

## APPENDIX B

### Sample Agreement, Resolution and Jurisdictional Transfer Document

This is for information only. These samples are for a jurisdictional transfer by ODOT to a fictitious city. Construction Contracts maintains current formats for agreements and Right of Way is responsible for the other required documents to complete the transfer, once the terms of the agreement have been met. Please refer to Appendix A for procedures and definitions.

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**SAMPLE**  
**JURISDICTIONAL TRANSFER AGREEMENT**  
East Main Street, MP 20.41 to MP 20.54  
Camassia Highway, State Highway No.63  
City of Waverly

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 City of Waverly, acting by and through its City Officials, hereinafter referred to as "City."

#### RECITALS

1. Camassia Valley Highway is under the jurisdiction and control of the Oregon Transportation Commission. Camassia Valley Highway, State Highway No. 63 is also designated State Route OR 200.
2. By the authority granted in ORS 190.110, 366.770 and 366.775, State may enter into cooperative agreements with the counties and cities for the performance of work on any highways, streets or roads with the allocation of costs on terms and conditions mutually agreeable to the contracting Parties.
3. By the authority granted in ORS 366.395, State may relinquish title to any of its property not needed by it for highway purposes to any other governmental body or political subdivision within the State of Oregon, subject to such restrictions, if any, imposed by deed or other legal instrument or otherwise imposed by State.
4. Pursuant to ORS 373.010 whenever the routing of any state highway passes through the corporate limits of any city, State may locate, relocate, reroute,

alter or change any routing when in its opinion the interests of the motoring public will be better served.

5. The State maintains a state route system to assist the motoring 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.
6. By agreement between the City and State, it is possible to eliminate from the state system a portion of the Camassia Valley Highway from MP 20.41 to MP 20.54 for the service of persons living thereon or for a community served thereby. For the purpose of providing acceptable traffic patterns on public highways, State and City plan and propose to eliminate from the state highway system a portion of the Camassia Valley Highway, hereinafter designated as Unit 1, described below and hereinafter referred to as Project.

**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. Subject to the provisions of this Agreement, State and City agree, conditioned upon approval by the Oregon Transportation Commission, that Unit 1 be eliminated as a portion of the Camassia Valley Highway and the state highway system; that the Unit pass to and vest in City; and that City maintain the Unit as a part of its city street system as long as needed for the service of persons living thereon or a community served thereby. If said right of way is no longer used for public street purposes, it shall automatically revert to State. The location of the project is approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof. This section of roadway will retain the State Route OR 200 designation.
2. This Agreement becomes effective on the date all required signatures are obtained. The agreement terminates upon acceptance and recording of the transfer document or two calendar years after the effective date of the agreement, whichever is earlier, unless otherwise extended or renewed by formal agreement of the Parties. The State shall pursue approval by the OTC or designee, and the actual transfer of property shall be accomplished by recording of the Jurisdictional Transfer Document.

**STATE OBLIGATIONS**

1. Upon adoption of a Resolution by the Oregon Transportation Commission or designee, and upon completion of construction of the East Main Street, MP

20.41 to MP 20.54 Section of the Camassia Valley Highway, providing for elimination of Unit 1, as hereafter defined, as a portion of the state highway system, and execution of a Jurisdictional Transfer Document, State shall formally eliminate Unit 1 as (a) portion of the Camassia Valley Highway and from the state highway system as shown in Exhibit A. All right, title, and interest of State, including all jurisdiction, maintenance, and control shall pass to and vest in City. If said right of way is no longer used for public street purposes, it shall automatically revert to State. Unit 1 is described as follows:

#### Unit 1

All land within the right of way boundaries of the Camassia Valley Highway, State Highway No. 63, as presently located, beginning at the northwesterly curb line of Third Street with East Main Street MP 20.41; thence southeasterly on East Main Street to MP 20.54, lying in sections, Township 40 South, Range 2 East, W.M., Whale County, Oregon.

2. State hereby relinquishes all maintenance and repair responsibilities and liability over Unit 1, and City hereby accepts all maintenance responsibility for Unit 1, upon execution of this agreement. This agreement shall remain in effect for the purpose of ongoing maintenance responsibilities for the useful life of the facilities referred to in this agreement.
3. State agrees to furnish City any maps, records, permits, and any other related data available that may be required to administer the Camassia Valley Highway.
4. State's Project Manager for this project is Mary S. Roadster; 500 Main Street; Oceania, OR 99222. 1-541-842-1000.

#### **CITY OBLIGATIONS**

1. City agrees to accept all of State's right, title and interest in Unit 1; to accept jurisdiction and control over the property, and to maintain the property as (a) portion(s) of its city street system as long as needed for the service of persons living thereon or a community served thereby. Any right-of-way being transferred in which State has any title shall be vested in City so long as used for public street purposes. If said right of way is no longer used for public street purposes, it shall automatically revert to State.
2. City is aware that title of Unit 1 will not be vested in City until the subsequent Jurisdictional Transfer Document is executed by State and recorded with the county in which the City is located. However, City agrees to accept all liability

and maintenance responsibilities, as described in Paragraph 2 of State Obligations, immediately upon execution of this agreement.

3. City shall return permit files, utility permit files, right of way maps and as-built files to State if any or a portion of Unit 1 reverts to the State, or in the event that the OTC or designee does not approve the transfer.

## **GENERAL PROVISIONS**

1. The properties above described are relinquished and transferred subject, however, to the rights of any utilities located within said properties and further subject to the rights of the owners of said existing facilities, if any there be, to operate, reconstruct, and maintain their utility facilities presently located within said properties.
2. This agreement may be terminated by mutual written consent of both Parties. State may terminate this agreement effective upon delivery of written notice to City, or at such later date as may be established by State, under any of the following conditions:
  - a. If City fails to provide services called for by this agreement within the time specified herein or any extension thereof.
  - b. If City 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 10 days or such longer period as State may authorize.
  - c. If OTC fails to adopt a resolution approving of the Jurisdictional Transfer of Unit 1 to City.
  - d. If State fails to receive funding, appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in the agreement.
  - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this agreement is prohibited or if State is prohibited from paying for such work from the planned funding source.

Any termination of this agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

3. If City fails to maintain facilities in accordance with the terms of this agreement, State, at its option, may maintain the facility and bill City, seek an injunction to enforce the duties and obligations of this agreement or take any other action allowed by law.
4. All employers, including State and City, 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. State and City shall ensure that each of its subcontractors complies with these requirements.
5. State and City 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 279.312, 279.314, 279.316, 279.320 and 279.555, which hereby are incorporated by reference. Without limiting the generality of the foregoing, State and City expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 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.
6. State and City acknowledge and agree that State, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of State and City which are directly pertinent to the specific agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT.
7. Each party hereby grants the other party authority to enter onto each other's right-of-way for the purpose of performing any required work or maintenance services.
8. 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.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

The Oregon Transportation Commission on February 13, 2002, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations when the work is related to a project included in the Statewide Transportation Improvement Program or a line item in the biennial budget approved by the Commission.

The Oregon Transportation Commission, on November 14, 2002, approved Delegation Order No. 3, which delegates the following responsibilities to the Director, Executive Deputy Director for Highways, and the Technical Services Manager/Chief Engineer: The authority to approve and execute all Department real property deeds, contracts, agreements, and other documents pertaining to real property transactions; approve and execute agreements abandoning or vacating State-owned right of way; and transferring State's interest in such right of way, when the property is not required for future State use.

Pursuant to a Letter of Authority dated February 22, 2002, the Technical Services Manager/Chief Engineer authorized the Right of Way Manager to approve and execute agreements abandoning ODOT-owned right of way when the property is not required for future State use.

The City of Waverly, by and through its City Officials.

STATE OF OREGON, by and through its Department of Transportation

By \_\_\_\_\_  
City of Waverly, TITLE ---

By \_\_\_\_\_  
Right of Way Manager

Date \_\_\_\_\_

Date \_\_\_\_\_

APPROVED AS TO LEGAL SUFFICIENCY

\_\_\_\_\_  
Assistant Attorney General

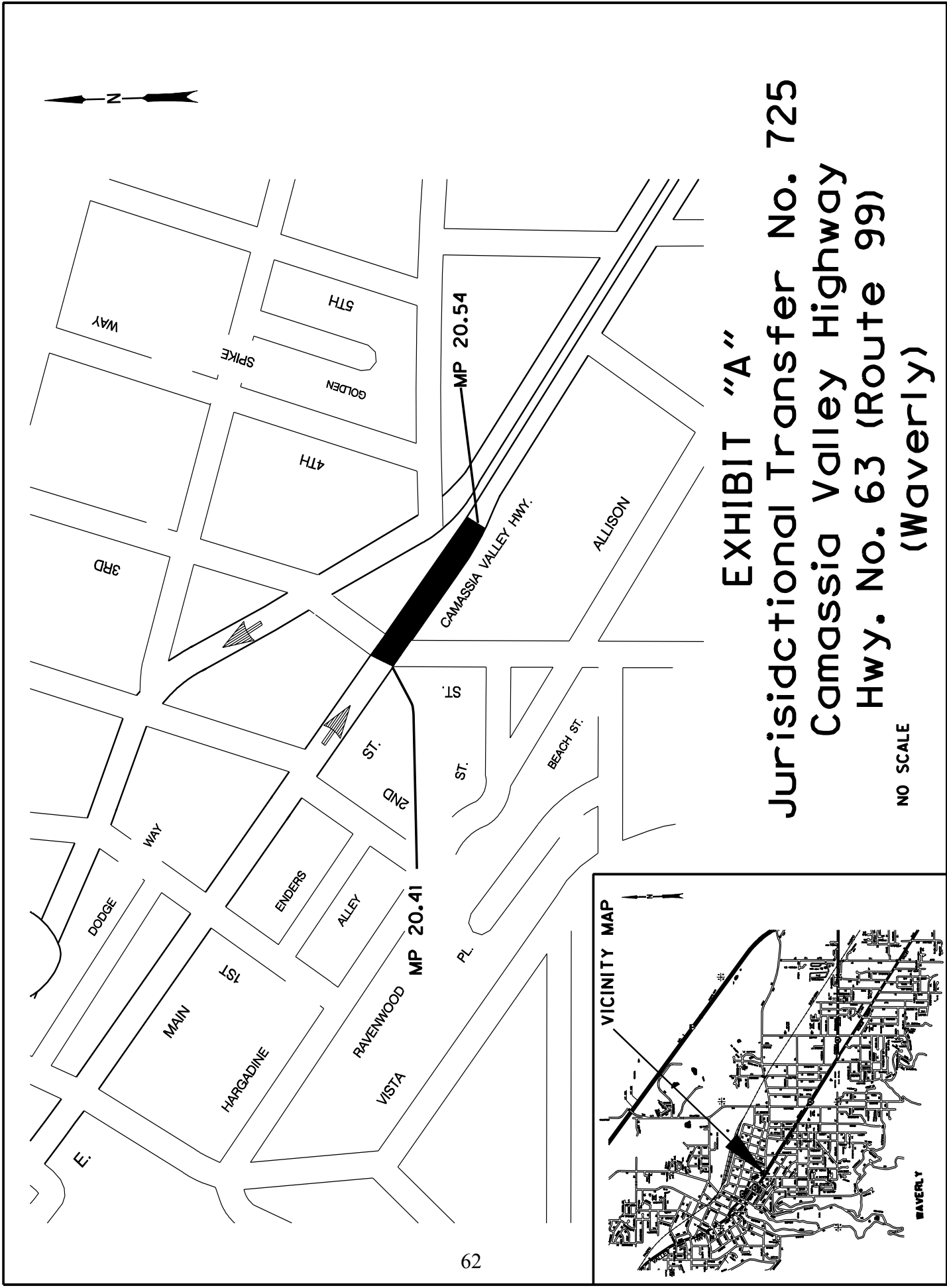
Date \_\_\_\_\_

APPROVAL RECOMMENDED

By \_\_\_\_\_  
Region Manager

Date \_\_\_\_\_

ATTACH EXHIBIT A: Jurisdictional Transfer Map



**EXHIBIT "A"**  
**Jurisdictional Transfer No. 725**  
**Camassia Valley Highway**  
**Hwy. No. 63 (Route 99)**  
**(Waverly)**

NO SCALE

**SAMPLE**  
RESOLUTION ELIMINATING A SECTION OF HIGHWAY FROM THE  
STATE HIGHWAY SYSTEM  
AND MINOR AMENDMENT TO THE OREGON HIGHWAY PLAN  
FOR A JURISDICTIONAL TRANSFER  
East Main Street, MP 20.41 to MP 20.54 Section  
Camassia Valley Highway  
City of Waverly

Pursuant to ORS 373.010, the Oregon Transportation Commission is authorized and directed, whenever the route of any state highway passes through the corporate limits of any city, to select or designate the streets of the city over which the state highway shall be routed, or change such routing when in its opinion the interests of the motoring public will be better served.

Pursuant to ORS 366.395, the State may transfer its interest to any of its property not needed by it for highway purposes to any other governmental body or political subdivision within the State of Oregon, subject to such restrictions, if any, imposed by deed or other legal instrument or otherwise imposed by State.

The East Main Street, MP 20.41 to MP 20.54 Section of the Camassia Valley Highway, State Highway No. 63, is no longer needed for state highway purposes and may be eliminated from the Camassia Valley Highway.

The segment(s) to be eliminated from the highway is/are designated as Unit(s) 1, as more fully described below, and as shown on the map attached hereto marked Exhibit A and by this reference made a part hereof. Unit(s) 1 is/are needed for the service of persons living thereon or for a community served thereby.

The Camassia Valley Highway No. 63 is a state highway under the jurisdiction and control of State. Camassia Valley Highway is also designated State Route OR 99. The State maintains a state route system to assist the motoring public in their travels. Designated routes may be composed of both state highways and local roads. Designation and elimination of state routes are under authority of the Oregon Transportation Commission.

The City of Waverly and the Oregon Transportation Commission entered into an agreement on \_\_\_\_\_, 20\_\_\_\_, relating to the elimination and disposition of Unit 1. Said agreement provides that the Oregon Transportation Commission



shall, by resolution, formally eliminate Unit 1 from the Camassia Valley Highway and the state highway system; that all right, title, and interest of the State of Oregon in Unit 1 shall be conveyed to the City; and that the unit(s) shall be maintained by the City as (a) portion(s) of its city street system as long as needed for the service of persons living thereon or for a community served thereby.

WHEREAS, the Oregon Transportation Commission and the City of Waverly have entered into an agreement on (date) to transfer Camassia Valley Highway, OR 63, MP 20.41 to MP 20.54 to City of Waverly; and

WHEREAS, the Oregon Transportation Commission (Commission) has found that this highway segment is no longer needed as a portion of the state highway system; and

WHEREAS, the 1999 Oregon Highway Plan is the highway element of the state transportation system plan required by Section 1204 of the Transportation Equity Act for the 21<sup>st</sup> Century, ORS 184.618(1), and the state Transportation Planning Rule. It is a statement of state policy adopted by the Transportation Commission and serves as the Highway Modal System Plan for the State of Oregon. The description of the state highway system and assigned function of each state highway is part of the Oregon Highway Plan. Since a jurisdictional transfer involves a change to the highway system, the Oregon Highway Plan requires an amendment to reflect the current state highway system.

In accordance with Oregon Highway Plan Policy 2C, Interjurisdictional Transfers, the Oregon Transportation Commission finds the following:

1. This segment of highway is classified as a District Highway in the Oregon Highway Plan. The purpose of District Highways is to provide connections and links between small urbanized areas, rural centers and urban hubs and serve local access and traffic. Highway Plan Action 2C.1 states that urban arterials serving primarily local travel needs may be considered for jurisdictional transfer. About 90% of the traffic on Camassia Valley Highway serves local travel needs. Since through traffic is served on nearby Oceanic Drive, the Oregon Transportation Commission finds that this segment of Camassia Valley Highway is no longer needed to meet the functional needs of the state system.
2. This transfer was part of x project in the 20XX-20XX STIP, which was subject to public comment and approved by the Oregon Transportation Commission.
3. Notice of the transfer was emailed to the Department of Land Conservation and Development on \_\_\_\_\_.

4. Both the City and the Oregon Department of Transportation agreed in writing to the transfer.
5. The intergovernmental agreement with the City addresses access rights, access management controls, roadway conditions, compensation, and maintenance and operational standards as necessary.
6. This transfer is consistent with the State Agency Coordination Rule OAR Chapter 731, Division 15. This transfer is a minor amendment to the Highway Plan since the change transfers jurisdiction of the facility without changing the functional classification of the roadway.

THEREFORE, IT IS HEREBY RESOLVED BY THIS COMMISSION AS FOLLOWS:

1. The East Main Street, MP 20.41 to MP 20.54 section of the Camassia Valley Highway, State Highway No. 63, in Whale County, Oregon, is no longer needed by the State of Oregon as (a) portion(s) of the state highway system. Said portion(s) hereinafter referred to as Unit(s) 1 is/are duly eliminated from the Camassia Valley Highway and the state highway system.

Unit(s) 1 is/are described as follows:

Unit 1

All land within the right-of-way boundaries of the Camassia Valley Highway, State Highway No. 63, as presently located, beginning at the northwesterly curb line of Third Street with East Main Street at MP 20.41; thence southeasterly on East Main Street to MP 20.54, lying in Sections 20, Township 40 South, Range 2 East, W.M., Whale County, Oregon.

All right, title, and interest of the State of Oregon in Unit(s) 1 passes to and vests in City as (a) portions(s) of its city street system as long as needed for the service of persons living thereon or a community served thereby. If said right-of-way is no longer used for public road purposes, it shall automatically revert to State. A separate Jurisdictional Transfer Document shall be recorded to effect this transfer.

2. In recognition of the benefits to the motoring public, Unit 1 will retain the State Route OR 99 designation.
3. The property above described is transferred subject to the rights of any utilities located within said property and further subject to the rights of the owners of said existing facilities if any there be, to operate, reconstruct, and maintain their utility facilities presently located within said property.

4. The right-of-way of the existing East Main Street, MP 20.41 to MP 20.54 Section of the Camassia Valley Highway and that real property acquired by the State of Oregon, shown as "TO BE RETAINED BY STATE" on Exhibit A is needed for right-of-way and other public purposes, and therefore, this Commission hereby declares and orders that possession of and title to all the land or area shown as "TO BE RETAINED BY STATE" on Exhibit A shall be retained and held by the State of Oregon, by and through its Transportation Commission.

NOW, THEREFORE, under the authority delegated by the Oregon Transportation Commission to the Director in Delegation Order No. 2 dated February 13, 2002, this Resolution and Amendment is hereby approved.

Signed

Dated

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Bruce A. Warner

Director of Oregon Department of Transportation

ATTACH EXHIBIT A: JURISDICTIONAL TRANSFER MAP

**SAMPLE**  
JURISDICTIONAL TRANSFER DOCUMENT  
East Main Street Section, MP 20.41 to MP 20.54  
Camassia Valley Highway  
City of Waverly

Pursuant to ORS 373.010, the Oregon Transportation Commission is authorized and directed, whenever the route of any state highway passes through the corporate limits of any city, to select or designate the streets of the city over which the state highway shall be routed, or change such routing when in its opinion the interests of the motoring public will be better served.

Pursuant to ORS Chapters 366.395 and 373.015, the State may transfer its interest to any of its property not needed by it for highway purposes to any other governmental body or political subdivision within the State of Oregon, subject to such restrictions, if any, imposed by deed or other legal instrument or otherwise imposed by State.

Pursuant to ORS 190.110 and ORS 366.775, the State may enter into any agreement with any city for the relocation of any highway.

(A) portion(s) of the highway is/are no longer needed for state highway purposes and has been eliminated by departmental resolution as (a) portion(s) of the Camassia Valley Highway. The segment(s) eliminated from the highway is/are designated as Unit 1, as more fully described below, and as shown on the map attached hereto marked Exhibit A and by this reference made a part hereof. Unit 1 is/are needed for the service of persons living thereon or for a community served thereby.

The City of Waverly and the Oregon Transportation Commission entered into an agreement on \_\_\_\_\_, 20\_\_\_\_, relating to the elimination, disposition, maintenance and repair of Unit 1. Said agreement provides that the Oregon Transportation Commission shall, by resolution, formally eliminate Unit 1 as (a) portion(s) of the Camassia Valley Highway and the state highway system; that all right, title, and interest of the State of Oregon in Unit 1 shall be conveyed to the City; and that the unit(s) shall be maintained by the City as (a) portion(s) of its city street system as long as needed for the service of persons living thereon or for a community served thereby.

THEREFORE, IT HAS BEEN RESOLVED BY THE OREGON  
TRANSPORTATION COMMISSION AS FOLLOWS:

1. A portion of the former route of the highway system is no longer needed by the State of Oregon as a portion of the state highway system. Said portion(s) hereinafter referred to as Unit 1 have been duly eliminated as (a) portion(s) of the Camassia Valley Highway and the state highway system. All right, title, and interest of the State of Oregon in Unit 1 hereby passes to and vests in the City of Waverly as (a) portion(s) of its city street system as long as needed for the service of persons living thereon or a community served thereby.

Any right-of-way being conveyed in which state has any title shall be vested in City only so long as used for public road purposes. If said right-of-way is no longer used for public road purposes, it shall automatically revert to State.

Unit(s) 1 is/are described as follows:

#### Unit 1

All land within the right-of-way boundaries of the Camassia Valley Highway, State Highway No. 63, as presently located, beginning at the northwesterly curb line of Third Street with East Main Street at MP 20.41; thence southeasterly on East Main Street to MP 20.54, lying in Sections 20, Township 40 South, Range 2 East, W.M., Whale County, Oregon.

2. The property above described is transferred subject to the rights of any utilities located within said property and further subject to the rights of the owners of said existing facilities if any there be, to operate, reconstruct, and maintain their utility facilities presently located within said property.
3. The right-of-way of the existing East Main Street, MP 20.41 to MP 20.54 Section of the Camassia Valley Highway and that real property acquired by the State of Oregon, shown as "TO BE RETAINED BY STATE" on Exhibit A is needed for right-of-way and other public purposes, and therefore, this Commission hereby declares and orders that possession of and title to all the land or area shown as "TO BE RETAINED BY STATE" on Exhibit A shall be retained and held by the State of Oregon, by and through its Transportation Commission.

Under the authority delegated by the Oregon Transportation Commission to the Director in Delegation Order No. 2 dated February 13, 2002, the Jurisdictional Transfer Resolution and Amendment No. \_\_\_\_ were approved on \_\_\_\_\_.

The Oregon Transportation Commission, by a duly adopted Delegation Order No. 3, dated March 18, 1999, and Sub-delegation Order No. 4, dated March 18, 1999, and Letter of Authority paragraph No.13, dated January 18, 1999, authorize the Right of Way Manager to sign this Jurisdictional Transfer Document for and on behalf of the Commission.

By \_\_\_\_\_  
Deolinda G. Jones, Right of Way Manager

Date: \_\_\_\_\_

STATE OF OREGON, County of Marion

Dated \_\_\_\_\_, 20\_\_\_. Personally appeared Deolinda G. Jones, who being sworn, stated that she is the Right of Way Manager for the State of Oregon, Department of Transportation, and that this document accurately reflects action taken by the Oregon Transportation Commission. Before me:

\_\_\_\_\_  
Notary Public for Oregon

My Commission expires \_\_\_\_\_

Accepted on behalf of the City of \_\_\_\_\_

By \_\_\_\_\_

ATTACH EXHIBIT A: JURISDICTIONAL TRANSFER MAP