

Contract Review Sheet

Intergovernmental Agreement

PW-4391-21 - Am1

Title: ODOT 35121 - State Street: 4106 State Street to 46th Avenue improvements P.E and ROW funds

Contractor's Name: Oregon Department of Transportation

Department: Public Works Department

Contact: Janet Wilson

Analyst: Kathleen George

Phone #: (503) 566-4139

Term - Date From: Execution

Expires: November 18, 2031

Original Contract Amount: \$ 717,840.00

Previous Amendments Amount: \$ -

Current Amendment: \$ 6,249,999.58

New Contract Total: \$ 6,967,839.58

Amd% 871%

Incoming Funds Federal Funds Reinstatement Retroactive Amendment greater than 25%

Source Selection Method: 50-0010 General Exemptions (IGAs and QRFs)

Description of Services or Grant Award

Intergovernmental Agreement with ODOT for the provision of federal funds for the PE and ROW phases of the State St: 4106 State St. to 46th Ave. improvement project. The total estimated cost for the preliminary and right of way phases is \$800,000 of which \$717,840 will be paid for with federal funds. Marion County will provide the required matching funds. SKATS (Salem-Keizer Area Transportation Study) has committed to programming the construction phase funds in the upcoming 2024-2027 STIP (Statewide Transportation Improvement Program) cycle.

Amendment 1 amends the agreement to include right of way (ROW) services, updates language, and includes the Construction phase and associated funding for the Construction phase. The amended total estimated cost for the preliminary and right of way phases is \$9,061,672 of which \$6,967,839.58 will be paid for with federal funds. Marion County will provide the required matching funds.

Desired BOC Session Date: 3/4/2026

Contract should be in DocuSign by: 2/11/2026

Agenda Planning Date: 2/19/2026

Printed packets due in Finance: 2/17/2026


Management Update: 2/17/2026


BOC upload / Board Session email: 2/18/2026

BOC Session Presenter(s) Ryan Crowther


Code: Y

REQUIRED APPROVALS


DocuSigned by:

A9580E7AE6704F4...
2/10/2026
Date

Signed by:

68C99A6F700240D...
2/10/2026
Date

Legal Counsel

DocuSigned by:

47A7913210E34EA...
2/11/2026
Date

Contract Specialist

DocuSigned by:

DC16351248DE4EC...
2/10/2026
Date

Chief Administrative Officer



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: 03/04/2026

Department: Public Works

Title: State St: 4106 State St to 46th Ave- Amendment 01 to Supplemental Project Agreement No. 35121 and Resolution of Condemnation

Management Update/Work Session Date: 02/3/2026 Audio/Visual aids

Time Required: 5 minutes Contact: Shane Ottosen Phone: 503-365-3104

Requested Action: Approve Amendment No. 01 to Supplemental Project Agreement No. 35121 between ODOT and Marion County and adopt a Resolution of Condemnation (Resolution of Need) for the State Street: 4106 State Street to 46th Ave project, increasing federal funds by \$6,249,999.58, from \$717,840.00 to \$6,967,839.58.

Issue, Description & Background: In October of 2021, the Board of Commissioners signed Supplemental Project Agreement No. 35121 with ODOT for a federal grant to provide preliminary engineering and right-of-way phases for the first-phase of improvements on State Street NE from 4106 State Street to 46th Avenue.

Amendment No. 01 increases the total estimated Project cost from \$800,000.00 to \$9,061,672.00 and increases the total federal funding amount for the Project from \$717,840.00 to \$6,967,839.58 to include the construction phase of the project. This amendment also includes the Resolution of Condemnation, which is required by ODOT prior to the commencement of right-of-way negotiations. No condemnation proceedings are anticipated at this time.

Financial Impacts: The total project cost is \$9,061,672.00 of which \$6,967,839.58 is paid with federal funds. Marion County is providing the matching funds through a combination of staff time donation and cash match.

Impacts to Department & External Agencies: Entering into this agreement does not directly impact any other Marion County departments. The project will benefit the public at large by providing needed roadway facilities in a very busy neighborhood and school area.

List of attachments: Amendment 01 to Supplemental Project Agreement No. 35121 and Resolution of Condemnation with attached right-of-way exhibit

Presenter: Ryan Crowther

Department Head Signature: Brian Nicholas Digitally signed by Brian Nicholas Date: 2026.01.21 07:05:11 -08'00'

AMENDMENT NUMBER 01
LOCAL AGENCY CERTIFICATION PROGRAM
Supplemental Project Agreement

Project Name: State Street: 4106 State Street to 46th Avenue
Marion County

This is Amendment No. 01 to the Agreement between the **State of Oregon**, acting by and through its Department of Transportation, hereinafter referred to as "State" or "ODOT," and **MARION COUNTY**, acting by and through its elected officials, hereinafter referred to as "Agency," entered into on November 18, 2021.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to include right of way services by attaching Exhibit C, update language, and include the Construction phase and associated funding for the Construction phase.

1. **Effective Date.** This Amendment shall become effective on the date it is fully executed and approved as required by applicable law.

2. **Amendment to Agreement.**

a. **Exhibit B shall be deleted in its entirety and replaced with the attached Revised Exhibit B. All references to "Exhibit B" shall hereinafter be referred to as "Revised Exhibit B." The requirement to comply with the terms and conditions of Revised Exhibit B shall be effective upon execution of this Amendment.**

b. **TERMS OF AGREEMENT, Paragraphs 1, 2, and 3, Page 2, which read:**

1. Under such authority, State and Agency agree to Agency delivering the Preliminary Engineering and Right of Way phases for the future construction of the State Street: 4106 State Street to 46th Avenue project, hereinafter referred to as "Project." Project includes the Preliminary Engineering and Right of Way phases for the future construction of a center turn lane, bike lanes and sidewalks to improve pedestrian safety. The location of the Project is shown on the sketch map attached hereto, marked "Exhibit A," and by this reference made a part hereof.

2. The total Project cost for the Preliminary Engineering and Right of Way phases is estimated at \$800,000, which is subject to change. Federal funds for these Project phases shall be limited to \$717,840. Agency shall be responsible for all remaining costs, including any non-participating costs, all costs in excess of the federal or state funds, and the 10.27 percent match for all eligible costs. Any unused federal or state funds obligated to this Project will not be paid out by State, and will not be available for use by Agency for this Agreement or any other projects. "Total Project Cost" means the cost to complete the entire Project, and includes any federal funds, state funds, local matching funds, and

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any other funds. Agency will report the final cost of each phase of the Project at the completion of each phase, as well as the Total Project Cost at the end of the Project if Agreement is amended to include the Construction phase of the Project, to the ODOT Regional Local Agency Liaison.

3. Parties also anticipate Agency delivering the Construction phase of the Project. Upon full funding and the addition of the Construction phase to the Project in the Statewide Transportation Improvement Program (STIP), this Agreement will be amended to include Construction phase work, and add the Construction phase costs. If the Parties do not amend this Agreement to add Construction phase work, the construction and maintenance provisions in this Agreement will not apply.

Shall be deleted in its entirety and replaced with the following:

1. Under such authority, State and Agency agree to delivering the State Street: 4106 State Street to 46th Avenue project, hereinafter referred to as "Project." Project includes the Preliminary Engineering, Right of Way and Construction phases for the construction of a center turn lane, bike lanes and sidewalks to improve pedestrian safety. The location of the Project is shown on the sketch map attached hereto, marked "Exhibit A," and by this reference made a part hereof.
2. The total Project cost is estimated at \$9,061,672.00 which is subject to change. Federal funds for these Project phases shall be limited to \$6,967,839.58. Agency shall be responsible for all remaining costs, including any non-participating costs, all costs in excess of the federal or state funds, and the 10.27 percent match for all eligible costs. Any unused federal or state funds obligated to this Project will not be paid out by State, and will not be available for use by Agency for this Agreement or any other projects. "Total Project Cost" means the cost to complete the entire Project, and includes any federal funds, state funds, local matching funds, and any other funds. Agency will report the final cost of each phase of the Project at the completion of each phase, as well as the Total Project Cost at the end of the Project to the ODOT Regional Local Agency Liaison.
3. RESERVED

c. TERMS OF AGREEMENT, Paragraph 16, Page 4, which reads:

16. RESERVED.

Shall be deleted in its entirety and replaced with the following:

16. Right of Way:

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- a. All construction projects must have right of way co-certification coordinated through ODOT to declare compliance and project readiness for construction, including projects where no federal funds were used for right of way, but where federal funds were used for any other project phase. ODOT will, as a cost to the Project, coordinate co-certification of the right of way and provide oversight and monitoring as applicable to the Project.
- b. For the Project, which includes acquisition of right of way or has the potential of requiring right of way, Agency shall:
 - i. Comply with ODOT-established policies, procedures, and guidance set forth in the LAG Manual and the ODOT Right of Way Manual for acquisition of right of way in federal-aid projects.
 - ii. Conform to the Right of Way Services requirements in Exhibit C— Standard Provisions: Right of Way Services, attached hereto and by this reference made a part hereof.
- c. Right of Way Special Provisions. Exhibit C sets forth the responsibilities and activities to be accomplished by each Party, except as modified by the following Project special provisions:
 - i. ODOT Performing Services as a Consultant: In accordance with Section A, paragraph 8 of Exhibit C, the Parties agree ODOT will perform the following services for Certified Agency as a consultant for the Project:
 - The appraisal services identified in Section B, paragraph 2.c. of Exhibit C.
 - ii. Transfer of Right of Way: Not applicable.
- d. **TERMS OF AGREEMENT, Paragraph 20, Page 4, which reads:**
 20. By signing this Agreement, Agency agrees to comply with the provisions of the Federal Funding Accountability and Transparency Act (FFATA) and is subject to the following award terms:
<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf> and
<http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.
If, in the preceding fiscal year, Agency received more than 80 percent (80%) of its gross revenues from the federal government, those federal funds exceed \$25,000,000 annually, and the public does not have access to information about the compensation of executives through reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986, Agency shall report the total compensation and names of its top five executives to State. Agency shall report said information to State within 14 calendar days of execution of this

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Agreement and annually thereafter, utilizing the FFATA form attached hereto and marked as "Exhibit B."

Shall be deleted in its entirety and replaced with the following:

20. Agency agrees to provide to ODOT the subaward reporting information required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), as amended by section 6202 of Public Law 110–252 ("Federal Transparency Act") in accordance with "Revised Exhibit B – Federal Transparency Act Subaward Reporting," attached hereto and by this reference made a part hereof. See **CFR Appendix A to Part 170, Title 2.**

a. Agency's Unique Entity Identifier is: FUAKHMJE2437

b. Agency is not required to report executive compensation information per Federal Transparency Act in accordance with Revised Exhibit B.

e. TERMS OF AGREEMENT, Paragraph 34, Page 9, which reads:

34. This Agreement, the Local Agency Certification Program (Certification Program) Agreement No. 30634, as amended, and all attached exhibits constitutes the entire agreement between the Parties on the subject matter hereof. In the event of conflict, the body of this Agreement and the attached exhibits will control over Project application and documents provided by Agency to State. 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 or Agency to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision. Notwithstanding this provision, the Parties may enter into a Right of Way Services Agreement in furtherance of the Project.

Shall be deleted in its entirety and replaced with the following:

34. This Agreement, the Local Agency Certification Program (Certification Program) Agreement No. 30634, as amended, and all attached exhibits constitutes the entire agreement between the Parties on the subject matter hereof. In the event of conflict, the body of this Agreement and the attached exhibits will control over Project application and documents provided by Agency to State. 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

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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 or Agency to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

f. TERMS OF AGREEMENT, Paragraph 35, Page 9, which reads:

35.State's Regional Local Agency Liaison for this Agreement is Andrew Blair, Transportation Project Manager, 455 Airport Road SE, Building B, Salem, Oregon 97301; telephone: (503) 986-2681; email: andrew.blair@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

Shall be deleted in its entirety and replaced with the following:

35.State's Regional Local Agency Liaison for this Agreement is Valerie Greenway, Senior Transportation Project Manager, 455 Airport Road SE, Building B, Salem, Oregon 97301; telephone: (971) 304-5021; email: valerie.greenway@odot.oregon.gov, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

3. **Counterparts.** This Amendment may be executed in two or more counterparts (by facsimile or otherwise) each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
4. **Original Agreement.** Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. Agency certifies that the representations, warranties and certifications 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.
5. **Electronic Signatures.** The Parties agree that signatures showing on PDF documents, including but not limited to PDF copies of the Agreement and amendments, submitted or exchanged via email are "Electronic Signatures" under ORS Chapter 84 and bind the signing Party and are intended to be and can be relied upon by the Parties. State reserves the right at any time to require the submission of the hard copy originals of any documents.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

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This Project is in the 2024-2027 Statewide Transportation Improvement Program (STIP), (Key #**21895**) that was adopted by the Oregon Transportation Commission on July 13, 2023 (or subsequently by amendment to the STIP).

Signature Page Follows

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MARION COUNTY, by and through its
elected officials

By _____
Commissioner

By _____
Commissioner

By _____
Commissioner

Date _____

APPROVAL RECOMMENDED

DocuSigned by:
By Brian Nicholas 2/10/2026
9793BA7ACB6D443...
Director of Public Works Date

DocuSigned by:
By Jan Fritz 2/10/2026
DC16351248DE456...
Chief Administrative Officer Date

APPROVED AS TO FORM

DocuSigned by:
By [Signature] 2/10/2026
A3538E7AEC704F4...
Marion County Contracts Date

Signed by:
By Scott Morris 2/10/2026
6DC98A6F708240B...
Marion County Legal Counsel Date

Agency Contact:
Shane Ottosen Jr., PE., LSI
Project Manager
Marion County Public Works -
Engineering Division
5155 Silverton Rd NE
Salem OR 97305
503-365-3104
sottosen@co.marion.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____
Region 2 Manager

Date _____

APPROVAL RECOMMENDED

By _____
State Right of Way Manager

Date _____

By _____
Region 2 Right of Way Manager

Date _____

By _____
Certification Program Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By Serena Hewitt, via email
Assistant Attorney General

Date 12/16/2025, email retained in file

State Contact:
Valerie Greenway Senior Transportation
Project Manager
ODOT Region 2
455 Airport Road SE, Building B
Salem Oregon 97301-5395
971-304-5021
Valerie.greenway@odot.oregon.gov

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Revised Exhibit B Federal Transparency Act Subaward Reporting

Agency agrees to comply with the following provisions in this Exhibit B. For purposes of this Exhibit B, references to “your organization” mean “Agency” and references to “project agreement” mean “Supplemental Project Agreement.”

A. Background: To fulfill its obligations under the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), as amended by section 6202 of Public Law 110–252 (“Federal Transparency Act”), the Oregon Department of Transportation (ODOT) must report subawards (also known as subrecipient awards) and, when applicable, information about a subrecipient’s highly compensated executives to the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS). Federal Transparency Act reporting is required for each subaward that equals or exceeds thirty thousand dollars (\$30,000) in federal funds.

The Federal Transparency Act requires information on federal awards (federal financial assistance and expenditures) be made publicly available on a single, searchable website: <https://www.usaspending.gov/>. More information about the Federal Transparency Act is available at <https://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>, [CFR Appendix A to Part 170, Title 2](#), and the FSRS website <https://www.fsr.gov/>.

B. Unique Entity Identifier: Prior to execution of the project agreement, your organization shall provide to ODOT the federal Unique Entity Identifier (UEI) applicable to the project so that ODOT may include the UEI in its reports to FSRS. Effective April 4, 2022, the UEI is the primary means of identifying entities registered for federal awards in the System for Award Management (SAM) at <https://www.sam.gov>. If your entity is already registered in SAM, it has been assigned a UEI. The Federal Service Desk has [posted instructions for finding the UEI in SAM](#).

C. Executive compensation: Prior to execution of the project agreement, your organization shall determine and provide to ODOT information on whether your organization’s executive compensation information must be reported under the Federal Transparency Act, based on the following criteria:

1. In your organization’s previous fiscal year, did your organization receive eighty percent (80%) or more of its annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Federal Transparency Act, as defined in [2 CFR 170.320](#) (and subawards), and twenty five million dollars (\$25,000,000) or more in federal procurement contracts (and subcontracts) and federal financial assistance subject to the Federal Transparency Act, as defined in 2 CFR 170.320 (and subawards)? (Include parent organization, all branches, and all affiliates worldwide in determining annual gross revenues.)
 - If “yes,” proceed to question 2.

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- If “no,” reporting executive compensation to ODOT will not be required.
2. Does the public have access to information about the compensation of the senior executives in your organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 ([15 U.S.C. 78m\(a\), 78o\(d\)](#)) or section 6104 of the Internal Revenue Code of 1986? (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <https://www.sec.gov/answers/execomp.htm>.)
- If “yes,” reporting executive compensation to ODOT will not be required.
 - If “no,” within fourteen (14) calendar days of execution of this Amendment and annually thereafter, your organization shall report the names and total compensation for each of your organization’s five most highly compensated executives for the preceding completed fiscal year by completing the following online form:

Federal Transparency Subaward Report:
<https://forms.office.com/g/WNVpUFmdki>.

(*Total compensation* means the cash and noncash dollar value earned by the executive during your organization’s preceding fiscal year. For more information on the compensation information required see [17 CFR 229.402\(c\)\(2\)](#).)

D. Subrecipient information to be provided to ODOT: By signing the project agreement with ODOT, your organization certifies it has reviewed and confirmed that the following subrecipient information included in the project agreement is true and accurate at the time of execution:

- Your organization’s UEI.
- Whether your organization is required to report executive compensation to comply with the Federal Transparency Act.

E. Technical assistance: If you have any questions about this exhibit, email the ODOT Federal Funding Manager at: ODOTFederalFunding@odot.oregon.gov.

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EXHIBIT C
Standard Provisions: Right of Way Services

Agency (referred to in this exhibit as “Certified Agency”) agrees to comply with the provisions listed in this Exhibit C, except as otherwise modified by the Supplemental Project Agreement to which this Exhibit C is attached. References to “project” in this Exhibit C refer to the defined “Project” identified in the Supplemental Project Agreement.

A. RIGHT OF WAY SERVICES

1. The Parties agree to the performance of the Right of Way Services (“Services”) as specified in the Supplemental Project Agreement to which this Exhibit is attached.
2. The Parties agree to strictly follow the rules, policies, and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), 42 USC Chapter 61, as amended and implemented through Title 49 CFR 24, ORS Chapter 35, 23 USC Chapter 1 as implemented through Title 23 CFR 710 relating to acquisition of real property for federal-aid highway projects, and the ODOT Right of Way Manual, located at <https://www.oregon.gov/ODOT/ROW/Documents/ROW-Manual.pdf> and incorporated herein by this reference. Each Party shall require its contractors and subcontractors, if any, to comply with these provisions.
3. The Parties agree that Services performed on the project shall be provided in accordance with an approved project-specific “Staffing Plan” as described in Paragraph A.7.
4. **Funding:**
 - a. Certified Agency shall prepare a programming cost estimate for the right of way phase and submit it to ODOT for approval.
 - b. Certified Agency shall request federal right of way funding authorization through the ODOT Project Contact and must receive from ODOT a written authorization to proceed prior to beginning Services.
 - c. Certified Agency shall pay its share of the actual cost of ODOT’s oversight and other Services in accordance with Terms of Agreement, Paragraphs 5 and 6 of this Supplemental Project Agreement.
5. **ODOT Roles and Responsibilities:** ODOT, at project expense, will:
 - a. Provide oversight of the Services performed for the project.
 - b. Request the obligation of project funding from FHWA based on the approved programming cost estimate identified in Paragraph 4.a.

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- c. Coordinate co-certification of the right of way.
 - d. Prepare cost estimates for such oversight, obligation, and coordination work following the process specified in Terms of Agreement, Paragraph 5 of this Supplemental Project Agreement.
 - e. Perform any Services assigned to ODOT in this Supplemental Project Agreement.
6. **Certified Agency use of Qualified Individuals to Perform Services:**
- a. In performing Services under this Supplemental Project Agreement, Certified Agency shall utilize "Qualified Individuals" from Certified Agency's staff, another local public agency's staff, or consultant's staff who meet the qualifications described in Chapter 10 - Local Public Agency Program Oversight of the ODOT Right of Way Manual and as approved by the ODOT Right of Way Section. Certified Agency may also request ODOT staff to perform Services, which must be further described in this Supplemental Project Agreement. (See "Staffing Plan" requirements in Paragraph A.7.)
 - b. Certified Agency may perform needed appraisal Services by utilizing appraiser services procured by Certified Agency from ODOT's Qualified Appraiser List, located online at:
https://www.oregon.gov/ODOT/ROW/Documents/Appraisal_Qualified-Consultant-List.pdf.
 - c. Certified Agency may perform other right of way related Services as needed by utilizing right of way consultants that meet the requirements of Paragraph 6.a. above.
 - d. Certified Agency shall procure any consultant services according to the ODOT Certification Program's consultant selection requirements and [LPA A&E Requirements Guide](#) and shall use ODOT's standard [A&E contract template for LPAs](#), which may be modified to include ODOT-approved provisions required by Agency.
7. **Staffing Plan:** Prior to performing Services described in Section B below, Certified Agency shall prepare a project-specific Staffing Plan and submit it to ODOT for review and approval by the ODOT Right of Way Section. The Staffing Plan must detail the Services to be performed by Qualified Individuals. Certified Agency shall submit Staffing Plan updates to ODOT for approval as needed throughout the project to ensure all project Services are performed by Qualified Individuals.
8. **ODOT Performing Services as a Consultant:** The Parties agree this Paragraph 8 applies only when Terms of Agreement, Paragraph 16 of this Supplemental Project Agreement provides that ODOT will perform Services for Certified

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Agency as a consultant on a project. Under such circumstances, the Parties agree:

- a. Certified Agency is responsible for delivering the project under the authority of the Local Agency Certification Program Agreement and this Supplemental Project Agreement; and ODOT will perform Services as a consultant for Certified Agency.
 - b. The Local Agency Certification Program Agreement and this Supplemental Project Agreement for the project are sufficient for Certified Agency to contract ODOT to perform Services. The Parties need not enter into a separate agreement for performance of Services.
 - c. Any consultant Services to be performed by ODOT are detailed in the right of way special provisions under Terms of Agreement, Paragraph 16 of this Supplemental Project Agreement.
 - d. In accordance with the funding provisions in this Supplemental Project Agreement, ODOT will provide estimates for the costs of its consultant Services, which are a subset of the Total Project Costs identified in this Supplemental Project Agreement. Services performed by ODOT as a consultant shall be invoiced and reimbursed at actual cost to the project according to this Supplemental Project Agreement.
9. **Previously Donated or Acquired Property:** Property previously donated to or acquired by Certified Agency prior to right of way funding authorization may be incorporated into the Project's right of way only after review and approval by ODOT and FHWA. Certified Agency shall submit such requests in writing on a form to be provided by the ODOT Program and Funding Services Manager, who will coordinate ODOT's and FHWA's approval.
10. **Disposition of Real Property:** Certified Agency agrees that if any real property purchased with federal-aid participation is no longer needed for the originally authorized purpose, the disposition of such property shall comply with 2 CFR 200.311 and 23 CFR 710. The disposition of such property may be subject to ODOT and FHWA approval, and reimbursement to ODOT and FHWA of the required proportionate shares of the fair market value may be required. In any instrument transferring rights to such property, including deeds, easements, and leases, Certified Agency shall include applicable nondiscrimination assurances required by Title VI of the Civil Rights Act of 1964, 42 USC 2000d *et seq.*, 49 CFR Part 21, and 28 CFR 50.3, as amended. See US Department of Transportation guidance document number DOT 1050.2A for additional information related to applicable assurances.
11. **Monumentation:** Certified Agency shall ensure that all project right of way monumentation is conducted in conformance with ORS 209.155.

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B. CERTIFIED AGENCY ROLE AND RESPONSIBILITIES

1. **Preliminary Phase:** Certified Agency is responsible for the performance of Services set out in this Section B.1 during the preliminary right of way phase of the project. Costs incurred for Services listed under this Section B.1 shall be charged as preliminary engineering expenditures.
 - a. **Preliminary Phase Services:** Certified Agency shall provide the following preliminary phase Services:
 - i. Prepare preliminary cost estimates.
 - ii. Make preliminary contacts with property owners.
 - iii. Gather and prepare data for environmental documents.
 - iv. Develop access and approach road list.
 - v. Prepare field location and project data as defined in this Supplemental Project Agreement.
 - b. **Title:** Certified Agency shall provide title Services on the project as follows:
 - i. Prepare preliminary title reports, if ODOT determines they are needed, before negotiations for acquisition commence.
 - ii. Specify the degree of rights to be acquired (e.g., fee, easement), which must be determined in accordance with the current ODOT Right of Way Manual.
 - c. **Legal Descriptions:** Certified Agency shall provide property legal description Services as follows:
 - i. Prepare sufficient horizontal control, recovery, and retracement surveys; vesting deeds; maps; and other data so that legal descriptions can be written.
 - ii. Prepare project construction plans and cross-section information.
 - iii. Write legal descriptions and prepare right of way maps.
 - A. If Certified Agency acquires right of way along or adjacent to a state highway, property descriptions and right of way maps shall be prepared in accordance with the current ODOT Right of Way Engineering Manual, incorporated herein by reference. Preliminary and final versions of the property descriptions and right of way maps must be reviewed and approved by ODOT.

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- B. The ODOT Right of Way Engineering Manual is available at:
<https://www.oregon.gov/odot/ETA/Pages/ROW-Engineering.aspx>
- d. **Hazmat:** Certified Agency shall provide the following Services regarding possible hazardous materials on the project site:
- i. Conduct a Level 1 Initial Site Assessment, consistent with ODOT Guidance, within project limits to detect the presence of hazardous materials on any property purchase, excavation, or disturbance of structures, as early in the project design as possible, but at a minimum, prior to property acquisition or approved design.
 - ii. If the Level 1 Initial Site Assessment indicates the potential presence of contamination that could impact the properties, conduct a Level 2 Preliminary Site Investigation of sufficient scope to confirm the presence of contamination, determine impacts to properties, and develop special provisions and cost estimates. The investigation shall be conducted according to the current ODOT Hazmat Program Manual, incorporated herein by reference, and applicable requirements of the Oregon Department of Environmental Quality. The ODOT Hazmat Program Manual is available at:
<https://www.oregon.gov/odot/GeoEnvironmental/Pages/Hazmat-Manual.aspx>
 - iii. If contamination is found as a result of the Level 2 Preliminary Site Investigation, promptly disclose the severity and extent of contamination to ODOT and present a recommendation for remediation to ODOT as set forth in ODOT's Right of Way Manual Section 6.330.
 - iv. Attempt to have the property owner undertake any necessary remediation at the property owner's expense. Other options are set forth in ODOT's Right of Way Manual section 6.330. If Certified Agency undertakes any remediation on the site, Certified Agency will be solely responsible for any liability that may arise from such remediation.
2. **Right of Way Phase:** Certified Agency is responsible for the performance of Services outlined in this Section B.2 during the acquisition right of way phase of the project as identified below, except as modified by the right of way special provisions of this Supplemental Project Agreement. Costs incurred for Services listed under this Section B.2 must be charged as right of way phase expenditures.
- a. **Right of Way Acquisition:**
- i. Right of Way Acquisition is the process of obtaining property necessary for the project, from negotiation to possession of the property, using various sub-processes, including, but not limited to, appraisal, negotiation,

Marion County/ODOT
Agreement No. 35121, Amendment No. 01

- condemnation, relocation, title closing, and project-related property management.
- ii. When performing Services, Certified Agency shall provide ODOT with a quarterly status update regarding acquisition of project right of way.
 - iii. Fee Title to properties acquired must be in the full legal name of Certified Agency, unless otherwise provided in the right of way special provisions of this Supplemental Project Agreement and agreed to by FHWA.
 - iv. Certified Agency shall adopt a resolution of intention and determination of necessity, prior to the initiation of negotiations, in accordance with ORS 35.235 and ORS 35.610, authorizing acquisition and condemnation ("Resolution"). Certified Agency's Resolution shall be substantially in the form of Section C below.
- b. **Real Property and Title Insurance:** Certified Agency shall determine the sufficiency of title (taking subject to) in accordance with the current ODOT Right of Way Manual and after obtaining ODOT's concurrence; clear encumbrances necessary to conform to these requirements; obtain title insurance policies as required for the properties acquired; and provide ODOT copies of the title insurance policies.
- c. **Appraisal:** [State](#) shall provide the following appraisal Services:
- i. Conduct the valuation process of properties to be acquired. If potential contamination of hazardous materials is identified on the property, Certified Agency shall follow section 6.330 in ODOT's Right of Way Manual.
 - ii. Perform the appraisal reviews that will be used by Certified Agency to set just compensation.
- d. **Just Compensation:** Certified Agency's authorized official shall set just compensation, based upon the appraisal review performed by Qualified Individuals.
- e. **Negotiations:**
- i. Certified Agency shall tender all monetary offers to landowners in writing at the just compensation amount set by Certified Agency. Certified Agency shall have sole authority to negotiate and make all settlement offers, subject to the limitations in the ODOT Right of Way Manual.
 - ii. When an administrative settlement for a property acquisition is made for an amount above the set just compensation amount, Certified Agency shall prepare a written justification statement. Said statement shall

Marion County/ODOT
Agreement No. 35121, Amendment No. 01

document Certified Agency's determination that the administrative settlement is reasonable, prudent, and in the public interest. It shall include the consideration of any property trades, construction obligations, trial risks, and other relevant items used to justify the administrative settlement.

- iii. Certified Agency shall provide ODOT with all pertinent letters, negotiation records, settlement justification statements, and obligations incurred during the acquisition process.
- iv. ODOT and Certified Agency shall determine a date for certification of right of way and agree to co-sign ODOT's Right of Way Certification form. ODOT and Certified Agency agree possession of all right of way is to be complete prior to advertising for any construction contract, unless otherwise agreed to by Certified Agency and ODOT.
- v. Certified Agency is responsible for all project condemnation proceedings and for ensuring all condemnation processes are complete prior to the agreed upon certification date identified in subsection iv above.
- f. **Relocation:** Certified Agency shall provide the following relocation Services in accordance with Chapter 8 of the ODOT Right of Way Manual:
 - i. Perform any relocation assistance, make replacement housing computations, and do all things as required by applicable state and federal law necessary to relocate any persons displaced by the project.
 - ii. Determine relocation benefits for eligible property owners and make relocation and moving payments.
 - iii. Facilitate any relocation appeal process(es).

3. **Closing Phase:**

- a. Certified Agency shall close all transactions, including: drawing deeds, releases, and satisfactions necessary to clear title; obtaining signatures on release documents; and making payments. When ODOT provides Services as a consultant for Certified Agency, ODOT will submit to Certified Agency: (a) applicable portions of a Final Report packet as described in Section 6.590 of the ODOT Right of Way Manual; (b) all agreements with property owners; and (c) other information required by the Uniform Act or other federal laws regarding acquisition when federal funds are used as part of a transportation project.
- b. Upon acceptance by Certified Agency, any permanent conveyance documents shall be recorded by Certified Agency.

Marion County/ODOT
Agreement No. 35121, Amendment No. 01

4. **Property Management:**

- a. Certified Agency shall take possession of all acquired properties. There shall be no encroachments of buildings or other private improvements allowed upon the state highway right of way.
- b. Certified Agency shall dispose of all improvements and excess land consistent with applicable state, federal, and local laws and policies, including but not limited to 23 CFR 710.409 and ODOT Right of Way Manual Chapter 9.
- c. Certified Agency shall conduct asbestos, lead paint, and other hazardous materials surveys for all structures that will be demolished, renovated, or otherwise disturbed as a result of the project. Asbestos surveys must be conducted by an Asbestos Hazard Emergency Response Act (AHERA) certified inspector.

5. **Condemnation:**

- a. Certified Agency may offer mediation if Certified Agency and property owners have reached an impasse.
- b. Certified Agency shall perform all administrative functions in preparation of the condemnation process, such as preparing final offer and complaint letters.
- c. Certified Agency shall perform all legal and litigation services related to the condemnation process.

6. **Transfer of Right of Way:** When the project will involve a transfer of right of way between the Parties, the Parties shall transfer and accept all right of way as provided in the right of way special provisions of this Supplemental Project Agreement.

Marion County/ODOT
Agreement No. 35121, Amendment No. 01

C. SAMPLE RESOLUTION EXERCISING THE POWER OF EMINENT DOMAIN

The Parties agree the following language is provided as a sample. Certified Agency may copy this language to incorporate into their own standard resolution form or use the full language and add an “attested to” line or signature line:

WHEREAS (insert title of agency) may exercise the power of eminent domain pursuant to (Certified Agency’s charter) (statutes conferring authority) and the Law of the State of Oregon generally, when the exercise of such power is deemed necessary by (insert title of agency)’s governing body to accomplish public purposes for which (insert title of agency) has responsibility;

WHEREAS (insert title of agency) has the responsibility of providing safe transportation routes for commerce, convenience, and to adequately serve the traveling public;

WHEREAS the project or projects known as (insert Project name) have been planned in accordance with appropriate engineering standards for the construction, maintenance, or improvement of said transportation infrastructure such that property damage is minimized, transportation promoted, travel safeguarded; and

WHEREAS to accomplish the project or projects set forth above it is necessary to acquire the interests in the property described in “Exhibit A” attached to this Resolution and, by this reference incorporated herein; now, therefore,

BE IT HEREBY RESOLVED by (Certified Agency’s Council, Commission, or Board)

- 1. The foregoing statements of authority and need are, in fact, the case. The project or projects for which the property is required and is being acquired are necessary in the public interest, and the same have been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury;*
- 2. The power of eminent domain is hereby exercised with respect to each of the interests in property described in Exhibit A to this Resolution. Each is acquired subject to payment of just compensation and subject to procedural requirements of Oregon law;*
- 3. ([Insert title of Certified Agency]’s staff and [attorney/counsel]) are authorized and requested to attempt to agree with the owner and other persons in interest as to the compensation to be paid for each acquisition, and, in the event that no satisfactory agreement can be reached, to commence and prosecute such condemnation proceedings as may be necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. This authorization is not intended to expand the jurisdiction of any court to decide matters determined above or determinable by the (Certified Agency’s Council, Commission, or Board).*
- 4. (insert title of agency) expressly reserves its jurisdiction to determine the necessity or propriety of any acquisition, its quantity, quality, or locality, and to change or abandon any acquisition.*

*DATED this _day of _____, 20____
[insert signature blocks here]*

**BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY, OREGON**

In the matter of authorizing acquisition)
and eminent domain of certain real) Department of Public Works
properties for the State St: 4106 State St)
to 46th Ave project)

RESOLUTION NO. _____

WHEREAS, Marion County is authorized by the provisions of ORS Chapters 203 and 368 to locate, acquire, construct, operate, and maintain county roads as its Board deems necessary; and

WHEREAS, Marion County is authorized by the provisions of ORS Chapters 203 and 368 to acquire by purchase, gift, devise, condemnation, or any other means, such real and personal property interests therein and rights-of-way either inside or outside the limits of the county, as in the judgment of its Board are necessary; and

WHEREAS, for the purpose of providing a county road system to serve local residents and businesses and for the health, safety, benefit, and general welfare of the public, Marion County plans to make necessary improvements to State Street including ADA compliant sidewalks, bike lanes and driveways from Lancaster Drive to 46th Avenue SE; now, therefore,

BE IT RESOLVED by the Marion County Board of Commissioners follows:

- (1) The Board declares that it needs to widen State Street on real properties and interests therein, more particularly set forth in the attached Exhibit. The real properties and interests set forth in the Exhibit are reasonably necessary to protect the full use and enjoyment by the public and businesses of State Street.
- (2) In order to proceed with the acquisition of the right-of-way for this project, which will be located and constructed in a manner most compatible with the greatest public benefit and the least private injury or damage, the real properties must be acquired without delay.
- (3) The County, its agents, and attorneys are authorized to attempt to reach agreement with the owners and other persons with interest in the real properties and interests therein, shown in the attached Exhibit, as to the compensation to be paid for the appropriation of the properties. In the event that no satisfactory agreement can be reached, the attorneys are authorized to commence Eminent Domain proceedings as prescribed in ORS 35.205 to 35.415 and prosecute to final determination such proceedings as may be necessary to acquire the real properties and interest therein and that upon the filing of such proceeding, possession of the real property and interest therein may be taken immediately.

EXHIBIT A

- (4) Upon the trial of any suit or action instituted to acquire any of the real property or any interest therein, the attorneys acting for and on behalf of the county are authorized to make such stipulation, agreement, or admission as in their judgment may be for the best interest of the county.
- (5) In order to protect the health, safety, and welfare of the public, it is necessary that no undue delay be encountered in obtaining access to possession of the real property and interest therein shown in the attached Exhibit, in order to widen State Street; therein, this resolution shall be in force and effect immediately upon its passage by the Board.
- (6) This resolution is adopted by the Marion County Board of Commissioners on this _____ day of _____, 2025, and is entered in the minutes and records of the Board as of this date.

MARION COUNTY BOARD OF COMMISSIONERS

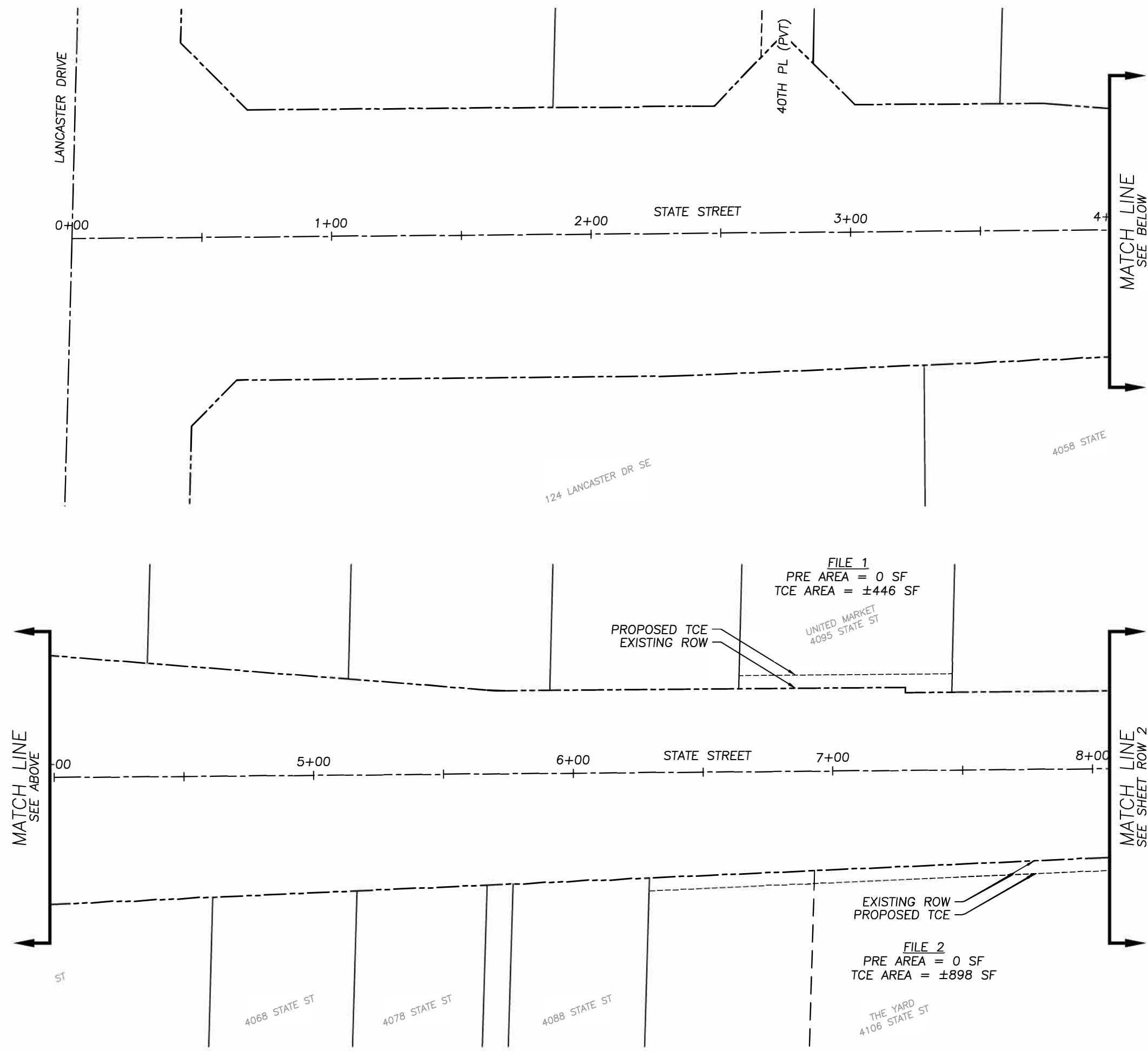
Chair

Commissioner

Commissioner

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Exhibit A to Condemnation Resolution



PRELIMINARY; NOT FOR CONSTRUCTION

MARION COUNTY

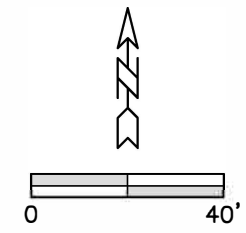
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DEPARTMENT OF PUBLIC WORKS

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ECMS NO.:	----
FED. PROJ. NO.:	----
KEY NO.:	21895
SITE NO.:	----
HORIZ. DATUM:	OCRS SALEM
VERT. DATUM:	NAVD88
DESIGNED BY:	SDO JR
DRAWN BY:	SDO JR

TITLE:
ROW EXHIBIT

SHEET:
ROW 1



PRELIMINARY; NOT
FOR CONSTRUCTION

MARION COUNTY

**STATE STREET: 4106 STATE STREET
TO 46TH AVENUE**

DEPARTMENT OF PUBLIC WORKS

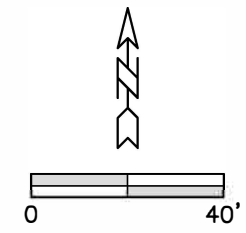
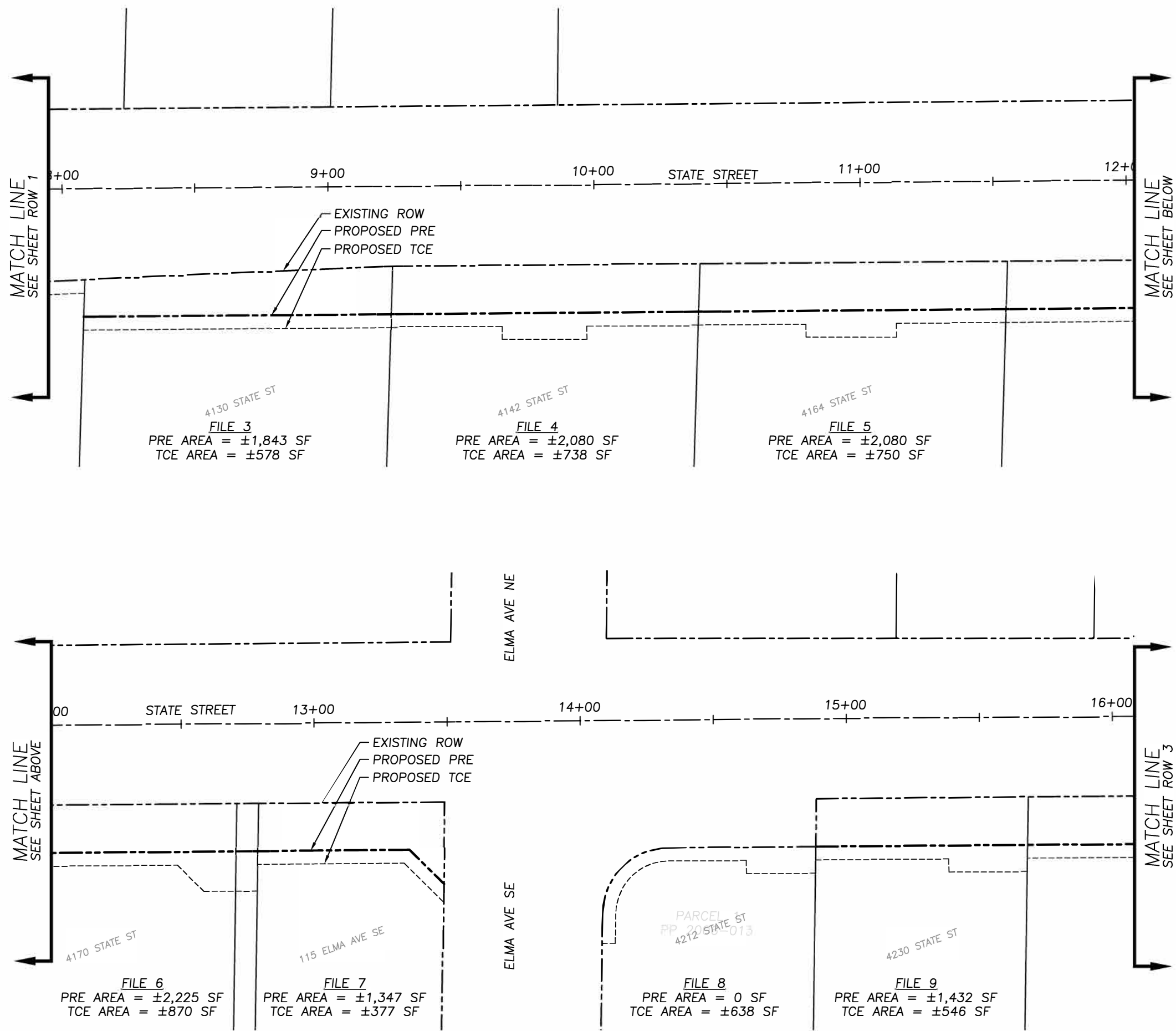
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DESIGNED BY:	SDO JR
DRAWN BY:	SDO JR

TITLE:

ROW EXHIBIT

SHEET:

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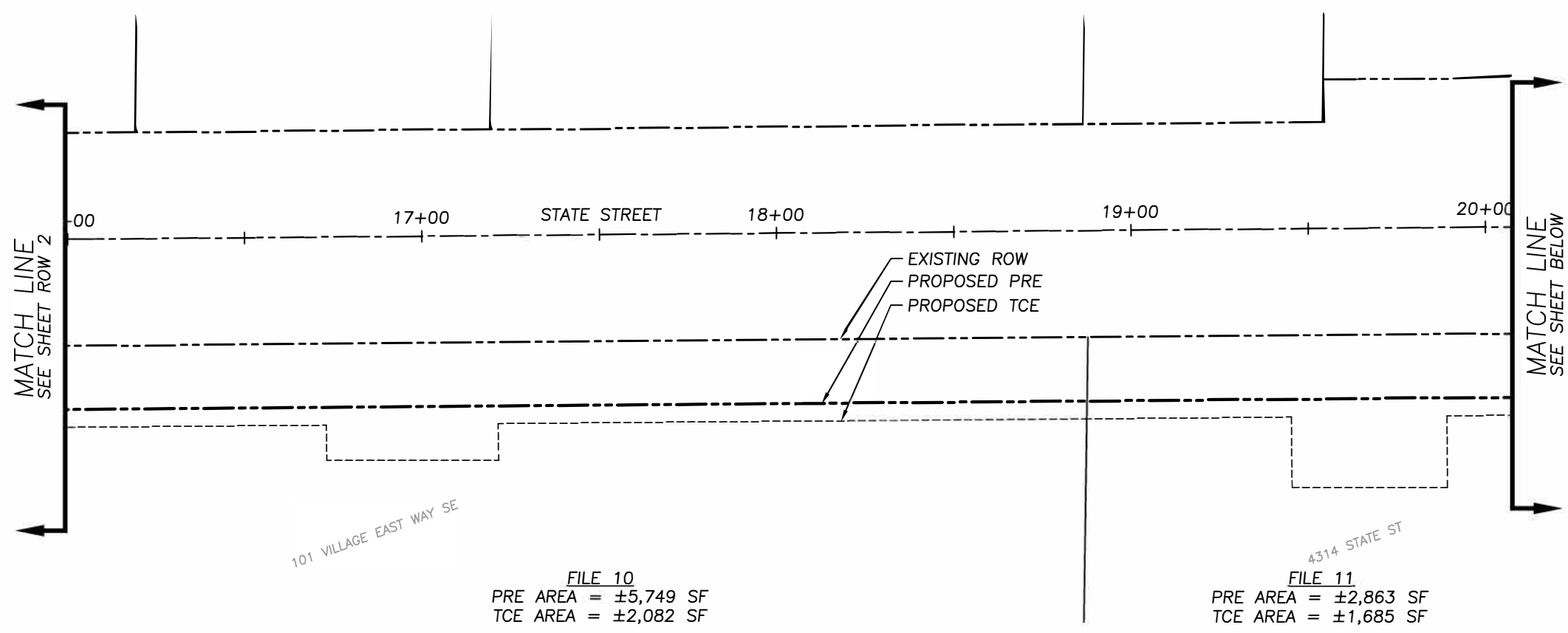
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**STATE STREET: 4106 STATE STREET
TO 46TH AVENUE**

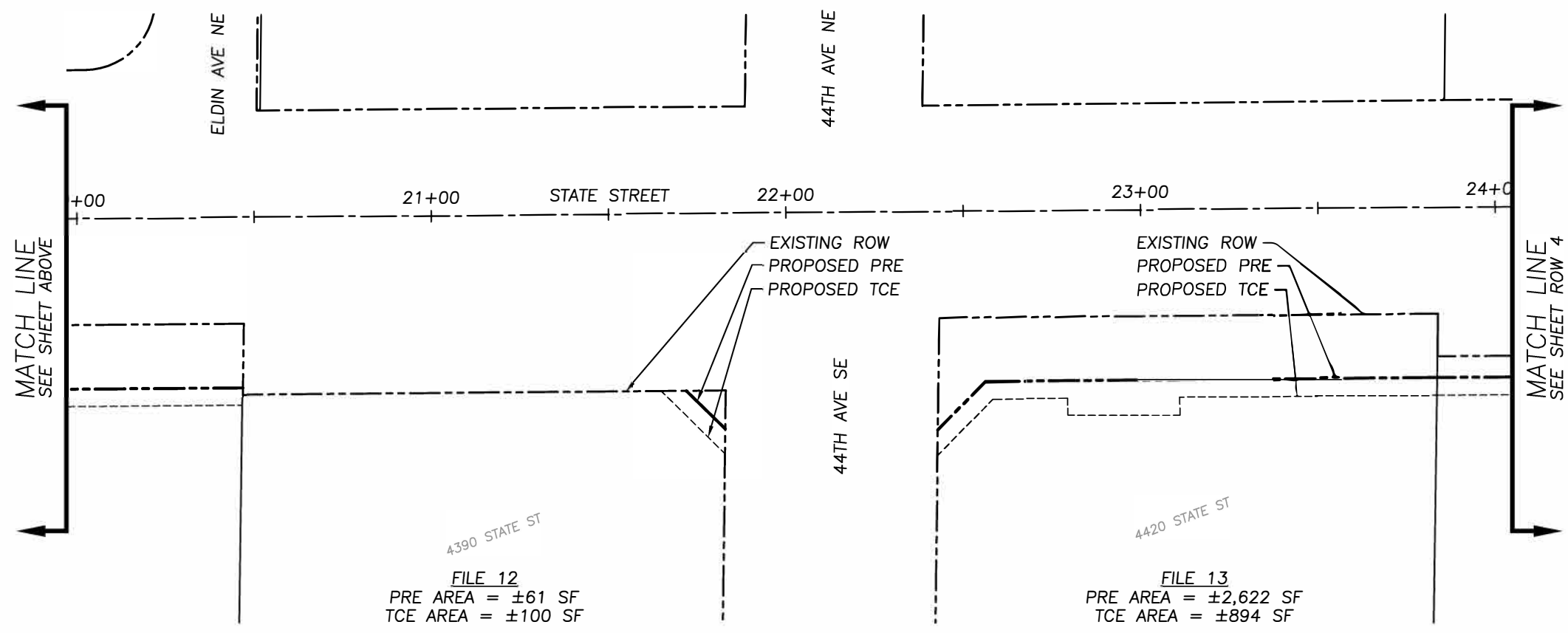
MARION COUNTY

DEPARTMENT OF PUBLIC WORKS



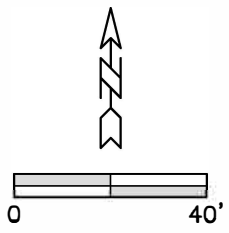
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TCE AREA = ±2,082 SF

FILE 11
PRE AREA = ±2,863 SF
TCE AREA = ±1,685 SF



FILE 12
PRE AREA = ±61 SF
TCE AREA = ±100 SF

FILE 13
PRE AREA = ±2,622 SF
TCE AREA = ±894 SF



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HORIZ. DATUM:	OCRS SALEM
VERT. DATUM:	NAVD88
DESIGNED BY:	SDO JR
DRAWN BY:	SDO JR

TITLE:
ROW EXHIBIT

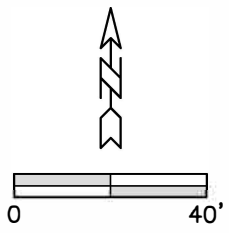
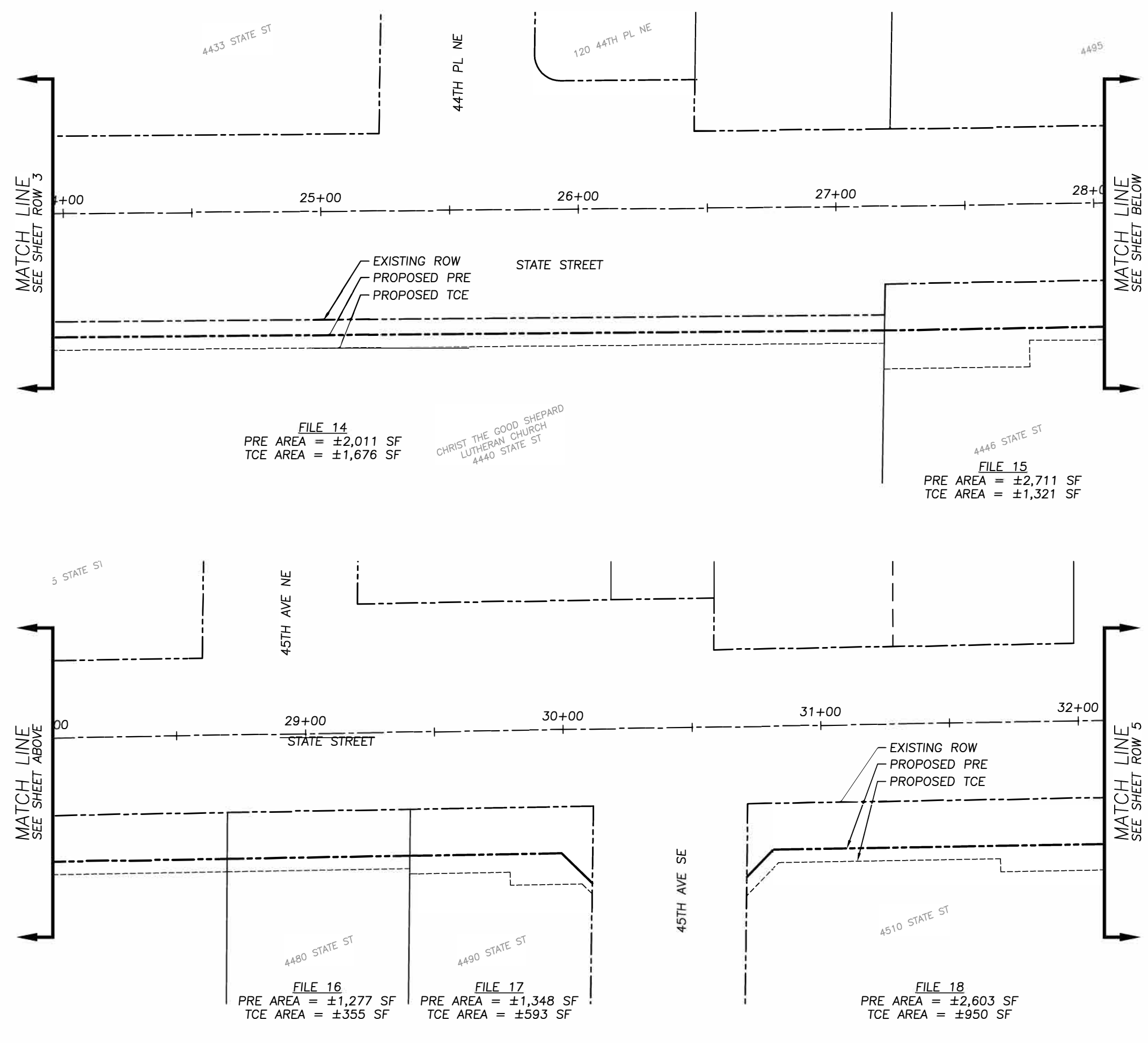
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PRELIMINARY; NOT
FOR CONSTRUCTION

**STATE STREET: 4106 STATE STREET
TO 46TH AVENUE**

MARION COUNTY

DEPARTMENT OF PUBLIC WORKS



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DESIGNED BY:	SDO JR
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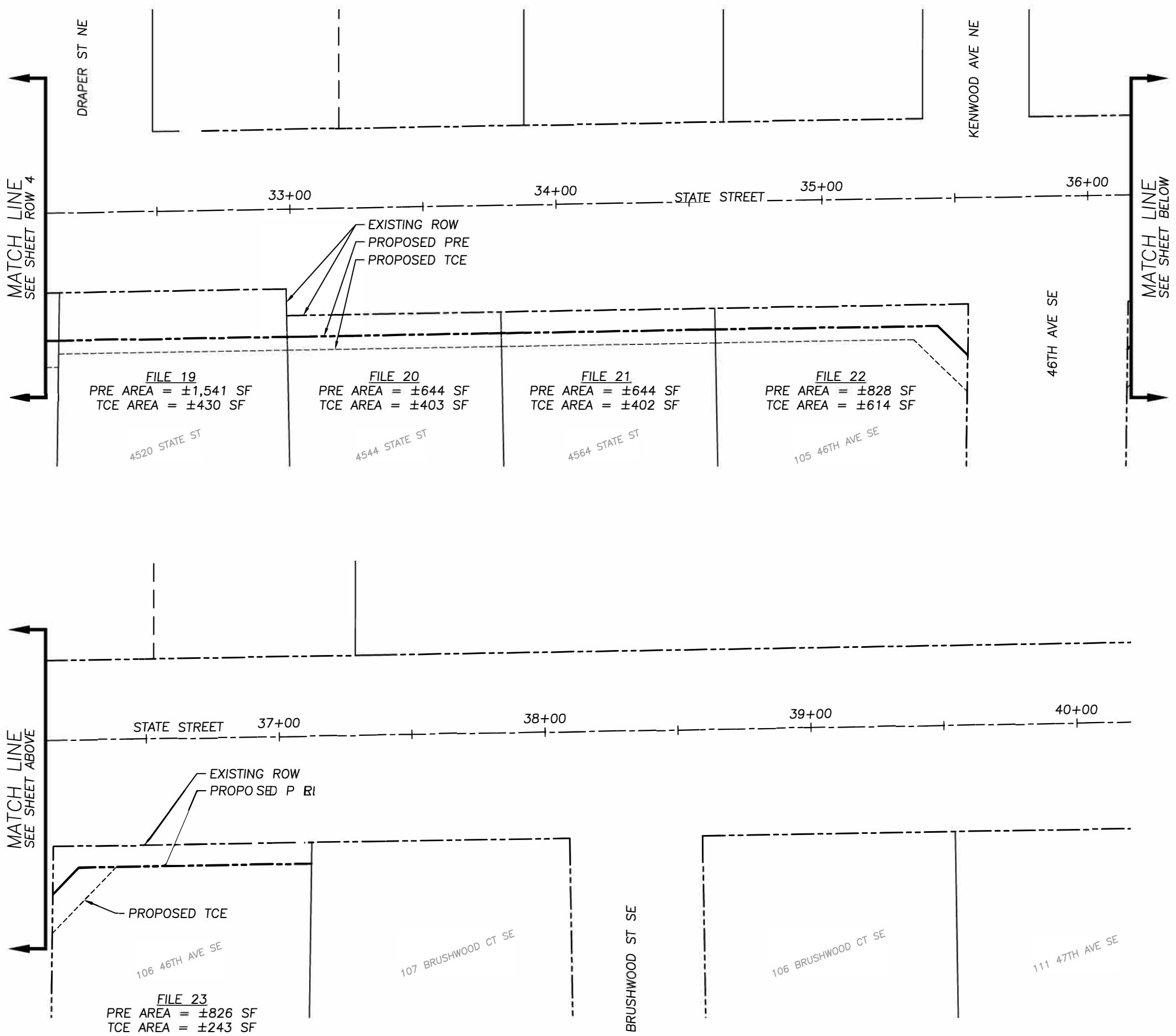
PRELIMINARY; NOT
FOR CONSTRUCTION

MARION COUNTY
**STATE STREET: 4106 STATE STREET
TO 46TH AVENUE**
DEPARTMENT OF PUBLIC WORKS

PROJECT NO.:	105746
ECMS NO.:	----
FED. PROJ. NO.:	----
KEY NO.:	21895
SITE NO.:	----
HORIZ. DATUM:	OCRS SALEM
VERT. DATUM:	NAVD88
DESIGNED BY:	SDO JR
DRAWN BY:	SDO JR

TITLE:
ROW EXHIBIT

SHEET:
ROW 5



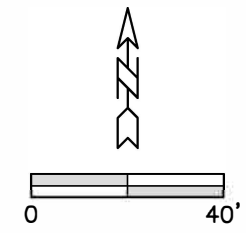
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TCE AREA = ±430 SF

FILE 20
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TCE AREA = ±403 SF

FILE 21
PRE AREA = ±644 SF
TCE AREA = ±402 SF

FILE 22
PRE AREA = ±828 SF
TCE AREA = ±614 SF

FILE 23
PRE AREA = ±826 SF
TCE AREA = ±243 SF





MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: October 20, 2021

Department: Public Works Agenda Planning Date: October 14, 2021 Time required: 10 Min.

Audio/Visual aids: Powerpoint

Contact: Ryan Crowther Phone: 503-365-3112

Department Head Signature: [Handwritten Signature]

TITLE: ODOT Supplemental Project Agreement No. 35121, State Street: 4106 State Street to 46th Avenue.

Issue, Description & Background: State Street is an east/west Major Arterial, and an identified core congestion management program (CMP) corridor in SKATS Regional Transportation System Plan, that connects rural lands east of Salem to downtown Salem, providing key links between Cordon Road, Lancaster Drive and the Salem city center. It provides numerous connections to much of the developed East Salem area, connecting people with schools, neighborhoods, transit stops, and commercial development. The Salem Transportation System Plan identifies State Street as a Regional Goods Movement Pipeline. There is a considerable volume of bicycle and pedestrian usage on this section of State Street. Paved shoulders provide bike lanes adjacent to high trafficked travel lanes. The absence of sidewalks along much of this section results in the paved shoulders also serving pedestrians. The lack of a center turn lane is an issue as it causes vehicles, avoiding left-turning vehicles, to swerve onto the shoulder and into conflict with bicyclists and pedestrians. Inadequate pedestrian facilities along this corridor hampers its use for localized pedestrian trips and poses significant safety concerns for those pedestrians who make use of the existing shoulder due to parked vehicles obstructing the shoulder. Marion County applied for and was granted federal funding to improve State Street from its current two lane configuration to a widened three lane section with pedestrian facilities on the south side of the roadway. The project is currently only funded in the 2021-2024 STIP cycle for the preliminary engineering and right of way phases. However, the project will ultimately include construction of one through travel lane in each direction (east and west) with a center-turn lane, complete with new bike lane, sidewalk, and ADA ramps on the south side of the roadway. Rectangular rapid flashing beacons (RRFBs) with pedestrian refuge islands will also be installed at two crosswalk locations along State St. Widening the right of way will only occur on the south side of roadway (an average of 15 feet +/-). With the execution of this agreement, funds can be obligated to begin the preliminary engineering phase of the project in the late fall of 2021. Actual construction of the project is slated for 2025.

Financial Impacts: The total estimated cost for the preliminary and right of way phases is \$800,000 of which \$717,840 will be paid for with federal funds. Marion County will provide the required matching funds. SKATS has committed to programming the construction phase funds in the upcoming 2024-2027 STIP cycle.

Impacts to Department & External Agencies: Entering into this agreement does not directly impact any other Marion County departments. The project will benefit the public at large by providing a center turn lane and much safer pedestrian access along this segment of State Street.



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Options for
Consideration:

1. Approve and sign the Supplemental Project Agreement #35121 between ODOT and Marion County.
2. Take no action at this time.

Recommendation:

The Public Works Department recommends the Board choose option 1, allowing design of the State Street improvement project to proceed in the 2021-2022 budget year.

List of attachments:

1. Contract Review Sheet
2. Supplemental Project Agreement 35121

Presenter:

Ryan Crowther

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to:

Tim Beaver, Public Works, tbeaver@co.marion.or.us

Oregon Department of Transportation
LOCAL AGENCY CERTIFICATION PROGRAM
Supplemental Project Agreement No. 35121
Project Name: State Street: 4106 State Street to 46th Avenue

THIS SUPPLEMENTAL PROJECT AGREEMENT (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" or "ODOT," and MARION COUNTY acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually as "Party" or collectively as "Parties."

RECITALS

1. By the authority granted in Local Agency Certification Program Agreement No. 30634, executed on April 12, 2016, and Amendment No. 01 executed on August 29, 2016 (Local Agency Certification Program Agreement) incorporated herein and by this reference made a part hereof, State may enter into this Supplemental Project Agreement with Agency for the performance of work on this improvement project; The Certification Program allows State to certify a Local Agency's procedures and delegates authority to the certified Local Agency to administer federal-aid projects.
2. Certification status information as of the date of execution of this Agreement:
 - a. Agency is fully certified in the following functional areas:
 - consultant selection (direct appoint, formal and informal processes pursuant to certification status letter dated June 11, 2020)
 - design (excluding bridge design)
 - "advertise, bid, and award" for construction contracts
 - construction contract administration
 - b. Agency is conditionally certified in the following functional areas:
 - bridge design
 - c. Agency has had its Americans with Disabilities Act (ADA)-related design exception and curb ramp inspection processes reviewed and approved by ODOT and FHWA for use on federally funded projects.
3. State Street from 4106 State Street to 46th Avenue is a part of the Agency's county road system under the jurisdiction and control of Agency.

4. The Project was selected as a part of the Surface Transportation Block Grant –Urban program and may include a combination of federal, state, and local funds. “Project” is defined under Terms of Agreement, paragraph 1 of this Agreement.

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. Under such authority, State and Agency agree to Agency delivering the Preliminary Engineering and Right of Way phases for the future construction of the State Street: 4106 State Street to 46th Avenue project, hereinafter referred to as “Project.” Project includes the Preliminary Engineering and Right of Way phases for the future construction of a center turn lane, bike lanes and sidewalks to improve pedestrian safety. The location of the Project is shown on the sketch map attached hereto, marked “Exhibit A,” and by this reference made a part hereof.
2. The total Project cost for the Preliminary Engineering and Right of Way phases is estimated at \$800,000, which is subject to change. Federal funds for these Project phases shall be limited to \$717,840. Agency shall be responsible for all remaining costs, including any non-participating costs, all costs in excess of the federal or state funds, and the 10.27 percent match for all eligible costs. Any unused federal or state funds obligated to this Project will not be paid out by State, and will not be available for use by Agency for this Agreement or any other projects. “Total Project Cost” means the cost to complete the entire Project, and includes any federal funds, state funds, local matching funds, and any other funds. Agency will report the final cost of each phase of the Project at the completion of each phase, as well as the Total Project Cost at the end of the Project if Agreement is amended to include the Construction phase of the Project, to the ODOT Regional Local Agency Liaison.
3. Parties also anticipate Agency delivering the Construction phase of the Project. Upon full funding and the addition of the Construction phase to the Project in the Statewide Transportation Improvement Program (STIP), this Agreement will be amended to include Construction phase work, and add the Construction phase costs. If the Parties do not amend this Agreement to add Construction phase work, the construction and maintenance provisions in this Agreement will not apply.
4. Federal funds under this Agreement are provided under Title 23, United States Code.
5. If State performs work on the Project, State will provide Agency with a preliminary estimate for the cost of State’s work. Prior to the start of each Project phase, State will provide an updated estimate of State’s costs from that phase to Agency. Such phases generally consist of Preliminary Engineering, Right of Way, Utility, and Construction. Agency understands that State’s costs are estimates only and agrees to reimburse State for actual cost incurred per the Terms of this Agreement.

6. Agency shall make all payments for work performed on the Project, including all construction costs, and invoice State for one-hundred (100%) percent of its costs. State shall reimburse approved Agency invoices at the pro-rated federal share of 89.73 percent. All costs beyond the federal and state reimbursement and any non-participating costs are the responsibility of the Agency, and will not be reimbursed by State. State shall invoice Federal Highway Administration (FHWA) and Agency for work provided as part of the Project. Agency agrees to reimburse State for work performed for the project upon receipt of invoice. Failure of Agency to make such payments to State may result in withholding of Agency's proportional allocation of State Highway Trust Funds until such costs are paid. Agency understands that State's costs are estimates only and agrees to reimburse State for the actual amount expended.
7. Agency guarantees the availability of Agency funding in an amount required to fully fund Agency's share of the Project.
8. This Agreement is subject to the terms and provisions of the Local Agency Certification Program Agreement.
9. Information required by 2 CFR 200.332(a)(1) shall be contained in the USDOT FHWA Federal Aid Project Agreement for this Project, a copy of which shall be provided by State to Agency with the Notice to Proceed.
10. Indirect Cost Rate.
 - a. As required by 2 CFR 200.332(a)(4), the indirect cost rate(s) for this project at the time the agreement is written is 8.28 percent. This rate may change during the term of this Agreement upon notice to ODOT and ODOT's subsequent written approval.
 - b. If the approved rate changes during the term of this Agreement, Agency shall invoice ODOT using the current indirect cost rate for the project on file with ODOT at the time the work is performed. If Agency does not have approved indirect cost rate(s) on file with ODOT at the time the work is performed, Agency shall invoice ODOT using a zero percent (0%) rate.
11. Agency Work on this Project:

Agency shall perform the following functional areas in which Agency is fully certified and as authorized by the Local Agency Certification Program Agreement, the terms of this Agreement, and by the Agency certification status letter dated June 11, 2020, attached to this agreement as "Exhibit C" and hereby incorporated:

 - consultant selection (direct appoint, formal and informal processes)
 - design (excluding bridge design)
 - "advertise, bid, and award" the construction contract
 - Construction contract administration

12. State will submit the requests for federal funding to the FHWA. The federal funding for this Project is contingent upon approval of each funding request by FHWA. Any work performed outside the period of performance and scope of work approved by FHWA will be considered nonparticipating and paid for at Agency expense.
13. State's Regional Local Agency Liaison or designee will provide Agency with a written notice to proceed for each phase of the Project when FHWA approval has been secured and funds are available for expenditure on this Project.
14. State considers Agency a subrecipient of the federal funds it receives as reimbursement under this Agreement. The Catalog of Federal Domestic Assistance (CFDA) number and title for this Project is 20.205, Highway Planning and Construction.
15. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project and final payment or ten (10) calendar years following the date all required signatures are obtained, whichever is sooner.
16. RESERVED
17. If Agency fails to meet the requirements of this Agreement or the underlying federal regulations, State may withhold the Agency's proportional share of Highway Fund distribution necessary to reimburse State for costs incurred by such Agency breach.
18. State may conduct periodic inspections during the useful life of the Project to verify that Project is being properly maintained and continues to serve the purpose for which federal funds were provided.
19. State and Agency Agree that the useful life of the Project is 20 years.
20. By signing this Agreement, Agency agrees to comply with the provisions of the Federal Funding Accountability and Transparency Act (FFATA) and is subject to the following award terms: <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf> and <http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>. If, in the preceding fiscal year, Agency received more than 80% of its gross revenues from the federal government, those federal funds exceed \$25,000,000 annually, and the public does not have access to information about the compensation of executives through reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986, Agency shall report the total compensation and names of its top five executives to State. Agency shall report said information to State within 14 calendar days of execution of this Agreement and annually thereafter, utilizing the FFATA form attached hereto as Exhibit "B".
21. **Americans with Disabilities Act Compliance:**

- a. **General:** Agency agrees to comply with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, “ADA”) as identified in paragraph 1 of the **General Provisions** section of the Local Agency Certification Program Agreement.
- b. **ADA Design Standards, Construction Specifications, and Inspections:** Agency agrees to comply with the design and construction standards and the design exception documentation and approval requirements agreed to in the **Standards** section of the Local Agency Certification Program Agreement. In addition, with respect to ADA-related design standards, design exception approvals, construction specifications, and inspections, Agency agrees to comply with the following:
 - i. For portions of the Project on or along the Oregon State Highway System (state highway), Agency shall apply ODOT’s current ADA-related design standards, construction specifications, and design exception documentation and approval requirements for design, construction, or alteration of Project sidewalks, curb ramps, and pedestrian-activated signals, as applicable to the Project, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, and providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form. Agency further agrees to utilize ODOT standards to assess and ensure Project compliance with the ADA, and to document ramp inspections per subsection (c.)(i.) below. Design exceptions on State-owned facilities must be approved by State. For project locations on or along State-owned portions of the National Highway System (“NHS”) design exceptions must be approved by State and/or FHWA.
 - ii. For portions of the Project **not** on or along a state highway, including locally-owned portions of the NHS, Agency shall apply its own ADA-compliant design standards, construction specifications, design exception documentation and approval process, and inspection documentation process, as approved by State and FHWA for use on federally funded projects.
- c. **ADA Inspection Forms:** Prior to issuing the Second Notification, per Oregon Standard Specification 00180.50(g) or Agency’s approved equivalent, Agency agrees to submit to State the following:
 - i. For all curb ramps constructed or altered as part of this Project on or along a state highway, submit completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State’s Regional Local Agency Liaison. The completed form is the required documentation from Agency that each curb ramp meets ODOT standards and is ADA compliant. ODOT’s fillable Curb Ramp Inspection Form 734-5020 and instructions are available at the following website:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>

- ii. For all curb ramps not located on or along a state highway, Agency shall complete and keep on file Agency's ODOT- and FHWA-approved ADA curb ramp inspection form (or other approved document) to show that each Project curb ramp meets Agency's curb ramp standards and is ADA compliant or conforms to Agency's approved ADA design exception.
- d. **State Inspection:** Agency shall promptly notify State of Project completion and allow State to inspect Project sidewalks, curb ramps, and pedestrian-activated signals, as applicable to the Project, located on or along a state highway prior to acceptance of Project by Agency and prior to release of any Agency contractor.
- e. **Work Zone Access:** Agency shall ensure that temporary pedestrian routes are provided through or around any Project work zone in accordance with the applicable ODOT or Agency Standards, as set forth in subsections (a) through (c) above. For any work zone on or along the state highway, any such temporary pedestrian route shall include directional and informational signs and include accessibility features equal to or better than the features present in the existing pedestrian facility. Agency shall also ensure that advance notice of any temporary pedestrian route on or along the state highway is provided in accessible format to the public, people with disabilities, and disability organizations at least 10 days prior to the start of construction in accordance with ODOT standards and processes.
- f. **Reimbursement:** Unless Agency has an approved design exception, State will only reimburse Agency for work that meets the applicable ODOT or Agency standards as set forth in subsections (a) through (c) above, regardless of whether the work is on a State-owned or an Agency-owned facility.
- g. **On-going Maintenance Obligation:** Agency shall ensure that any portions of the Project under Agency's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:
 - i. Pedestrian access is maintained as required by the ADA,
 - ii. Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed pursuant to applicable statutes and ordinances,
 - iii. Agency, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the facility in compliance with the ADA requirements that were in effect at the time the facility was constructed or altered,
 - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and

- v. Applicable permitting and regulatory actions are consistent with ADA requirements.
 - h. **Survival:** Maintenance obligations in this section shall survive termination of this Agreement.
22. Agency shall ensure compliance with the Cargo Preference Act and implementing regulations (46 CFR Part 381) for use of United States-flag ocean vessels transporting materials or equipment acquired specifically for the Project. Strict compliance is required, including but not limited to the clauses in 46 CFR 381.7(a) and (b) which are incorporated by reference. Agency shall also include this requirement in all contracts and ensure that contractors include the requirement in their subcontracts.
23. To the fullest extent permitted by law, and except to the extent otherwise void under ORS 30.140, Agency shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260 (hereinafter, referred to individually and collectively as "Claims"), to the extent such Claims are caused, or alleged to be caused by the negligent or willful acts or omissions of Agency's contractor or any of the officers, agents, employees or subcontractors of the contractor. It is the specific intention of the Parties that State shall, in all instances, except to the extent Claims arise from the negligent or willful acts or omissions of State, be indemnified for all Claims caused or alleged to be caused by the contractor or subcontractor.
24. Any such indemnification shall also provide that neither Agency's contractor and subcontractor nor any attorney engaged by Agency's contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that Agency's contractor is prohibited from defending the State of Oregon, or that Agency's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agency's contractor if the State of Oregon elects to assume its own defense.
25. This Agreement may be terminated by mutual written consent of both Parties.
26. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:

Marion County/ODOT
Agreement No. 35121

- a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency 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 ten (10) days or such longer period as State may authorize.
 - c. If Agency fails to provide payment of its share of the cost of the Project.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this 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.
27. Any termination of this Agreement shall not extinguish or prejudice any rights or obligations accrued to the Parties prior to termination.
28. Notwithstanding anything in this Agreement or implied to the contrary, the rights and obligations set out in **Terms of Agreement, paragraphs 17 (withholding of highway funds), 18 (periodic inspections), 21.c, g-h (ADA), 23-24 (subcontractor indemnification), 27 (termination does not extinguish rights), 28 (survival), 29 (violation of federal requirements), 30 (severability), 31 (access to right of way) and 34 (merger, waiver, modification) of this Agreement** shall survive Agreement expiration or termination, as well as any provisions of this Agreement that by their context are intended to survive.
29. Agency, as a recipient of federal funds, pursuant to this Agreement with State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires State to return funds to the FHWA, hold harmless and indemnify State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
30. State and Agency hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be

affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

31. Agency grants State or others designated by State the right to enter onto Agency right of way for the performance of duties as set forth in this Agreement.
32. Agency certifies and represents that each individual signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
33. This Agreement 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 Agreement so executed shall constitute an original.
34. This Agreement and the Local Agency Certification Program (Certification Program) Agreement No. 30634, as amended and all attached exhibits constitutes the entire agreement between the Parties on the subject matter hereof. In the event of conflict, the body of this Agreement and the attached Exhibits will control over Project application and documents provided by Agency to State. 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 or Agency to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision. Notwithstanding this provision, the Parties may enter into a Right Of Way Services Agreement in furtherance of the Project.
35. State's Regional Local Agency Liaison for this Agreement is Andrew Blair, Transportation Project Manager, 455 Airport Road SE, Building B, Salem, Oregon 97301; telephone: (503) 986-2681; email: andrew.blair@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.
36. Agency's Project Liaison for this Agreement is Shane Ottosen, P.E., Project Manager, Marion County Public Works Engineering, 5155 Silverton Road SE, Salem, Oregon 97305; telephone: (503) 588-5036; email: sottosen@co.marion.or.us, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.


THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

Marion County/ODOT
Agreement No. 35121

This Project is in the 2021-2024 Statewide Transportation Improvement Program (STIP), (Key No. 21895) that was adopted by the Oregon Transportation Commission on July 15, 2020 (or subsequently approved by amendment to the STIP).

SIGNATURE PAGE TO FOLLOW

MARION COUNTY, by and through its
elected officials

By 
Commissioner


By 
Commissioner

By 
Commissioner

Date 10/20/2021

APPROVAL RECOMMENDED

By  10/5/2021
Director of Public Works Date

By  10/14/21
Chief Administrative Officer Date

APPROVED AS TO FORM

By  10/10/21
Marion County Contracts Date

By  10/12/21
Marion County Legal Counsel Date

Agency Contact:

Shane Ottosen, P.E.
Project Manager
Marion County Public Works Engineering
5155 Silverton Road NE
Salem, Oregon 97305
(503) 588-5036
sottosen@co.marion.or.us

STATE OF OREGON, by and through
its Department of Transportation

By 
Delivery & Operations Division
Administrator

Date 11/18/2021

APPROVAL RECOMMENDED

By 
Certification Program Manager

Date 11/15/2021

By Sonny Chickering (via email)
Region 2 Manager

Date November 15, 2021 - email retained in file

**APPROVED AS TO LEGAL
SUFFICIENCY**

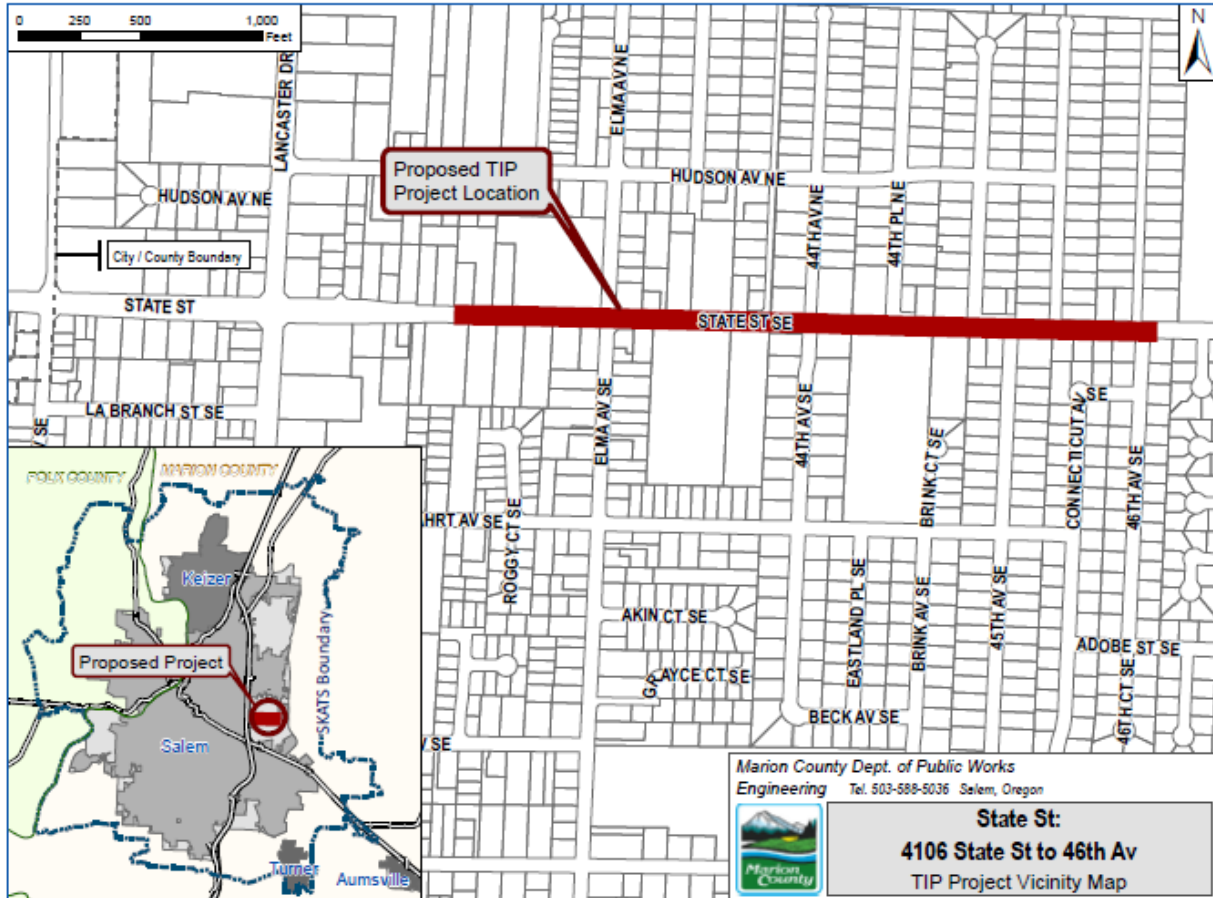
By Serena Hewitt (via email)
Assistant Attorney General

Date September 27, 2021 - email retained in file

State Contact:

Andrew Blair
Transportation Project Manager
ODOT, Region 2
455 Airport Road SE, Building B
Salem, Oregon 97301
(503) 986-2681
andrew.blair@odot.state.or.us

Exhibit A – Project Location Map



Project: G:\Engineering\Transportation\Grants\SKATS TIP\2021-26 STBGP-U_TA-U\StateSt-Lancaster4th (3 Lane Configuration)\Vicinity Map\VicinityMap.mxd Date Saved: 8/30/2019

EXHIBIT B
Federal Funding Accountability and Transparency Act (FFATA)
Subaward Reporting

(For purposes of this Exhibit, references to “your organization” shall mean “Agency” and references to “ODOT” shall mean “State.”)

The Oregon Department of Transportation (ODOT) is required to fulfill a federal requirement for contracting under the Federal Funding Accountability and Transparency Act (FFATA) Subaward Reporting System (FSRS). FFATA reporting is a requirement for subawards (also known as subrecipients) of federal awards in excess of \$25,000,000. Your organization will enter into an agreement with ODOT where the funding source is a federal grant with a subrecipient relationship. Your organization is required to submit the information below to the Oregon Department of Transportation within fourteen calendar days of execution of the Agreement and annually thereafter, if applicable. (See the following page for further details.)

Legal entity name: _____

Data Universal Number System (DUNS) number: _____

Executive compensation

Executive compensation information is also required to determine whether or not the following information must be reported in FSRS:

- a. In your organization’s previous fiscal year, did your organization receive 80% or more of its annual gross revenue and \$25,000,000 or more in federal procurement contracts, subcontracts, loans, grants, subgrants, cooperative agreements and federal financial assistance awards subject to the Transparency Act? (Include parent organization, all branches, and all affiliates worldwide.)
 Yes No If “yes,” proceed to b. If “no,” no further action is required and submittal of this form is not required.
- b. Does the public have access to information about the compensation of the senior executives in your organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?
 Yes No If “yes,” provide a link to the SEC: <http://www.sec.gov> where this information is located and return form to the ODOT contact shown at the bottom of this form.
Provide link here:

If “no,” provide compensation information below.

Names and annual compensation amounts of the five most highly compensated executives:

1.	\$
2.	\$
3.	\$
4.	\$
5.	\$

Business entity contact information (person completing form):

Type name	Title	Date
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Return completed form to: Alice Bibler, Program and Funding Services Manager; Oregon Department of Transportation; 555 13th Street NE; Salem, OR 97301; Alice.Bibler@odot.state.or.us

Background on FFATA requirements

The Federal Funding Accountability and Transparency Act (FFATA) was signed on September 26, 2006. The intent of the Act is to empower every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. The FFATA legislation requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is www.USASpending.gov.

Definition of compensation

Your organization is considered a subrecipient of federal funds. Unless your organization is exempt, FFATA requires you to report total compensation for each of your five most highly compensated executives for the preceding completed year. Total compensation means the cash and non-cash dollar value earned by the executive during the subrecipient's preceding fiscal year and includes the following: salary and bonus; awards of stock, stock options, and stock appropriation rights; earnings for services under non-equity incentive plans; change in pension value; above-market earnings on deferred compensation which is not tax-qualified; and other compensation as defined in 2 CFR Part 170, Section 170.330(b)(5)(vi).

More detailed information about the FFATA can be found at: <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>

If you have any questions, contact:

Alice Bibler
Program and Funding Services Manager
Oregon Department of Transportation
555 13th Street NE
Salem, OR 97301
Alice.Bibler@odot.state.or.us
Telephone: 503-986-3880

EXHIBIT C



Oregon
Kate Brown, Governor

Department of Transportation
Policy, Data and Analysis Division
555 13th Street NE, Suite 2
Salem, OR 97301
Phone: (503) 986-4175

June 11, 2020

Ryan Crowther, P.E.
Capital Projects Manager
Marion County
5155 Silverton Rd. NE
Salem, OR 97305

RE: Marion County Consultant Selection Certification & Demonstration Evaluation Results, Formal and Informal Procurements

Dear Ryan,

This letter is to notify you of the successful evaluation results of Marion County's January 14, 2020 demonstration of its formal consultant selection process on the Lancaster Drive: Center St – Monroe Ave project (KN 20745) project. See the attached June 10, 2020 letter with certification recommendations from the ODOT Procurement Office. Congratulations on the successful evaluation and certification in formal and informal consultant selection processes!

We note that ODOT previously approved County's certification in the direct appoint/small purchase process on May 19, 2015, which means the County is now fully certified in consultant selection (formal, informal, and direct appoint/small purchase processes). Please note, certification in consultant selection does not authorize the County to issue work order contracts against ODOT price agreements.

As a reminder, please ensure the County's consultant contracts on federal-aid projects are administered in accordance with the contract administration processes set out in section 3.7 of the *LPA A&E Requirements Guide*. Also, take note of the DBE-related forms and procedures requirements in 3.4.2 and the documentation requirements in section 4. Compliance with the consultant selection and contract administration requirements set out in the guide is subject to ODOT Certification Program review (see subsection I. on Maintaining Certification in Section B of Local Agency Guidelines manual).

Thank you again for the time and effort Marion County staff put into thoroughly preparing for your agency's formal consultant selection presentation and for providing well-organized documentation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tiffany Hamilton".

Tiffany Hamilton, JD
Local Agency Certification Program Manager
Certification Program Office, Statewide Programs Unit
Direct: (503) 986-3649

Cc: Andrew (AJ) Blair, ODOT Region 2, Transportation Project Manager
Kim Rice, ODOT Procurement Office
Satvinder Sandhu, FHWA