



Transferring

A Handbook For Making Jurisdictional Transfers

Roads

OREGON DEPARTMENT OF TRANSPORTATION

June 2003



Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation

Office of the Director

355 Capitol St. NE

Rm 135

Salem, Oregon 97301-3871

September 2002

FILE CODE:

Dear Handbook Reader:

The purpose of *Transferring Roads* is to lay out the issues and clarify the process for the transfer of a highway or roadway from one jurisdiction to another. Whether the roadway is part of the state system or local system is a question about who is more appropriate to manage and operate it. The state highway system mainly serves interstate, intercity and regional traffic. The focus of cities and counties is mainly on the roads in their own communities.

It is appropriate to transfer the jurisdiction of a highway from the state to a city or county when the highway's function or management objectives are more aligned with local functions. A new highway route may bypass the old highway that goes through a downtown, and so the function of the old highway changes to one of serving local traffic. A city may decide that it wants to use city standards for operations and maintenance of the highway that goes through the community. A transfer agreement matches the responsibility for the roadway with the appropriate jurisdiction.

The transfer should be a plus for all the parties involved. The purpose of the highway system is to serve the public, and the value of the asset belongs to the public. So the terms of the agreement come down what is the best way to transfer the responsibilities from one public entity to another—what is equitable for each of the parties.

Making a transfer can be complex. That is why this handbook was developed. It focuses on ODOT issues and procedures, but it may be useful for local governments. My hope is that the handbook will simplify and speed up the transfer process for all involved.

Bruce A. Warner
Director



FOREWORD

The purpose of this handbook is to clarify the issues and the process in a jurisdictional transfer. It focuses mainly on internal ODOT processes. The aim is to get the issues on the table for consideration so that the relevant issues are part of the negotiation and agreement process between ODOT and local governments.

Sections of the handbook include the following:

- Reasons for transferring roads
- Criteria for choosing roads to transfer
- Roles and responsibilities for the transfer within ODOT
- The legal process
- Issues in the transfer negotiations
- Consideration and options for compensation
- Changing highway route numbers
- The transfer agreement and resolution process
- Samples of transfer agreement and resolution documents
- Relevant Oregon statutes
- Case studies

The internally adopted ODOT Policy and Procedures for transfers are in Appendix A.

Because transfer agreements go through both local and state processes and a number of approvals are involved, transfer agreements can take months or even years. When a highway route moves to a new alignment (such as moving US 97 from the Third Street alignment in Bend to the Bend Parkway), the highway route designation process also has to be completed. If the transfer agreement process will take a long time, then the highway route designation process should be separated from the jurisdictional transfer process so that ODOT databases can recognize the traffic activity on the new alignment. ODOT Regions may initiate this process in an action separate from the transfer process.

If you have questions about the transfer process, please contact the Region Agreement Coordinator in your ODOT Region, the Region Right of Way office, or the Construction Contracts and Agreements Section in Salem.

Carolyn Gassaway
Oregon Highway Plan Manager

TABLE OF CONTENTS

| <u>Section</u> | <u>Page</u> |
|---|--------------------|
| <u>Overview</u> | 1 |
| The State Highway System | 1 |
| <u>Why Transfer Roads</u> | 3 |
| <u>Candidates for Interjurisdictional Transfers</u> | 4 |
| Transfers to Local Jurisdictions | 4 |
| Transfers to the State System | 5 |
| <u>Deciding Whether to Transfer a Highway</u> | 6 |
| Initiating the Process | 6 |
| Issues in the Decision | 6 |
| Making the Decision | 8 |
| <u>Roles and Responsibilities for the Transfer within ODOT</u> | 9 |
| The Region | 9 |
| Financial Services | 9 |
| Support Services – Construction Contracts and Agreements Section | 9 |
| Technical Services in the Highway Division | 10 |
| Transportation Development Division | 10 |
| <u>The Legal Process</u> | 11 |
| Oregon Statutory Authority for Jurisdictional Transfers | 11 |
| Ownership of the Highway System | 12 |
| Overview of the Formal Transfer Process | 12 |
| Excess/Surplus Property Procedures | 13 |
| Changes to the Oregon Highway Plan | 14 |
| <u>Issues in the Negotiations</u> | 16 |
| Ownership of the Right of Way | 16 |
| Access Controls | 16 |
| Existing Permits, Encumbrances and Agreements | 17 |
| Highway Condition and Maintenance | 18 |
| Highway Improvements and Design Standards | 18 |
| Outdoor Advertising | 19 |
| Rail Crossings | 20 |
| Route Designation and Signs | 20 |
| Surplus Property | 20 |
| Traffic Signals and Illumination | 21 |

| | |
|---|-----------|
| <u>Consideration and Options for Compensation</u> | 22 |
| Economic Valuation: Use of the Cost/Benefit Analysis | 22 |
| “Other” Value: Cost and Benefits beyond Economic Measures | 24 |
| Creativity | 25 |
| <u>Completing the Process</u> | 26 |
| Tracking the Changes | 26 |
| Consistency of Route Numbers and Signs | 26 |
| <u>Checklist for Transfers</u> | 28 |
| <u>Diagram for Transfer Process and Decision-making</u> | 30 |
| | |
| <u>APPENDICES</u> | 33 |
| | |
| <u>Appendix A: Right of Way Policy and Procedures:</u> | 35 |
| Purpose | 35 |
| Background | 35 |
| Definitions | 37 |
| Part A: Jurisdictional Transfer Agreements: Procedures for Processing Agreements Involving Jurisdictional Transfer of Highway Sections That Are to be Eliminated from the State Highway System | 40 |
| Part B: Documents to Complete Terms of Jurisdictional Transfer Agreement | 46 |
| Attachment A: Guidelines for Descriptions for Jurisdictional Transfer Agreements | 50 |
| Attachment B: Guidelines for Exhibit Maps for Jurisdictional Transfers | 52 |
| Attachment C: Summary of Delegated Authority for Jurisdictional Transfer Agreements and Highway Plan Amendments | 54 |
| | |
| <u>Appendix B: Sample Agreement, Resolution and Jurisdictional Transfer Document</u> | 56 |
| Sample Jurisdictional Transfer Agreement | 56 |
| Sample Resolution Eliminating a Section of Highway from State Highway System and Minor Amendment to the Oregon Highway Plan for a Jurisdictional Transfer | 63 |
| Sample Jurisdictional Transfer Document | 67 |
| | |
| <u>Appendix C: Relevant Oregon Statutes</u> | 70 |
| | |
| <u>Appendix D: Case Studies</u> | 74 |