Memorandum of Agreement

US 93

Evaro to Polson

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December 20, 2000

WHEREAS, the Montana Department of Transportation has proposed to improve U.S. Highway 93 (US-93) for a distance of 56.3 miles, from Evaro to Polson;

WHEREAS, all but a one-half mile segment at the southern end of the proposed project is located within the Flathead Indian Reservation, the homeland of the Confederated Salish and Kootenai Tribes;

WHEREAS, the Federal Highway Administration (FHWA), the Montana Department of Transportation (MDT), and the Confederated Salish and Kootenai Tribes (CSKT), collectively, the PARTIES, on June 17,1996 prepared a Final Environmental Impact Statement (FEIS) and Section 4(f) Evaluation to describe the proposed project, alternatives, and the social, economic and environmental impacts;

WHEREAS, FHWA issued a Record of Decision (ROD) on August 12, 1996, modified on February 9, 1998, which selected the existing alignment for improvement throughout the length of the proposed project, the preservation of a corridor bypassing Ronan (Ronan Alignment 4), and the implementation of right-of-way acquisition and access control; but which deferred making a decision on lane configurations, corridor preservation for an Arlee bypass, corridor preservation for the construction of a Polson bypass, mitigation measures, and a Section 4(f) determination until the PARTIES agreed on lane configurations, design features, and mitigation measures;

WHEREAS, representatives of the PARTIES have continued to meet to discuss lane configurations, design features, mitigation measures, and social, economic, cultural, and environmental impacts;

ACCORDINGLY, the PARTIES agree to the following:

1. The PARTIES' preferred conceptual roadway improvements, including lane configurations, design features, and mitigation measures for 30.8 miles of the proposed project located between Evaro and the US-93 / Red Horn Road / Dublin Gulch Road intersection near St. Ignatius and for 10.6 miles of the proposed project located between the US-93 / Spring Creek Road / Baptiste Road intersection near Ronan and the US-93 / MT 35 intersection near Polson, are as described in the following attached exhibits which are incorporated by reference into this Agreement:

    A. Landscape Architects Design and Alignment Concepts
    B. Design Guidelines and Recommendations
    C. Traffic Operational and Safety Report
    D. Wildlife Crossings Workbook
    E. Design Components Workbook

2. The PARTIES will prepare a Supplemental Environmental Impact Statement (SEIS) to explore alternative roadway alignments and to evaluate new circumstances and information relevant to environmental concerns for 11.2 miles of the proposed project between the US-93 Red Horn Road / Dublin Gulch Road intersection and the US-93 / Spring Creek / Baptiste Road intersection north of Ronan.

3. The PARTIES will reevaluate the environmental impacts of the preferred conceptual roadway improvements to determine whether there are any other changes, new circumstances, or new information that would result in significant environmental impacts that were not evaluated in the Final EIS.

4. The PARTIES will continue to work cooperatively in order to achieve physical construction of improvements to US-93 that meet the needs of each party government and that are in the best interest of the traveling public, the residents of the Flathead Indian Reservation, and the members of CSKT. This will include continuing to work together to determine the appropriate improvement project applicable for US-93 from the US-93 / MT 35 intersection north 3.7 miles through Polson to near the US-93 / Rocky Point Road intersection.

5. This cooperative work effort will be performed:

   A. Under the direction of a Project Oversight Group (POG) that is hereby established jointly by the PARTIES. The POG consists of those representatives appointed by each respective party. The POG's purpose is to establish and maintain policy for the environmental and design phases of the US-93 Evaro to Polson Project and to direct the consultants and staff of each party in their joint efforts toward performing attendant environmental and design work. The POG will meet on an as-needed basis, but not less than quarterly. The POG will render decisions by consensus.

   B. By the Technical Design Committee (TDC) that is hereby established jointly by the PARTIES. The TDC consists of three permanent representatives, one appointed by each party, and of temporary representatives that may from time to time be invited to participate by the TDC's permanent representatives. The TDC shall invite a temporary representative, who is a duly authorized representative of Missoula County, Lake County, the City of St. Ignatius, the City of Ronan, the City of Polson, the Montana Department of Fish, Wildlife, and Parks, or the U.S. Fish and Wildlife Service, to join the TDC when the TDC considers development of US-93 improvements that will have direct physical impacts on the jurisdictional property of that respective government. The TDC's purpose is to oversee the development of the PARTIES' preferred conceptual roadway improvements into technical plans for construction. The TDC will act on behalf of, and under the guidance of the POG. The TDC will meet on an as-needed basis. The TDC will render decisions by consensus for all issues, however, when the TDC members can not attain consensus, then the unresolved issue will be elevated to the POG for resolution. The TDC will be assisted in its work by party consultants.

   C. In consultation with other governmental agencies with jurisdiction over property and / or resources that may be impacted by the physical construction of improvements to US-93. Such governmental agencies include, but are not

limited to the: U.S. Department of the Interior - Bureau of Indian Affairs, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, Missoula County, Lake County, City of St. Ignatius, City of Ronan, and City of Polson.

6. The PARTIES intend that this Agreement be consistent with and subject to all laws, rules, and / or regulations governing FHWA, MDT and CSKT. If anything herein is inconsistent with such laws, rules, and / or regulations, then said laws, rules, and / or regulations shall control.

7. Notice and Official Representatives:

   A. FHWA Representative: Dale Paulson, Program Development Engineer, or his successor, is the FHWA representative for all notices and communications regarding this Agreement.

   B. MDT Representative: Loran Frazier, Missoula District Administrator, or his successor, is the MDT representative for all notices and communications regarding this Agreement.

   C. Tribal Representative: Joe Hovenkotter, Tribal Staff Attorney, or his successor, is the CSKT point of contact for all notices and communications regarding this Agreement.

8. This Agreement shall become effective on December 20, 2000 and shall remain in effect until terminated. The Agreement may be revised or amended by written consent of the PARTIES. This Agreement may be terminated by any one party upon giving a thirty-day written notice to each of the other two PARTIES.

Janice Weingart Brown — 12-20-00
Janice Weingart Brown
FHWA - Montana Division Administrator
Date

Marvin Dye — 12/20/00
Marvin Dye
MDT - Director (Incumbent)
Date

David Galt — 12/20/00
David Galt
MDT – Director (Designee)
Date

D. Fred Matt — 12/20/00
D. Fred Matt
CSKT - Chairman, Tribal Council
Date

THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION

MDT

FHWA