

## **Historic Bridge Relinquishment & Relocation Agreement**

### **Elk Park Bridge No. 06574 Salmon River (Elk Park Road) Bridge Project Clackamas County, Oregon ODOT Key No. 14269 Federal-Aid No. C005(074)**

This Historic Bridge Relinquishment & Relocation Agreement (Relocation Agreement) is entered into by the Oregon Department of Transportation (hereinafter, "ODOT") and \_\_\_\_\_ (hereinafter, "RECIPIENT"). This Agreement shall become effective on the date signed by the Region 1 Manager or the manager's designee.

**WHEREAS**, as part of the Salmon River (Elk Park Road) Bridge Project, ODOT Key No. 14269, Federal-Aid No. C005(074), the Bridge No. 06574 was found to be eligible for listing on the National Register of Historic Places; and

**WHEREAS**, the Federal Highway Administration (FHWA) determined that the preferred alternative for the proposed project will have an adverse effect on historic properties, resulting in the demolition of the Elk Park Bridge, an historic property eligible for inclusion in the National Register of Historic Places, and;

**WHEREAS**, the FHWA consulted with the Oregon State Historic Preservation Office (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act [16 U.S.C. 470(f)]; and

**WHEREAS**, FHWA, ODOT, and the SHPO agreed that the undertaking shall be implemented in accordance with certain stipulations in consideration of the effect this undertaking will have on the historic property and entered into a Memorandum of Agreement (MOA) regarding the Elk Park Bridge; and

**WHEREAS**, in one stipulation in the MOA, ODOT was given responsibility for compliance with the Historic Bridge Act [23 U.S.C. §144 (o)]; and

**WHEREAS**, under this stipulation ODOT must make the Elk Park Bridge available for removal in its entirety or Sections thereof with the understanding that the Bridge will be reused at an offsite location; and

**WHEREAS**, ODOT has actively pursued finding a responsible party to move the Elk Park Bridge to a new location and to assume responsibility for the Bridge or Sections thereof by advertising the availability of the Elk Park Bridge for removal and relocation in local and regional newspapers in preservation publications, and on the ODOT public website; and

**WHEREAS**, the availability of the Elk Park Bridge also was made known directly to nearby city governments and county governments and to state and federal agencies with land located near the Bridge, but these entities were not interested in using the Bridge or Sections thereof; and

**NOW THEREFORE**, the Parties agree as follows:

I. The Statement of Interest (RECIPIENT'S Plans) that were submitted and approved by ODOT are attached to and incorporated into this Relocation Agreement. ODOT's approval of the RECIPIENT'S Plans is intended to fulfill the ODOT Region 1 Manager's obligations under state and federal law for the Elk Park Bridge. ODOT's approval is not intended to make ODOT liable to the RECIPIENT or third parties for the adequacy and accuracy of the RECIPIENT'S Plans.

II. No payments will be made by ODOT to the RECIPIENT to remove and relocate the Arrah Wanna Bridge.

III. The RECIPIENT shall:

1. Dismantle, relocate, and then install the Bridge or Sections thereof in compliance with the RECIPIENT'S Plans. The relocation site shall meet the requirements set forth by the SHPO, including placing the bridge in a location where it is over a stream, creek, ditch, gully, or other low lying surface feature and in a location that is visible to the public.

2. Complete the dismantling and relocation of the Bridge within 15 calendar days. Complete installation within 90 calendar days of relocation. This 90-calendar day installation time period will begin no later than 45 calendar days after the RECIPIENT receives notice from ODOT that removal and relocation can begin. RECIPIENT should anticipate the 45-calendar day relocation period taking place between July and September 2016, unless weather conditions delay the new bridge opening.

3. Reimburse ODOT for any delay costs incurred by RECIPIENT not meeting the dismantling and relocation schedule. Reimbursement costs shall be based on actual incurred costs with no administrative mark up.

4. Coordinate the removal and relocation with other Recipients (if any), with ODOT, with the Contractor dismantling the existing bridge and constructing the new bridge (Construction Contractor), and with the US Coast Guard. The RECIPIENT shall contact the ODOT Area Construction Engineer (phone number) who will involve the Construction Contractor and Coast Guard so that equipment operations, river movement, roadway movements, and traffic control are coordinated and comply with federal and state requirements.

5. Assume responsibility for the adequacy and accuracy of the RECIPIENT'S Plans provided in the Statement of Interest.

6. Assume responsibility for the RECIPIENT'S agents, independent contractors, subcontractors at any tier, suppliers at any tier, or any combination thereof in performing work under this Relocation Agreement. The RECIPIENT represents that the RECIPIENT and the RECIPIENT'S agents, independent contractors, subcontractors at any tier, and suppliers at any tier have the education, training, and experience necessary to carry out the RECIPIENT'S Plans according to the terms of this Relocation Agreement. The liability and indemnification obligations in Article III.11, III.12, and III.13 extend to these persons and entities.

7. Assume the cost of removing the Bridge or Sections thereof from the highway project area.

8. Assume legal liability and responsibility of the lead-based paint components of the bridge. Comply with existing hazardous material handling, transport and disposal laws and indemnify ODOT, FHWA and Clackamas County in perpetuity for the known hazardous material contents of the existing bridge.

9. Assume the cost of new site preparation.

10. Assume the costs of reassembly and installation.

11. Obtain any and all necessary permits, including but not limited to environmental and land use, for transporting the Bridge or Sections thereof to the new location and installing the Bridge or Sections thereof at the new location.

12. Obtain Commercial General Liability Insurance (CGL Policy) and Automobile Liability Insurance (Automobile Policy) that complies with this Article III.9. The CGL Policy shall apply specifically to the Dismantling and Relocation work and have minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage combined and \$2,000,000 aggregate for products and completed operations. The CGL Policy shall contain the following minimum coverages: Premises and Operations; XCU (explosion, collapse, and underground hazards); Products and Completed Operations; and Contractual Liability for the RECIPIENT'S indemnification obligations. The Automobile Policy shall have minimum limits of \$1,000,000 each occurrence for bodily injury and property damage combined and cover Owned, Hired, and Non-owned vehicles. Both the CGL Policy and Automobile Policy shall be obtained from insurers authorized to transact insurance business in Oregon as an authorized insurer. Provide the ODOT Region 1 Manager a copy of the CGL Policy and Automobile Policy before beginning any work under this Relocation Agreement. Make sure the RECIPIENT'S agents, independent contractors, subcontractors at any tier, and suppliers at any tier obtain and maintain the same insurance. Failure to provide and maintain the required insurances is a breach of this Relocation Agreement.

13. Assume title to, financial responsibility for, and all legal liability to third parties for the Bridge or Sections thereof as of the date the RECIPIENT begins removing the Bridge from the highway project area. Nothing in this Article III.11 prevents the RECIPIENT from being liable to the ODOT Region 1 Manager for a breach of this Relocation Agreement and associated damages even though title to the Bridge or Sections thereof has not passed under this Article III.11 at the time of breach.

14. Defend ODOT and hold ODOT harmless from personal injury claims, property damage claims, and associated expenses (including attorney's fees and defense costs) that are caused by the RECIPIENT'S breach of this Relocation Agreement or the RECIPIENT'S negligent acts or negligent omissions in carrying out this Relocation Agreement. If ODOT defends against a personal injury claim or property damage claim, indemnify ODOT for expenses incurred, amounts ODOT paid, or both to the extent caused by the RECIPIENT'S

breach of this Relocation Agreement or the negligent acts or negligent omissions of the RECIPIENT.

15. Assume liability to ODOT and indemnify ODOT for contract damages and associated expenses (including attorney's fees and defense costs) that are caused by the RECIPIENT'S breach of this Relocation Agreement. These damages include without limitation monies ODOT pays to the Construction Contractor because of the RECIPIENT'S failure to begin work timely, failure to complete work timely, or other breach of this Relocation Agreement.

16. Maintain and repair the Bridge or Sections thereof and the features that give the Bridge or Sections thereof historic significance and integrity for a period of twenty-five (25) years, at the RECIPIENT'S costs, and according to the RECIPIENT'S Maintenance Plan.

17. Consult the SHPO before initiating any modifications or maintenance activities that could alter the Bridge's historic characteristics because the Bridge is eligible for listing on the National Register of Historic Places.

18. Store the Bridge in a manner that will not cause excessive deterioration if the Bridge or Sections thereof are going to be relocated temporarily to a holding facility.

19. Allow ODOT and the SHPO and their employees, agents, and designees the right to inspect the Bridge or Sections thereof at all reasonable times to ascertain whether the conditions of this Relocation Agreement are being met.

IV. ODOT assumes no obligations for the manner in which the RECIPIENT removes the Bridge or Sections thereof, relocates the Bridge or Sections thereof, or maintains the Bridge or Sections thereof after relocation even though ODOT has approved the RECIPIENT'S Statement of Interest for the limited purpose stated in Article I.

V. This Relocation Agreement and all contracts entered into under the provisions of this Relocation Agreement shall be binding upon the ODOT Region 1 Manager and the RECIPIENT and their successors in office.

VI. This Relocation Agreement creates no third party beneficiary status or rights.

VII. In signing this Relocation Agreement, the Parties represent that the person signing has authority and capacity to bind the respective entity to this Agreement.

**Signatories:**

**OREGON DEPARTMENT OF TRANSPORTATION, REGION 1 MANAGER**

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_ DATE \_\_\_\_\_

**RECIPIENT**

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_ DATE \_\_\_\_\_

**Consulting Parties:**

**CLACKAMAS COUNTY**

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_ DATE \_\_\_\_\_

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