

Exhibit A - Resolution No. 2993

INTERGOVERNMENTAL AGREEMENT BETWEEN CLACKAMAS COUNTY, WASHINGTON COUNTY, AND THE CITY OF WILSONVILLE RELATED TO THE STAFFORD ROAD AT 65TH AVENUE TEMPORARY TRAFFIC SIGNAL AND TRAFFIC CONTROL CHANGES AT 65TH AVENUE AT ELLIGSEN ROAD PROJECT

THIS AGREEMENT (this “Agreement”) is entered into, as of the ____ day of _____ 2022 (“Effective Date”), by and between **Clackamas County**, a corporate body politic (“C-COUNTY”), **Washington County**, a political subdivision of the State of Oregon (“W-COUNTY”), and the **City of Wilsonville**, an Oregon municipal corporation, pursuant to ORS Chapter 190 (Cooperation of Governmental Units) (“CITY”), collectively referred to as the “Parties” and each a “Party.”

RECITALS

WHEREAS, authority is conferred upon local governments under ORS 190.010 to enter into agreements for the performance of any and all functions and activities that a party to the agreement, or its officers or agencies, have authority to perform; and

WHEREAS, the CITY is constructing a bridge on SW Boeckman Road requiring an estimated 15-month closure (“CLOSURE”) for which the detour route will include the intersection of SW Stafford Road at SW 65th Avenue and SW 65th Avenue at SW Elligsen Road; and

WHEREAS, SW Stafford Road is under the jurisdiction and control of C-COUNTY; and

WHEREAS, SW 65th Avenue is jointly controlled by C-COUNTY and W-COUNTY, and operated by W-COUNTY, and SW Elligsen Road is under the jurisdiction of W-COUNTY; and

WHEREAS, to facilitate detour traffic in the area during the CLOSURE, the CITY plans to construct a temporary TRAFFIC SIGNAL at the intersection of SW Stafford Road and SW 65th Avenue, as illustrated in **Exhibit A**; and

WHEREAS, to facilitate detour traffic, the CITY also plans to construct TRAFFIC CONTROL modifications at the intersection of SW 65th Avenue and SW Elligsen Road, as illustrated in **Exhibit A**; and

WHEREAS, the construction within C-COUNTY and W-COUNTY rights-of-way shall conform to the standards and requirements of each County; and

WHEREAS, the TRAFFIC SIGNAL will be under the jurisdiction and control of C-COUNTY upon final acceptance; and

WHEREAS, TRAFFIC CONTROL modifications at SW 65th Avenue at SW Elligsen Road will be owned, operated, and maintained by the CITY until CLOSURE terminates; and

WHEREAS, the TRAFFIC SIGNAL and TRAFFIC CONTROL modifications constitute a construction project (PROJECT); and

WHEREAS, the Parties plan to complete a Traffic Operations and Safety Study that will use data from, during, and after CLOSURE to recommend whether TRAFFIC SIGNAL and TRAFFIC CONTROL need to be restored to pre-construction conditions, retained, or modified.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Term.** This Agreement shall be effective upon execution, and shall continue until all roadwork is completed on the CLOSURE, the CLOSURE terminates, and the TRAFFIC SIGNAL and TRAFFIC CONTROL have been restored to pre-construction conditions, retained, or modified.

2. **Rights and Obligations of the City.** The CITY shall administer the PROJECT and shall perform all the work associated with it. To complete the PROJECT, the CITY agrees to the following:
 - A. The CITY will facilitate and coordinate design work, permitting, right-of-way acquisition, and construction.
 - B. The CITY shall coordinate with C-COUNTY and W-COUNTY.
 - C. The CITY will acquire the right-of-way necessary to complete the PROJECT.
 - D. The CITY will provide construction management services.
 - E. The CITY will apply for and obtain permits from C-COUNTY and W-COUNTY to work within the respective County's rights-of-way.
 - F. Before substantial completion of the TRAFFIC SIGNAL and TRAFFIC CONTROL modifications, the CITY shall give C-COUNTY and W-COUNTY sufficient notice for each County to provide a final inspection of any infrastructure to be turned over. Any punch lists developed by C-COUNTY or W-COUNTY will be addressed by the CITY before each County's approval and acceptance.
 - G. The CITY shall be primarily responsible for public engagement and notifications associated with the PROJECT.
 - H. Upon C-COUNTY and W-COUNTY acceptance of the PROJECT, the CITY will relinquish control and responsibility for the TRAFFIC SIGNAL installation to C-COUNTY.
 - I. The CITY will operate and maintain TRAFFIC CONTROL at the SW 65th/SW Elligsen Road intersection until CLOSURE terminates.
 - J. The CITY shall retain the services of a registered Professional Traffic Engineer to provide support for traffic signal timing and traffic monitoring during the CLOSURE and who will work with C-COUNTY AND W-COUNTY staff as needed to ensure safe and efficient traffic movements.
 - K. The CITY shall provide a Traffic Operations and Safety Study ("STUDY") detailing the operations of the TRAFFIC SIGNAL and TRAFFIC CONTROL during and after the CLOSURE and provide an operational and safety summary that recommends restoration of pre-construction traffic control, retaining the new TRAFFIC SIGNAL and TRAFFIC

CONTROL, or providing additional modifications. The CITY shall coordinate the STUDY with C-COUNTY AND W-COUNTY.

- L. The CITY shall remove the TRAFFIC SIGNAL unless otherwise directed by C-COUNTY. The CITY shall remove the TRAFFIC CONTROL unless otherwise directed by W-COUNTY.
- M. The CITY shall be responsible for all costs for returning the TRAFFIC SIGNAL and TRAFFIC CONTROL to pre-construction conditions, but not for any modifications for the PROJECT to remain in place.

3. Rights and Obligations of W-COUNTY

- A. W-COUNTY will consider a Resolution of Necessity to support the CITY's acquisition of easements or right-of-way necessary to complete the PROJECT within sixty (60) days of receiving notice from the CITY that right-of-way is necessary to complete the PROJECT.
- B. W-COUNTY will coordinate with the CITY in the design and construction of the TRAFFIC SIGNAL and TRAFFIC CONTROL and, when requested, will provide timely feedback.
- C. W-COUNTY will respond in a timely manner to the CITY's requests to execute applications or documents and will provide information or approval to the CITY or consultants for purposes of fulfilling the purpose of this Agreement.
- D. W-COUNTY will provide timely input into the work scope and review the STUDY and comments and recommendations with respect to traffic control changes.
- E. If the results of the STUDY recommend, and C-COUNTY and W-COUNTY concur, that TRAFFIC CONTROL remain in place after CLOSURE terminates, W-COUNTY will assume control and maintain the installed TRAFFIC CONTROL on the W-COUNTY owned and maintained roads, at its own expense and for the useful life of the markings and signing.
- F. W-COUNTY agrees to timely plan review, inspections, and other requests (for input/clarification/concurrence) as no more than the following: plan review – 4 weeks; inspections – 2 weeks; other requests – 1 week.

4. Rights and Obligations of C-COUNTY

- A. C-COUNTY will consider a Resolution of Necessity to support the CITY's acquisition of easements or right-of-way necessary to complete the PROJECT within sixty (60) days of receiving notice from the CITY that right-of-way is necessary to complete the PROJECT.
- B. C-COUNTY will coordinate with the CITY in the design and construction of the TRAFFIC SIGNAL and TRAFFIC CONTROL and, when requested, C-COUNTY will provide timely feedback.
- C. C-COUNTY will respond in a timely manner to the CITY's requests to execute applications or documents and will provide information or approval to the CITY or consultants for purposes of fulfilling the purpose of this Agreement.
- D. Upon C-COUNTY's formal acceptance after substantial completion, C-COUNTY will own, operate, and maintain the installed TRAFFIC SIGNAL at its own expense.

- E. C-COUNTY will provide timely input into the work scope and review the STUDY and comments and recommendations with respect to traffic control changes.
- F. C-COUNTY agrees to timely plan review, inspections, and other requests (for input/clarification/concurrence) as no more than the following times: plan review – 4 weeks; inspections – 2 weeks; other requests – 1 week.

5. Termination

- A. C-COUNTY, W-COUNTY, and the CITY, by mutual written agreement, may terminate this Agreement at any time.
- B. C-COUNTY, W-COUNTY, or the CITY may terminate this Agreement in the event of a breach of the Agreement by any other Party. Prior to such termination, however, the Party or Parties seeking the termination shall give the other Parties written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
- C. C-COUNTY, W-COUNTY, or the CITY shall not be deemed to have waived any breach of this Agreement by any other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- D. Nothing herein shall prevent the Parties from meeting to mutually discuss the PROJECT. Each Party shall use best efforts to coordinate with the other to minimize conflicts.
- E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

6. Indemnification.

- A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act, or successor statute, and Article XI, Section 10, of the Oregon Constitution, each Party agrees to indemnify, save harmless, and defend the other Parties and their respective officers, elected officials, agents, and employees from and against all costs, losses, damages, claims, or actions, and all expenses incidental to the investigation and defense thereof (including legal and other professional fees), arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the indemnifying Party or its officers, elected officials, owners, employees, agents, or subcontractors, or anyone over which the indemnifying Party has a right to control.
- B. The CITY shall be solely responsible for any PROJECT claims, delay damages, or similar items arising from or caused by the CITY's obligations under this Agreement.

7. Party Contacts

- A. Joseph Marek, or his designee, will act as liaison for C-COUNTY for the PROJECT.

Contact Information:

Clackamas County, Department of Transportation and Development
Attn: Joseph Marek, PE, PTOE, Transportation Safety Program Manager
150 Beaver Creek Road
Oregon City, OR 97045
(503) 742-4705 or joemar@clackamas.us

- B. John Fasana, or his designee, will act as liaison for W-COUNTY for the PROJECT.

Contact Information

Washington County Department of Land Use & Transportation
Attn: John Fasana, PE, Principal Engineer
1400 SW Walnut Street, MS 17
Hillsboro, OR 97123
(503) 846-7948 or john_fasana@washingtoncountyor.gov

- C. Zachary Weigel, or his designee, will act as liaison for the CITY for the PROJECT.

Contact Information:

City of Wilsonville
Attn: Zachary Weigel, PE, City Engineer
29799 SW Town Center Loop East
Wilsonville, OR 97070
(503) 570-1565 or weigel@ci.wilsonville.or.us

- D. Any Party may change the Party contact information by giving prior written notice thereof to the other Parties at their then current notice address.

8. General Provisions

- A. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- B. **Applicable Law.** The Parties hereto agree to comply in all ways with applicable local, state, and federal ordinances, statutes, laws, and regulations.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by any Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by any other Party to this Agreement.
- D. **Record and Fiscal Control System.** All payroll and financial records pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after the Effective Date; provided that any records and documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved.

- E. **Access to Records.** The Parties acknowledge and agree that each Party, the federal government, and their duly authorized representatives shall have access to each Party's books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three (3) years after the Effective Date. Copies of applicable records shall be made available upon request. The cost of such inspection shall be borne by the inspecting Party.
- F. **Debt Limitation.** This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefor. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- G. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal, or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal, or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- H. **Integration, Amendment, and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the PROJECT. 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 any Party unless in writing and signed by the Party against whom enforcement is sought 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 any Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- I. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- J. **Independent Contractor.** Each individual Party hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee, or contractor of one Party shall be deemed to be a representative, agent, employee, or contractor of any other Party, for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture, or any similar relationship, and each individual Party hereby specifically disclaims any such relationship.
- K. **No Third-Party Beneficiary.** None of the individual Parties hereto intend that this Agreement benefit, or create any right or cause of action in, or on behalf of, any person or entity other than C-COUNTY, W-COUNTY, or the CITY.
- L. **No Assignment.** No Party shall have the right to assign its interest in this Agreement (or any portion thereof) without the prior written consent of all other Parties to this Agreement, which consent may be withheld for any reason. The benefits conferred by this Agreement, and the obligations assumed hereunder, shall inure to the benefit of and bind the successors of the Parties.
- M. **Counterparts.** This Agreement may be executed in any number of counterparts (electronic, 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.

N. **Authority.** Each Party represents that it has the authority to enter into this Agreement on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Agreement.

O. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.

IN WITNESS HEREOF, the Parties have executed this Agreement by the date set forth opposite their names below.

Clackamas County

Washington County

Chair, Board of County Commissioners

Tanya Ange, County Administrator

Date

Date

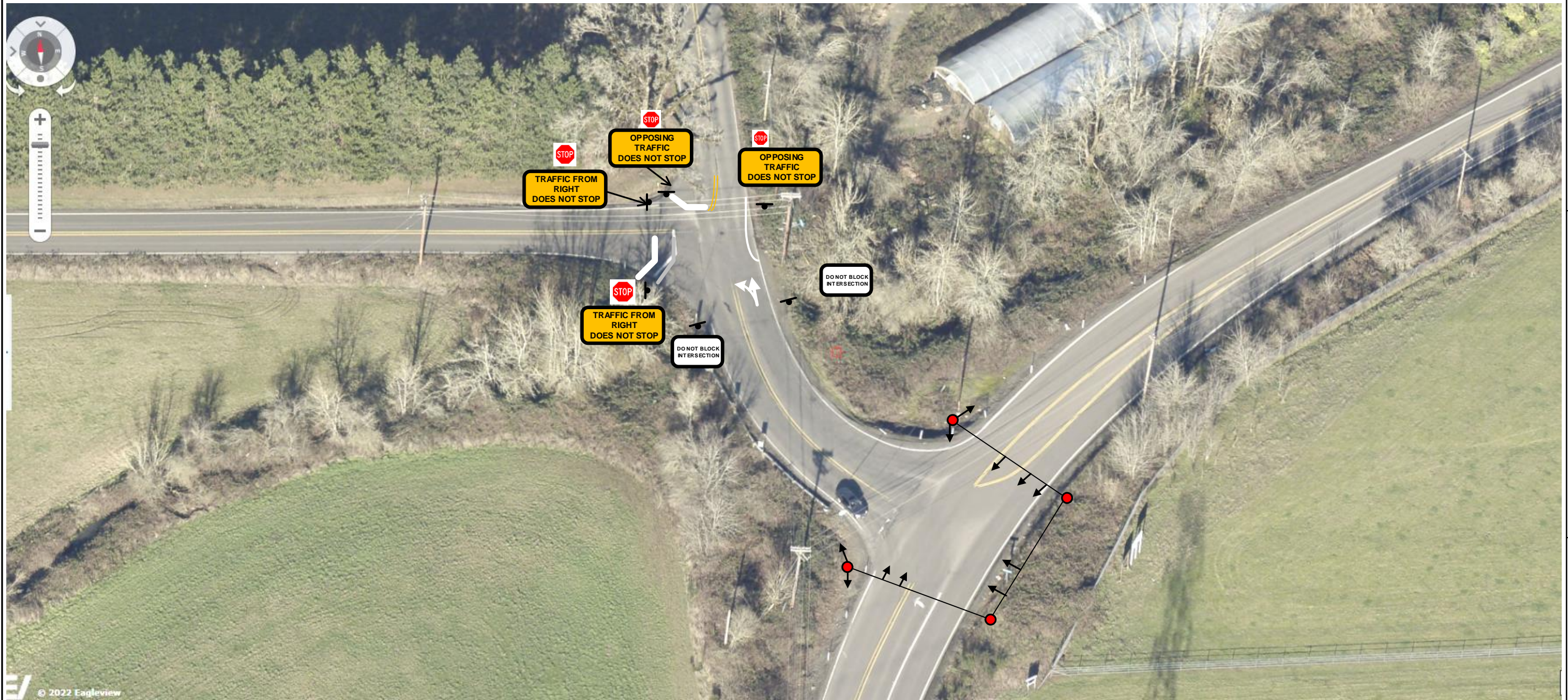
City of Wilsonville

Bryan Cosgrove, City Manager

Date

STAFFORD/65TH/ELLIGSEN – TEMPORARY TRAFFIC SIGNAL

IGA - EXHIBIT A



CONCEPT PLAN – CONCEPT PLAN

Preliminary - Not for final design or construction



Not to Scale

Traffic Engineering Department

STAFFORD/65HT/ELLIGSEN

Date: 2/15/2022

CLACKAMAS COUNTY

DEPT. OF TRANSPORTATION
AND DEVELOPMENT
150 BEAVERCREEK ROAD
OREGON CITY, OR 97045



DAN JOHNSON DIRECTOR

DESIGNED BY: JFM

DRAFTED BY: JFM

CHECKED BY: JFM

REVISIONS

DESC

DATE

#

Sheet No.

1 of 1