contact	BUREAU OF LAND MANAGEMENT Administrative Contact
Joe Krish Operations Specialist 1220 SW 3rd Ave. Portland, OR. 97204 Telephone: (503) 808-6599 FAX: (503) 808-6799 Email: jkrish@blm.gov	Brenda Johnson Incident Business Specialist 1220 SW 3rd Ave. Portland, OR 97204 Telephone: (503) 808-6319 FAX: (503) 808-6799 Email: b5johnso@blm.gov

D. NON-LIABILITY. The BLM does not assume liability for any third party claims for damages arising out of this agreement.

E. NOTICES. Any communications affecting the operations covered by this agreement given by the BLM or ODOT is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the BLM Program Manager at the address specified in the MOU.

To ODOT, at ODOT's address shown in the MOU or such other address designated within the MOU.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

F. PARTICIPATION IN SIMILAR ACTIVITIES. This MOU in no way restricts the BLM or ODOT from participating in similar activities with other public or private agencies, organizations, and individuals.

G. ENDORSEMENT. Any of ODOT's contributions made under this MOU do not by direct reference or implication convey BLM's endorsement of ODOT's products or activities.

H. NON-BINDING AGREEMENT. This MOU creates no right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity. The parties shall manage their respective resources and activities in a separate, coordinated, and mutually beneficial manner to meet the purpose(s) of this MOU. Nothing in this MOU authorizes any of the parties to obligate or transfer anything of value.

Specific, prospective projects or activities that involve the transfer of funds, services, property, and/or anything of value to a party requires the execution of separate agreements and are contingent upon numerous factors, including, as applicable, but not limited to: agency availability of appropriated funds and other resources; cooperator availability of funds and other resources; agency and cooperator administrative and legal requirements (including agency authorization by statute); etc. This MOU neither provides, nor meets these criteria. If the parties elect to enter into an obligation agreement that involves the transfer of funds, services, property, and/or anything of value to a party, then the applicable criteria must be met. Additionally, under a prospective agreement, each party operates under its own laws, regulations, and/or policies, and any Forest Service obligation is subject to the availability of appropriated funds and other resources. The negotiation, execution, and administration of these prospective agreements must comply with all applicable law

Nothing in this MOU is intended to alter, limit, or expand the agencies' statutory and regulatory authority.

I. USE OF THE BUREAU OF LAND MANAGEMENT INSIGNIA. In order for ODOT to use BLM insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the BLM's Office of Communications. A written request must be submitted and approval granted in writing by the Office of Communications (Washington Office) prior to use of the insignia.

J. RECORDS MANAGEMENT. The BLM and ODOT own joint rights to all data/records produced as part of this agreement. All records (in all media, paper and electronic) created or produced in part or in whole are to be maintained for the duration of the agreement, made available upon request, and upon termination of the agreement will be turned over to the other Party.

The other Party shall not retain, use, sell, or disseminate copies of any data that contains information covered by the Privacy Act of 1974 or that which is generally protected by the Freedom of Information Act.

K. FREEDOM OF INFORMATION ACT (FOIA). Public access to the MOU or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to FOIA regulations (5 U.S.C. 552).

L. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: 1. while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or 2. using any electronic equipment supplied by the Government when driving any vehicle at any time. All cooperators, their employees, volunteers, and contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased, or rented

vehicles; POVs or GOVs when driving while on official Government business; or when performing any work for or on behalf of the Government.

M. BUREAU OF LAND MANAGEMENT ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS, AND ELECTRONIC MEDIA. ODOT shall acknowledge the BLM support in any publications, audiovisuals, and electronic media developed as a result of this MOU.

N. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. ODOT shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

In accordance with Federal law and U.S. Department of Interior policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement in print size no smaller than the text:

"This institution is an equal opportunity provider."

O. TERMINATION. Any of the Parties, in writing, may terminate this MOU in whole, or in part, at any time before the date of expiration.

P. DEBARMENT AND SUSPENSION. ODOT shall immediately inform the BLM if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the Federal government according to the terms of 2 Code of Federal Regulations Part 180. Additionally, should ODOT or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension then they shall notify the BLM without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.

Q. MODIFICATIONS. Modifications within the scope of this MOU must be made by mutual consent of the Parties by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change.

R. COMMENCEMENT/EXPIRATION DATE. This MOU is executed as of the date of the last signature and is effective through December 31, 2021, for a period of five (5) years, at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.

S. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this MOU. In witness whereof, the parties hereto have executed this MOU as of the last date written below.

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, Paragraph 1, in which authority is delegated to the Deputy Director, Highways to approve and sign agreements over $75,000 when the work is related to a project included in the Statewide Transportation Improvement Program or in other system plans approved by the Oregon Transportation Commission such as the Oregon Traffic Safety Performance Plan, or in a line item in the biennial budget approved by the Director.

6/29/16

LUCINDA M. MOORE
STATE MAINTENANCE AND OPERATIONS ENGINEER
Oregon Department of Transportation

Date

6-23-16

RON DUNTON
ACTING STATE DIRECTOR
Bureau of Land Management, Oregon/Washington

Date