



Marion County
OREGON
FINANCE DEPARTMENT

Contract Review Sheet

PW-2856-19 (1)

Intergovernmental Agreement #: PW-2856-19 Amendment #: 1

Contact: Tim Beaver Department: Public Works

Phone #: 503-365-3100 Date Sent: Tuesday, July 5, 2022

Title: ODOT 33277 - Center Street NE Improvements Lancaster Drive to 45th Place NE

Contractor's Name: Oregon Department of Transportation

Term - Date From: June 13, 2019 Expires: June 13, 2029

Contract Total: \$ 1,663,001.00 Amendment: \$ 691,540.37 New Total: \$ 2,354,541.37

☐ Incoming Funds ☒ Federal Funds ☐ Reinstatement ☐ Retroactive ☐ Amendment greater than 25%

Source Selection Method: Exemption Rule/Statute: 50-0010

Description of Services or Grant Award

ODOT 33277 Supplemental Project Agreement for Center Street NE improvements Lancaster Drive to 45th Place NE.

Amendment 1 increases the estimated project cost to \$2,958,366, the federal funds available to \$2,354,541.37, and makes other housekeeping changes.

Desired BOC Session Date: 7/27/2022 BOC Planning Date: 7/14/2022

Files submitted in CMS: 7/6/2022 Printed packet & copies due in Finance: 7/12/2022

BOC Session Presenter(s) Ryan Crowther

FOR FINANCE USE

Date Finance Received: 7/6/2022 Date Legal Received: _____

Comments: Y

REQUIRED APPROVALS

Finance - Contracts _____ Date _____ Contract Specialist _____ Date _____

Legal Counsel _____ Date _____ Chief Administrative Officer _____ Date _____



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: July 27, 2022

Department: Public Works

Agenda Planning Date: July 6, 2022

Time required: 5 min

☒ Audio/Visual aids PowerPoint

Contact: Ryan Crowther

Phone: 503-365-3112

Department Head Signature:

TITLE

Center Street: Lancaster Drive to 45th Place NE, Amendment 1 to Intergovernmental Agreement No. 33277

Issue, Description & Background

In May of 2019, the Board of Commissioners signed Supplemental Project Agreement No. 33277 with ODOT for a Federal Surface Transportation Program-Urban (STP-U) grant to provide the design and construction of the first-phase of improvements on Center Street NE from Lancaster Drive NE to 45th Place NE. The first phase of roadway improvements include widening the pavement to the north, reconfiguring the striping to allow for a center left-turn lane and a bicycle lane, and constructing sidewalks along the north side of Center Street.

Amendment No. 1 changes the total estimated Project cost from \$2,187, 676 to \$2,958,366 and increases the total federal funding amount for the Project from \$1,663,001.00 to \$2,354,541.37. Additionally, the Amendment updates language concerning the County's certification status and updates agreement terms related to ADA.

Financial Impacts:

The total federal funds for this project have increased by \$691,540.37 to a total of \$2,354,541.37 which will increase the County's 10.27% match from \$170,790 to \$241,811. 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. The project is an approved CIP in the current budget year.

Options for Consideration:

1. Approve and sign Amendment No. 1 to Supplemental Project Agreement 33277 between ODOT and Marion County.
2. Take no action at this time.

Recommendation:

The Public Works Department recommends that the Board of Commissioners choose option 1, allowing the Center Street project to continue without delay.

List of attachments:

Amendment No. 1 to Supplemental Project Agreement 33277 between ODOT and Marion County

Presenter:

Ryan Crowther, PE

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



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Copies to:

Tim Beaver - tbeaver@co.marion.or.us

AMENDMENT NUMBER 01
LOCAL AGENCY CERTIFICATION AGREEMENT
Supplemental Project Agreement No. 33277
Center Street: Lancaster Drive to 45th Place NE
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," both herein referred to individually as "Party" or collectively as "Parties," entered into on June 13, 2019.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to update language and increase funding.

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.** Additions are underlined. Deletions are *italicized* and struck through.

a. **RECITALS, Paragraph 2, Pages 1 and 2, is revised as follows:**

2. Certification status information as of the date of execution of this Amendment No. 01 to the 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:

- ~~consultant selection (formal and informal processes)~~
- bridge design

c. ~~The project described in this Agreement is one of the required test projects described in the Local Agency Certification Program Agreement that Agency must perform in order to obtain full certification in the following functional areas:~~

- ~~consultant selection (formal and informal processes)~~

- d. Agency has ~~not~~ 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.

b. TERMS OF AGREEMENT, Paragraph 2, Page 2, is revised as follows:

2. The Total Project cost is estimated at \$2,958,366.00~~\$2,187,676~~, which is subject to change. Federal funds for this Project shall be limited to \$2,354,541.37~~\$1,663,001~~. 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 ~~estimated~~ 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.

c. TERMS OF AGREEMENT, Paragraph 10, Pages 3-4, is revised as follows:

10. Agency Work on this Project:

- a. ~~As applicable to 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
- b. ~~Agency understands that this Project is a test project for the following functional area and is subject to the terms and conditions of the Local Agency Certification Program Agreement:~~
- ~~consultant selection (formal and informal processes)~~

d. TERMS OF AGREEMENT, Paragraph 33, Page 9, is revised as follows:

33. State's ~~contact~~ Regional Local Agency Liaison for this Agreement is Carol Houk, Project Leader, ODOT Area 4, 3700 SW Philomath Boulevard, Corvallis, Oregon 97333; phone: (541) 757-4211; email: carol.s.houk@odot.state.or.us
Andrew Blair, Transportation Project Manager, ODOT Region 2, Area 3, 455 Airport Road SE, Building B, Salem, Oregon 97301; phone: (503) 986-2681;

email: Andrew.Blair@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. TERMS OF AGREEMENT, Paragraph 19, Pages 5-6, is deleted in its entirety and replaced with the following:

19. 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 the 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,
 - 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.
4. **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.
5. **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.

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.

This Project is in the 2021-2024 Statewide Transportation Improvement Program (STIP), (Key No. 21301) that was adopted by the Oregon Transportation Commission on July 15, 2020 (or subsequently by amendment to the STIP).

SIGNATURE PAGE TO FOLLOW

Marion County/ODOT
Agreement No. 33277 Amendment No. 1

MARION COUNTY, by and through its
elected officials

By _____
Commissioner

By _____
Commissioner

By _____
Commissioner

Date _____

APPROVAL RECOMMENDED

By _____ Date _____
Director of Public Works

By _____ Date _____
Chief Administrative Officer

APPROVED AS TO FORM

By _____ Date _____
Marion County Contracts

By _____ Date _____
Marion County Legal Counsel

Agency Contact:

Shane Ottosen Jr., P.E., Project Engineer
Marion County Public Works Engineering
5155 Silverton Road NE
Salem, OR 97305
Phone: (503) 365-3105
Email: sottosen@co.marion.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____
Delivery and Operations Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____
Certification Program Manager

Date _____

By _____
State Traffic Roadway Engineer

Date _____

By _____
Region 2 Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date _____

State Contact:

Andrew Blair, Transportation Project Mgr.
ODOT Region 2, Area 3
455 Airport Road SE, Building B
Salem, OR 97301
Phone: (503) 986-2681
Email: andrew.blair@odot.oregon.gov

Marion County/ODOT
Agreement No. 33277 Amendment No. 1

EXHIBIT C



Oregon
Kate Brown, Governor

Department of Transportation
Policy, Data and Analysis Division
555 12th 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

**Oregon Department of Transportation
LOCAL AGENCY CERTIFICATION PROGRAM
Supplemental Project Agreement No. 33277
Center Street: Lancaster Drive to 45th Place NE
Marion County**

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 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 process)
 - design (excluding bridge design)
 - "advertise, bid, and award" for construction contracts
 - construction contract administration
 - b. Agency is conditionally certified in the following functional areas:
 - consultant selection (formal and informal processes)
 - bridge design
 - c. The project described in this Agreement is one of the required test projects described in the Local Agency Certification Program Agreement that Agency must perform in order to obtain full certification in the following functional areas:
 - consultant selection (formal and informal processes)

- d. Agency has not 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. Within the limits of this project, Center Street is a part of the Agency's road system under the jurisdiction and control of Agency.
4. The Project was selected as a part of the Surface Transportation Program – Urban (STP-U) 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 Center Street: Lancaster Drive to 45th Place NE project, hereinafter referred to as "Project." Project includes the design of interim and long-term widening of Center Street east of Lancaster Drive to 45th Place NE, and the construction of the first phase improvements on the north side of Center Street. This first phase will include widening the street to an interim three-lane section to allow for a center turn lane, along with a bike lane and sidewalk on the north side. The location of the Project is shown on the sketch maps attached hereto, marked Exhibit A, and by this reference made a part hereof.
2. The total Project cost is estimated at \$2,187,676, which is subject to change. Federal funds for this Project shall be limited to \$1,663,001. 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 estimated 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. Federal funds under this Agreement are provided under Title 23, United States Code.
4. 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.

5. 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.
6. Agency guarantees the availability of Agency funding in an amount required to fully fund Agency's share of the Project.
7. This Agreement is subject to the terms and provisions of the Local Agency Certification Program Agreement.
8. Information required by 2 CFR 200.331(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.
9. Indirect Cost Rate.
 - a. As required by 2 CFR 200.331(a)(4), the indirect cost rate for this project at the time the agreement is written is 8.77%. 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 rates on file with ODOT at the time the work is performed, Agency shall invoice ODOT using a zero percent (0%) rate.
10. Agency Work on this Project:
 - a. As applicable to 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:
 - consultant selection (direct appoint process)
 - design (excluding bridge design)
 - "advertise, bid, and award" the construction contract
 - construction contract administration

- b. Agency understands that this Project is a test project for the following functional area and is subject to the terms and conditions of the Local Agency Certification Program Agreement:
- consultant selection (formal and informal processes)
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.
17. State and Agency agree that the useful life of the Project is 20 years.
18. 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".

19. 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 Local Agency Certification Program Agreement, and to utilize ODOT standards to assess and ensure Project compliance with the ADA.
- b. **ADA Design Standards and Construction Specifications:** Agency agrees to comply with ODOT's current ADA-related design standards, construction specifications, and design exception documentation and approval requirements for design, modification, upgrade, or construction of Project sidewalks, curb ramps, and pedestrian activated signals, as applicable to the Project, on both the Oregon State Highway System (state highway) and on the local agency system, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, and current ODOT Curb Ramp Inspection form.
 - i. **ADA Inspection Forms:** Prior to issuing the Second Notification pursuant to Oregon Standard Specification 00180.50(g), or Agency's approved equivalent, Agency agrees to submit a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Regional Local Agency Liason for each curb ramp designed, constructed, upgraded, or modified for this Project. The completed form is the required documentation from Agency showing 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:

<http://www.oregon.gov/ODOT/HWY/CONSTRUCTION/Pages/HwyConstForms1.aspx>
 - ii. **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.
- c. **Work Zone Access:** Agency shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs, comply with ODOT standards, 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 is provided in accessible format to the public, people with disabilities, and disability organizations at least 10 days prior to the start of construction.

- d. **Reimbursement:** Unless Agency has an approved design exception, State will only reimburse Agency for work that meets the applicable ODOT standards, regardless of whether the work is on a State-owned or an Agency-owned facility.
 - e. **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,
 - iii. Any repairs or removal of obstructions needed to maintain Project features in compliance with the ADA requirements that were in effect at the time of Project construction are completed by Agency or abutting property owner pursuant to applicable local code provisions,
 - iv. Any future alteration work on the 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.
 - f. **Survival:** Maintenance obligations in this section shall survive termination of this Agreement.
20. 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.
21. 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, Oregon 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.

22. 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.
23. This Agreement may be terminated by mutual written consent of both Parties.
24. 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:
- 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.
- 25. Any termination of this Agreement shall not extinguish or prejudice any rights or obligations accrued to the Parties prior to termination.
- 26. The rights and obligations set out in **Terms of Agreement, paragraphs 15-16, 19.e-f, 21-22, and 25-29** 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.
- 27. 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.
- 28. 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.
- 29. Agency grants State the right to enter onto Agency right of way for the performance of duties as set forth in this Agreement.
- 30. 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.
- 31. 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.
- 32. 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.

33. State's contact for this Agreement is Carol Houk, Project Leader, ODOT Area 4, 3700 SW Philomath Boulevard, Corvallis, Oregon 97333; phone: (541) 757-4211; email: carol.s.houk@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.

34. Agency's Project Liaison for this Agreement is Shane Ottosen, Jr., P.E., Marion County Public Works, 5155 Silverton Road NE, Salem, Oregon 97305; phone: (503) 365-3104; 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.

This Project is in the 2018-2021 Statewide Transportation Improvement Program (STIP), (Key No. 21301) that was adopted by the Oregon Transportation Commission on July 20, 2017 (or subsequently approved by amendment to the STIP).

SIGNATURE PAGE FOLLOWS

Marion County / State of Oregon – Dept. of Transportation
Agreement No. 33277

MARION COUNTY, acting by and through
its elected officials

By *Kim Carr*
Commissioner

By *David A. Bond*
Commissioner

By Not Present At Meeting
Commissioner

Date 5/29/2019

APPROVAL RECOMMENDED

By *Brian Nicholas* 5/8/19
Director of Public Works Date

By *Constance Suley* May 15, 2019
Marion County Legal Counsel Date
Contracts

Agency Contact:

Shane Ottosen, Jr., P.E.
Marion County Public Works
5155 Silverton Road NE
Salem, OR 97305
Phone: (503) 365-3104
Email: sottosen@co.marion.or.us

State's Contact:

Carol Houk, Project Leader
ODOT Area 4
3700 SW Philomath Blvd.
Corvallis, OR 97333
Phone: (541) 757-4211
Email: carol.s.houk@odot.state.or.us

APPROVED AS TO FORM

Shane E. Ottosen 5/15/19
Marion County ~~Commissioner~~ Date
Legal Counsel

STATE OF OREGON, acting by and
through its Department of Transportation

By SEE NEXT PAGE
Highway Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____
Certification Program Manager

Date _____

By *Michael J. [Signature]*
State Traffic/Roadway Engineer

Date 6-11-19

By *Sonny P.A. Chickering*
Region 2 Manager

Date 6-10-19

By *William Payne*
Region 2 Project Delivery Manager

Date 6/7/2019

By *Lisa Bell*
Area 4 Manager Area 3 Manager

Date 6/5/19

APPROVED AS TO LEGAL
SUFFICIENCY

By Rachel E. Bertoni by email
Assistant Attorney General

Date 2/21/19

Marion County / State of Oregon – Dept. of Transportation
Agreement No. 33277

MARION COUNTY, acting by and through
its elected officials

By *Kim Carr*
Commissioner

By *Samuel A. Braden*
Commissioner

By Not Present At Meeting
Commissioner

Date 5/29/2019

APPROVAL RECOMMENDED

By *Brian Nicholas* 5/8/19
Director of Public Works Date

By *Carla Sunday* May 15, 2019
Marion County Legal Counsel Date
Contracts

Agency Contact:

Shane Ottosen, Jr., P.E.
Marion County Public Works
5155 Silverton Road NE
Salem, OR 97305
Phone: (503) 365-3104
Email: sottosen@co.marion.or.us

State's Contact:

Carol Houk, Project Leader
ODOT Area 4
3700 SW Philomath Blvd.
Corvallis, OR 97333
Phone: (541) 757-4211
Email: carol.s.houk@odot.state.or.us

APPROVED AS TO FORM

James E. Vetter 5/15/19
Marion County ~~Commissioner~~ Date
Legal Counsel

STATE OF OREGON, acting by and
through its Department of Transportation

By *Whegan Lyde*
Highway Division Administrator

Date 6/13/19

APPROVAL RECOMMENDED

By *G. Harris*
Certification Program Manager

Date 6/11/19

By *W. H. H. H.*
State Traffic/Roadway Engineer

Date 6-11-19

By *Sonny P.A. Chickering*
Region 2 Manager

Date 6-10-19

By *Simon Payne*
Region 2 Project Delivery Manager

Date 6/7/2019

By *Lisa Bell*
Area 4 Manager Area 3 Manager

Date 6/5/19

APPROVED AS TO LEGAL
SUFFICIENCY

By Rachel E. Bertoni by email
Assistant Attorney General

Date 2/21/19

Exhibit A – Project Location Map

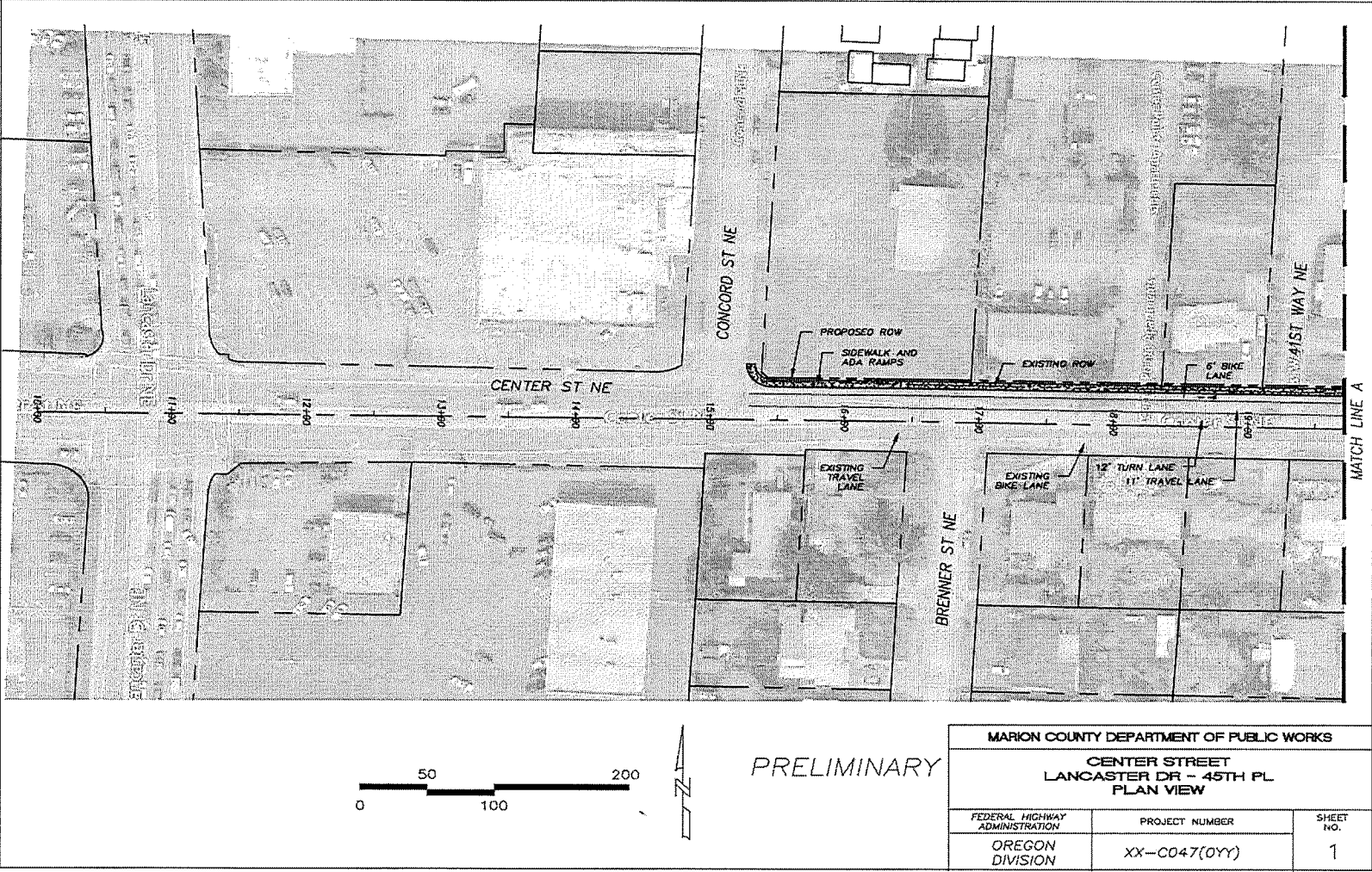


Exhibit A – Project Location Map (Continued)

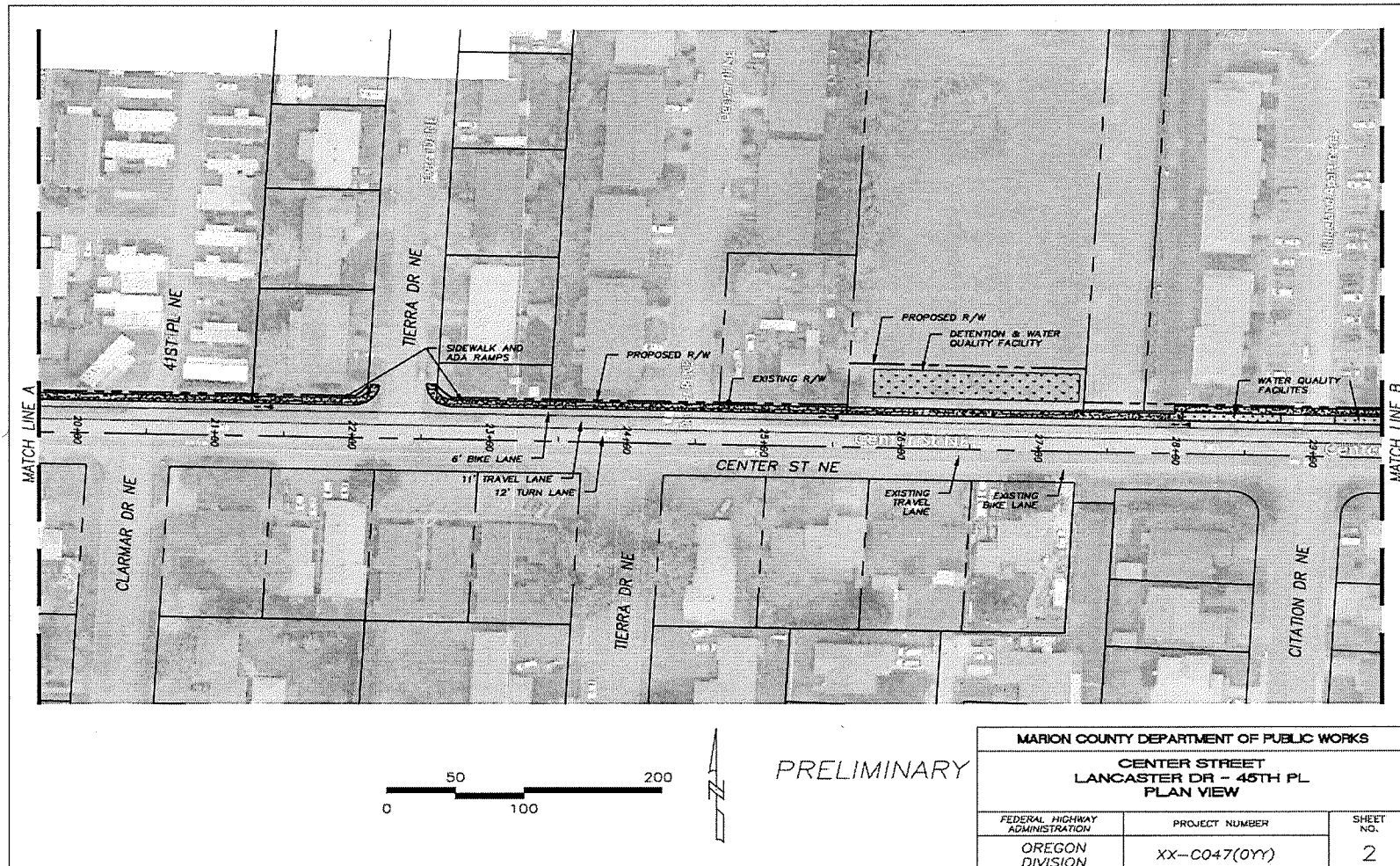


Exhibit A – Project Location Map (Continued)

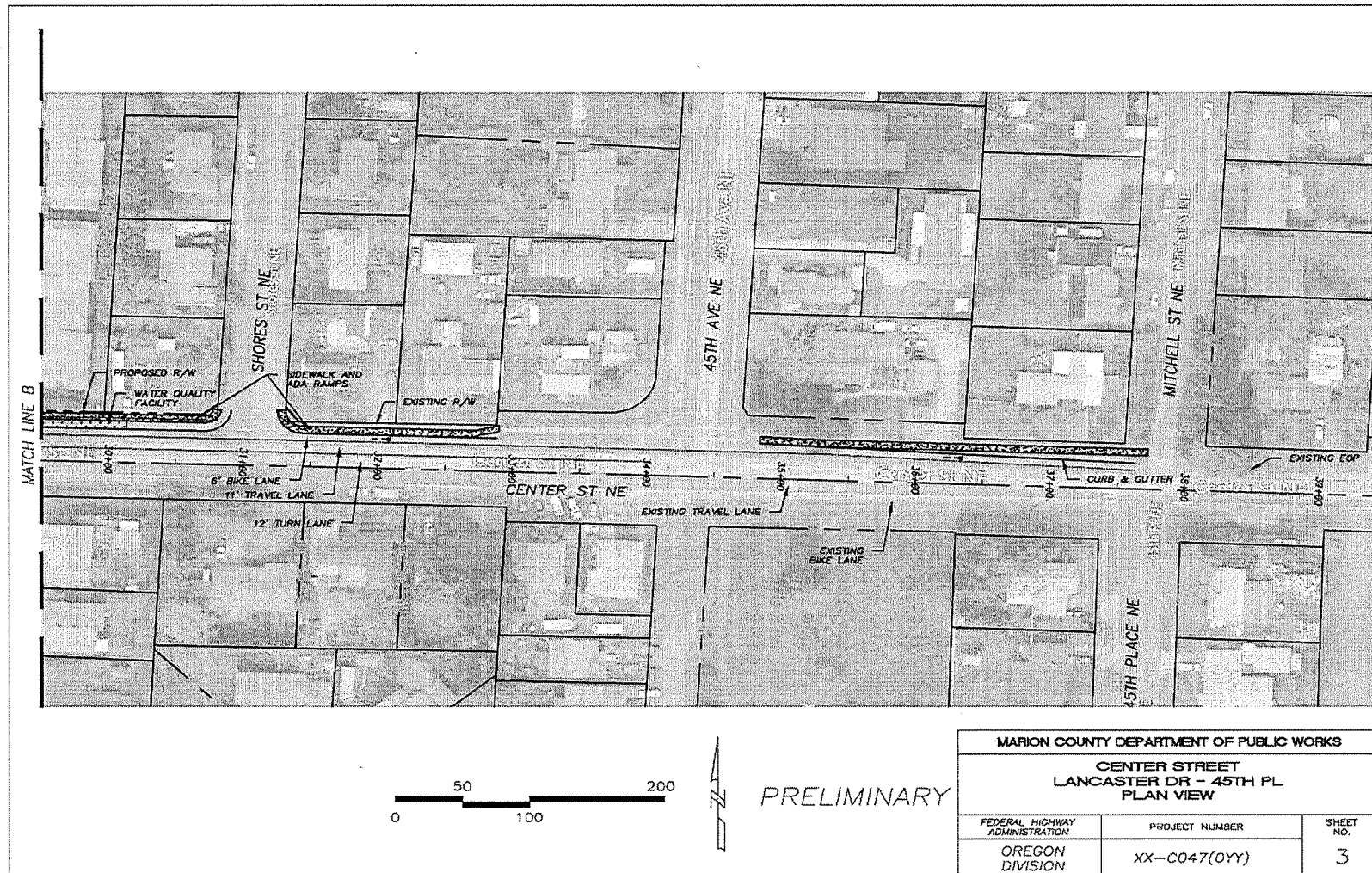


EXHIBIT B
Federal Funding Accountability and Transparency Act (FFATA)
Subaward Reporting

(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
Return completed form to: Jeff Flowers, Program and Funding Services Manager; Oregon Department of Transportation; 555 13 th Street NE; Salem, OR 97301; Jeffrey.A.FLOWERS@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:

Jeff Flowers
Program and Funding Services Manager
Oregon Department of Transportation
555 13th Street NE
Salem, OR 97301
Jeffrey.A.FLOWERS@odot.state.or.us
Telephone: 503-986-4453