

W. 10. E. 1.

Memorandum Date: November 28, 2006
Order Date: December 13, 2006

TO: Board of County Commissioners

DEPARTMENT: Public Works

PRESENTED BY: Frank Simas, Right of Way Manager

AGENDA ITEM TITLE: IN THE MATTER OF AMENDING AN AGREEMENT WITH THE OREGON STATE DEPARTMENT OF TRANSPORTATION (ODOT) TO ISSUE CONTINUOUS OPERATION VARIANCE PERMITS AND AUTHORIZING THE COUNTY ADMINISTRATOR TO SIGN THE AMENDED AGREEMENT.

I. MOTION

That Order be approved authorizing the County Administrator to sign the amended agreement to issue Continuous Operation Variance Permits.

II. AGENDA ITEM SUMMARY

The State of Oregon has requested that the County sign the Amendment to the Agreement to Issue Continuous Operation Variance Permits to extend the Agreement to December 31, 2009.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

The Continuous Operation Variance Permit Program (COVP) was authorized by the Oregon Legislature in 1999. To implement the program the State and counties agreed to allow the issuance of annual permits for oversize and overweight load meeting specified limits for certain types of haulers within the state allowing travel on both state highways and county roads. The Permits are issued by ODOT as well as third party agents, one of which is Lane County.

By Order 00-5-31-12, the Board approved participation in the Continuous Operation Variance Permits Program at Level 3 and authorized the County Administrator to sign the Memorandum of Understanding and the Agreement to Participate.

By Order 02-10-16-11, the Board authorized the County Administrator to sign a revised Memorandum of Understanding and Agreement to Participate. These revisions were made by the State of Oregon to the original agreement and included a revision of Section 7.5 to extend the agreement to December 31, 2005.

Pursuant to the authority granted under LM 21.145(1)(b), the County Administrator signed an amended agreement on December 20, 2005, extending the Agreement to December 31, 2006.

ODOT has requested that the County sign the Amendment attached hereto and identified as "Attachment 1". This amendment extends the agreement to December 31, 2009.

B. Policy Issues

None known.

C. Board Goals

This project is related to the County Goal of "Contributing to appropriate community development in the area of transportation and telecommunications infrastructure, housing growth management and land development" and protection of the public infrastructure.

D. Financial and/or Resource Considerations

There will be no significant impact to County participation or fiscal commitment associated with the continuous operation variance permits. The Road Fund receives approximately \$50,000 per year in revenue from permit fees to help offset the cost of the program.

E. Analysis

The revised termination date extends the termination of the Agreement to December 31, 2009.

F. Alternatives/Options

1. Authorize signing of the amended agreement.
2. Reject the amended agreement.

IV. TIMING/IMPLEMENTATION

In order to ensure timely execution, the State has asked that the signed

agreements be returned as soon as possible.

V. RECOMMENDATION

Option 1.

VI. FOLLOW-UP

Upon approval by the Board, the agreement will be processed for signature by the County Administrator.

VII. ATTACHMENTS

Attachment 1-Amended Agreement

**IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON**

ORDER NO.

(IN THE MATTER OF AMENDING AN
(AGREEMENT WITH THE OREGON STATE
(DEPARTMENT OF TRANSPORTATION
(ODOT) TO ISSUE CONTINUOUS
(OPERATION VARIANCE PERMITS AND
(AUTHORIZING THE COUNTY
(ADMINISTRATOR TO SIGN THE AMENDED
(AGREEMENT

WHEREAS, pursuant to Order No. 00-5-31-12, Lane County entered into an agreement with the State of Oregon to issue Continuous Operation Variance Permits and granted the County Administrator authority to sign the Memorandum of Understanding and the Agreement to Participate, plus any other necessary documents; and

WHEREAS, Board Order No 02-10-16-11 granted the County Administrator authority to sign an revised Agreement as requested by the State of Oregon including renewing the Agreement to December 31, 2005; and

WHEREAS, on December 20, 2005 the County Administrator signed a revised Agreement as requested by the State of Oregon, extending the Agreement to December 31, 2006; and

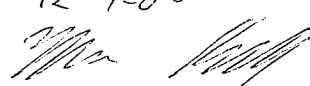
WHEREAS, the Oregon Department of Transportation (ODOT) and Lane County wish to amend the agreement to extend the term to December 31, 2009; NOW THEREFORE

IT IS HEREBY ORDERED to amend the Agreement with ODOT to issue Continuous Operation Variance Permits; and

IT IS FURTHER ORDERED that the County Administrator be authorized to sign the amended Agreement.

DATED this _____ day of _____, _____.

Chair,
Lane County Board of Commissioners

12-4-06


AMENDMENT NO. 2

The State of Oregon, acting by and through its Department of Transportation, hereinafter referred to as "State", and Lane County, acting by and through its County Commissioners hereinafter referred to as "County", entered into an Agreement on December 12, 2002. Said Agreement covers Continuous Operation Variance Permits with County Road Authority.

It has now been determined by State and County that the Agreement referenced above, although remaining in full force and effect, shall be amended to extend the termination date.

Paragraph 7.5 of Agreement to Issue Continuous Operation Variance Permits, which reads as amended by Amendment 1:

This Agreement shall become effective on the date it has been signed by every party hereto and, when required, approved by the Department of Justice. Unless terminated or extended, this Agreement shall expire at 12 p.m. on December 31, 2006. This Agreement may be terminated earlier by mutual written consent of the parties. Further, either party may, at its sole discretion, terminate this Agreement upon 30 days written notice to the other party.

Shall be amended to read:

This Agreement shall become effective on the date it has been signed by every party hereto and, when required, approved by the Department of Justice. Unless terminated or extended, this Agreement shall expire at 12 p.m. on December 31, 2009. This Agreement may be terminated earlier by mutual written consent of the parties. Further, either party may, at its sole discretion, terminate this Agreement upon 30 days written notice to the other party.

This amendment may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this amendment so executed shall constitute an original.

Except as expressly amended above, all other terms and conditions of the Agreement are still in full force and effect. The Parties certify that the representations, warranties and certifications contained in the original Agreement are true and correct as of the effective date of this amendment and with the same effect as though made at the time of this amendment.

County/State
Agreement No. 23074

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

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 Project.

On March 18, 2004, the Director approved Sub-delegation Order No. 6, in which the Director delegates authority to the Division Administrator, Motor Carrier Transportation to approve and execute agreements over \$75,000 for programs within the Motor Carrier Transportation Division 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 or in a line item in the legislatively adopted biennial budget.

Lane County, by and through its governing body

STATE OF OREGON, by and through its Department of Transportation

By _____

By _____

Date _____

Date _____

By _____

APPROVAL RECOMMENDED

By _____

Date _____

Date _____

By _____

Date _____

ATTACHMENT 1