

**LICENSE AGREEMENT****No. 3832**

LICENSOR: The Tri-County Metropolitan Transportation District of Oregon

LICENSEE: City of Portland

The Tri-County Metropolitan Transportation District of Oregon ("TriMet") hereby grants to the City of Portland ("Licensee"), and Licensee's employees and contractors the right to enter upon and use the premises located at NE Oregon St and NE 60th Ave, known as parcel no. R212085 (the "Premises"), in accordance with the terms and conditions of this License Agreement ("License").

Subject to the terms and conditions of this License and during the term hereof, TriMet grants to Licensee the right to construct, maintain, and operate the facility described as follows: the bicycle, pedestrian and ADA improvements on the Premises (the "Permitted Use" or "Work"). The Work will be performed in compliance with the plans shown in Exhibit A, and in compliance with the terms and conditions of this License.

Term of License: For the period from _____, 2019 until completed or terminated.

Special Insurance Requirements: None.

Compensation to be Paid by Licensee: \$0.

ADDITIONAL TERMS AND CONDITIONS**A. Use of the Premises**

Licensee shall use the Premises solely for the Permitted Use as set forth in this License.

B. Special Use Provisions

1. Licensee must have a utility locate performed, prior to excavation and coordinate with TriMet as necessary to avoid impacts to irrigation lines, electric lines, water, power and other utility and main lines.
2. Licensee's Work must be done in a way that avoids impacting the ground mat, as shown on the attached and incorporated Exhibit B. This includes keeping excavation in the Premises at less than or equal to one foot below ground surface.
3. Licensee, Licensee's contractors and all equipment must stay at least ten feet away from the all tracks, rail lines and OCS lines, at all times, unless Licensee first meets all Track Access Training requirements and obtains a ROW Access Permit.



4. Licensee shall return track ballast and track drainage areas adjacent to or affected by the Permitted Use to their original condition within ten (10) days of being given written notice by TriMet to do so. TriMet may take documentation photos during the pre-excavation inspection.
5. All construction and survey personnel shall attend a Track Access Training class and carry a Track Access Card and hard hat sticker. Track Access Training classes are provided to construction personnel by TriMet at no cost.
6. All construction and survey personnel shall wear red or green fluorescent vests while in the right of way.
7. A MAX Right-of-Way Access Request/Permit (a "ROW Access Permit") must be submitted to and approved by TriMet's Maintenance of Way department prior to performing any Work permitted under this License. The ROW Access Permit issued to Licensee and all requirements imposed upon Licensee thereby are considered special use provisions of this License, and are incorporated by this reference.
8. No additional installation, alteration, or construction of improvements will be made on the Premises without the prior written consent of TriMet, which will not be unreasonably withheld. At least ten (10) business days prior to any proposed installation, alteration, or construction, Licensee shall submit to TriMet proposed plans and specifications thereof and must not commence any placement of any improvements or any construction until it has received TriMet's written approval. Approval by TriMet will be in its sole discretion, not to be unreasonably withheld.
9. No later than 10:00 a.m. Monday of the week prior to the scheduled work, Licensee (or its contractor) shall submit requests for a ROW Access Permit to TriMet Light Rail Operations: Contact - Jeff Johnson (503) 962-8138 office, (503) 962-8525 fax, johnsonj@trimet.org. Requests for a ROW Access Permit shall be submitted on a weekly basis until work is concluded.
10. As part of the ROW Access Permit process, Licensee must inform Maintenance of Way, of any scheduling of traffic signal interruption related to the Work.
11. Licensee (or its contractor) shall provide TriMet's Project Implementation Department a complete project schedule for all work activity associated with the Permitted Use.
12. Licensee shall provide to TriMet a signed and stamped as-built drawing of the completed work within thirty (30) days of completion of work.



13. Licensee shall be responsible for any taxes, assessments, utilities, or other third-party costs associated with its use of the Property.
14. TriMet shall have no obligation regarding costs related to Licensee's use of the Property. Notwithstanding anything to the contrary contained herein or in drawings or other materials submitted to TriMet, a minimum depth of ten (10) feet below top of rail to top of boring is required.

C. Place of Payments

Any payment required under this License shall be sent to TriMet, CP-Real Property 1800 SW First Ave. Suite 300., Portland, Oregon 97201, or such other place as TriMet may designate. All amounts not paid by Licensee when due will bear interest at the rate of the lesser of (a) twelve percent (12%) per annum, or (b) the highest interest rate allowed by law.

D. Insurance

Licensee is self insured. Licensee's will provide a certificate of self insurance upon request.

Any contractor or subcontractor of Licensee who will perform any part of the Permitted Use on the Premises, shall maintain comprehensive general and automobile liability insurance for the protection of Licensee, its directors, officers, agents, volunteers, and employees, and insuring Licensee against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and occurring on or in any way related to this License caused by Licensee's use of the Premises with insurance of not less than Two Million Dollars (\$2,000,000.00) combined single limit per occurrence for bodily injury and property damage. This insurance must name TriMet, its directors, officers, and employees as additional insureds with the stipulation that this insurance, as to the interest of TriMet only, must not be invalidated by any act or neglect or breach of contract by the Licensee. The coverage provided by this policy shall be available as primary and noncontributory to any other insurance carried by TriMet in excess.

Licensee's contractor and subcontractors shall maintain in force Workers' Compensation insurance coverage and Employers' Liability insurance coverage. If Licensee's contractors or subcontractors are qualified self-insured employers, a copy of Licensee's contractors' Certificate of Compliance and certificates of insurance evidencing excess insurance must be forwarded to TriMet upon execution of this License.

Licensee shall furnish to TriMet a certificate evidencing the date, amount, and type of insurance that has been procured pursuant to this License, for any contractor performing any part of the Permitted Use on the Premises. TriMet must receive the required certificate or certificates prior to any work being performed on the Premises. Licensee is required to notify TriMet not less than thirty (30) days written notice prior to termination,



cancellation, reduction or non-renewal of coverage, except only ten (10) days prior notice shall be required if the coverage is being cancelled for nonpayment of premiums.

E. Indemnity

Subject to the conditions and limitations of Article XI, Section 9, of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 to 30.300), the Licensee agrees to indemnify and hold harmless TriMet and its directors, agents, and employees from and against damages, actions, costs, loss, claims, and expenses (including attorney fees) to the extent caused by the negligent or wrongful conduct of the Licensee in performance of this Agreement, including damage, action, costs, loss, claims and expenses (including attorney fees) caused by the Licensee's negligent or wrongful conduct.

Except for claims or actions arising out of damages or injuries caused by the negligence or intentional misconduct of TriMet or its employees, contractors or agents, Licensee agrees to require its contractor to fully indemnify, defend, and hold harmless TriMet, its directors, officers, agents, volunteers, and employees from and against all third-party claims and actions and all expenses incidental to the investigation and defense thereof (including but not limited to reasonable attorney fees), based upon or arising out of damages or injuries to persons or property, caused by the fault or negligence in whole or in part of the Licensee's contractor, or its agents, subcontractors, or employees related to the use or occupancy of the Premises. All provisions concerning indemnity will survive the termination of this License for any reason.

F. No Benefit to Third Parties

TriMet and Licensee are the only parties to this License and as such are the only parties entitled to enforce its terms. Nothing in this License gives or may be construed to give or provide any benefit, direct, indirect, or otherwise, to third parties unless such third parties are expressly described in this License as intended to be beneficiaries of its terms.

G. Assignment of Interest of Rights

The Licensee, or its assigns, must not, in any manner, directly or indirectly, by operation of law or otherwise, sublease, assign, transfer, or encumber (collectively, "Assign") any of Licensee's rights granted by this instrument, without obtaining the express prior written approval of TriMet. In the absence of TriMet's express prior written approval, any attempted assignment or transfer will be null and void. Notwithstanding the foregoing, Licensee may Assign without TriMet's consent to any parent, subsidiary or affiliate or to any entity that succeeds to all or substantially all of the assets of equity of Licensee by merger, sale or otherwise. In the event Licensee so assigns this Agreement to any parent, subsidiary, or affiliate or to any entity ("new entity") that succeeds to all or substantially all of the assets or equity of Licensee by merger, sale, or otherwise, Licensee shall promptly send written notification to TriMet of such assignment and provide TriMet with all known contact information of the new entity.



H. Warranties/Guarantees; Property "As Is"

The Licensee acknowledges that it has inspected the Premises and found them to be completely acceptable and safe for Licensee's intended use. TriMet makes no warranty, guarantee, or averment of any nature whatsoever concerning the physical condition of the Premises, and it is agreed that TriMet will not be responsible for any loss, damage, or costs that may be incurred by Licensee by reason of any such physical condition.

I. Compliance With Law; Permits

Licensee shall comply with all applicable state, federal, and local laws, including but not limited to, zoning ordinances and laws, rules, regulations, and policies concerning equal opportunity, nondiscrimination, Workers' Compensation, and minimum and prevailing wage requirements. Licensee shall obtain all necessary government or regulatory permits and approvals needed to perform the Work on the Premises, prior to performing Work pursuant to this License. Licensee shall provide copies of any permit or approval to TriMet, upon request to Licensee.

J. Notices

All notices required under this Agreement must be sent in writing to the address set forth below the signatures to this License and will be effective upon actual receipt or refusal of delivery.

K. Hazardous Substances

No use may be made of, on, or from the Premises by Licensee relating to the handling, storage, disposal, transportation, or discharge of hazardous substances, toxic material, or environmentally regulated material or substance, as those terms are defined in any environmental law or regulation, except for uses that are incidental to any business conducted on the Premises, the primary purpose of which is not the handling, storage, disposal, transportation, or discharge of hazardous substances. All of those incidental uses must be in strict conformance with all applicable federal, state, and local laws, rules, and regulations, as the same may be amended from time to time. Promptly after Licensee receives notice of any use, whether incidental or otherwise, by Licensee of such substances on the Premises, or of any violation of any governmental requirement with respect to such use by Licensee, Licensee shall deliver to TriMet written notice describing such use or violation. Failure to give such notice will result in the immediate termination of this License.

L. Hazardous Substances Clean Up and Indemnity

In the event Licensee receives a notice or a copy thereof prepared by any governmental entity requiring cleanup of hazardous substances that are regulated by environmental law or regulation for which Licensee is responsible pursuant to any term of this License, or imposing a fine or other obligation as a result of the existence of such substances for which Licensee is responsible pursuant to any term of this License, then on or before the



date such compliance is due, Licensee shall comply with or cause the compliance with the terms of such notice, in accordance with the terms of such notice. If Licensee does not perform the obligations described in the previous sentence of this Section when and as required, or, if performance is not possible during the time required by the notice, if Licensee does not proceed with diligence and good faith to effect the performance, then in addition to all other rights and remedies TriMet may have, TriMet will have the right to terminate this License.

Subject to the conditions and limitations of the Oregon Constitution, Article XI, Section 9, and the Oregon Tort Claims Act (ORS 30.260 to 30.300), Licensee agrees to hold harmless, defend, and indemnify TriMet from, and to assume all duties, responsibilities, and liabilities at its sole cost and expense for payment of penalties, sanctions, forfeitures, losses, costs, attorney fees, or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation, or proceeding that is caused by: (i) Licensee's failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect; or (ii) Licensee's storage, handling, disposal, or release of hazardous substances; or (iii) any environmental or industrial hygiene conditions caused by Licensee thereon, except to the extent the environmental conditions are caused or contributed to by TriMet or other third party unrelated to Licensee or are naturally occurring. In case any action or proceeding is brought against TriMet for which Licensee has a duty to indemnify, defend, or hold harmless TriMet, TriMet may, at its option, require that Licensee resist or defend such action or proceeding at Licensee's own cost and expense and by counsel reasonably satisfactory to TriMet. This indemnity specifically includes reasonable costs, expenses, and fees incurred in connection with any investigation of Premises conditions or any clean-up, remediation, removal, or restoration work required by any governmental authority. The indemnity provided herein will survive the expiration or termination of this License for any reason.

M. Restoration

Upon termination of this License, Licensee shall restore the Premises to a condition as good as or better than its original condition, which condition will be determined at TriMet's reasonable discretion..

N. TriMet's Right to Terminate

Notwithstanding any provision contained herein, TriMet or its authorized representative may terminate this License, as allowed by law. Such termination will be in writing. Upon expiration of the notice of termination, the Licensee shall immediately leave the Premises. Except for Licensee's payment obligations accruing after the termination, all other obligations and liability and indemnification to TriMet survive termination. Unless waived by TriMet, the Licensee shall restore the Premises to a condition as good as or better than its condition at the commencement hereof, which condition will be determined at TriMet's reasonable discretion.



Both parties agree to be bound by the terms and conditions of this License Agreement. Each party represents that the signatory below has the complete power and authority to commit on behalf of that party.

Licensee

City of Portland

By: _____
Director or designee

Print Name: _____

Date: _____

APPROVED AS TO FORM:

City Attorney

Contact Name: Nicole Peirce
Phone: 503-823-6186
Address: 1120 SW 5th Avenue, Ste 800
Portland, OR 97204
E-mail:
Nicole.peirce@portlandoregon.gov

TriMet

The Tri-County Metropolitan
Transportation District of Oregon

By: _____

Name: Lance Erz

Title: Real Property Director

Date: 6/24/18

Contact Name: Angela Johnson
Phone: 503.962.2241
Address: 1800 SW First Ave, 3rd Floor
Portland, OR 97201
E-mail: johnsoan@trimet.org



License application guidelines

For right-of-way-access

In order to assist with the license application, TriMet provides the following guidelines:

Time:

- 1) License applications should be submitted at least eight weeks in advance of anticipated access. Licenses require review by multiple TriMet departments including Real Property, Maintenance of Way, Right of Way, Engineering and Legal.
- 2) License applications for fiber or cell towers may take up to six months, as they require FTA approval. Typically these are leases (e.g., ATT cell tower).

Submittals:

- 1) To ensure receipt by TriMet, applications should be sent to johnsoan@trimet.org along with any supporting documentation such as drawings. Drawings should be sent in PDF format.
- 2) Mailed applications may be sent to:

TriMet Real Property
Attn: Angela Johnson
1800 SW First Ave
Suite 300
Portland, OR 97201

General Design Criteria:

- 1) Pipelines crossing underneath the light rail tracks carrying water or pressure sanitary storm sewers shall be encased.
- 2) Pipelines and conduits, which contain flammable materials, such as gas lines, do not need to be cased. If casing pipe is installed it shall be vented and approved on a case-by-case basis by TriMet.
- 3) Casing pipes shall be designed to withstand Light Rail Train ("LRT") loadings and shall be protected against corrosion. The end of casing pipes shall be sealed and the annular space between the carrier pipe and the casing pipe shall be filled with sand. When casings are bored or augured under LRT tracks, provisions shall be made to ensure no voids are created.
- 4) Minimum cover for utilities trenched under proposed LRT tracks is 6'0" below top-of-rail. Trenching is not allowed across existing LRT tracks.
- 5) Minimum cover for utilities augured or pushed under existing LRT tracks is 7'0" below top-of-rail.
- 6) Minimum cover for utilities directionally drilled under existing LRT tracks is 10'0" below top-of-rail.

- 7) Where possible, all utilities shall cross beneath the LRT right-of-way at 90 degrees to the LRT centerline.
- 8) New or replacement utilities that run longitudinally adjacent to the LRT right-of-way, unless otherwise approved by TriMet, shall be located a minimum of 10' from the centerline of track to the near edge of longitudinal pipe.
- 9) All non-metallic LRT utilities pipes or casings shall have tone wires that terminate in a handhole to facilitate locating buried pipes.
- 10) All abandoned pipes beneath the trackbed shall be plugged and filled with sand or controlled density fill ("CDF") or low-strength concrete slurry, unless otherwise approved by TriMet.
- 11) TriMet does not allow crossings or parallel systems to the Overhead Catenary System ("OCS") on our right-of-way unless, in TriMet's sole judgment, it is on a structure or at an elevation that allows TriMet ample room to operate and maintain the system. Clearances for anything parallel to TriMet's system should be a minimum of 15' from the centerline of our track. This is dependent upon the specific location that is being considered.
- 12) TriMet does not rent space and/or allow foreign contacts on our exclusive OCS poles.

Fees:

- 1) TriMet's standard license application fee is \$2,000. **Waived per Nick Stewart**
- 2) Additional fees may be charged for costs related to TriMet coordination, staff time, plan review, safety precautions, additional permits, transit impacts, and other necessary costs related to the project.
- 3) TriMet may charge additional annual fees for fiber optic lines, cell towers, and other private intrusions into the Right of Way.
- 4) Fees will be determined at the time a License Application is submitted to TriMet.

TRI MET
License application
For right-of-way-access

No.: 3832

SECTION I

- A. Name of proposed licensee: City of Portland, Bureau of Transportation
- B. Mailing address: 1120 SW 5th Avenue, Suite 800
- C. City: Portland State: OR Zip: 97204
- D. Name of contact person: Nicole Peirce
- E. Phone number: 503-823-6186 E-Mail: Nicole.peirce@portlandoregon.gov
- F. Effective date desired: April 1, 2019
- G. Do you now have an existing license with TriMet at this location? No
- H. Is the application for a new facility or relocation of existing facility? New

SECTION II

- A. Describe the proposed facility, including its purpose, location, materials and construction methods. Is this use underground, above ground or a combination? Are you aware of other existing underground facilities?
NOTE: Conduit shall be bored or jacked under trackage unless otherwise approved by TriMet Engineering.

- _____
1. Length of underground crossing: N/A
 2. Depth of underground crossing: no crossing, excavation of bike path less than 1.00 foot
 3. Carrier pipe: Dia.: N/A Length: N/A Type: N/A
 4. Inner conduit: Dia.: N/A Length: N/A Type: N/A
 5. Wire: Size: N/A Type: N/A lb.
 6. Crossing is located within a (check one): Dedicated street ☐ Private right-of-way ☐

7. Please fill in the blanks corresponding to figures A and B below, or attach a separate page, or pages, in pdf form, containing all the information requested below.

- Name of nearest MAX station on each side of proposed facility:
NE 60th Avenue
- Name of street at nearest crossing: NE Oregon Street
- Distance from proposed facility to nearest street crossing: N/A
- Angle at which proposed facility intersects right-of-way: N/A
- In Figure A, north is most closely approximated by: Left ☐ Right ☐ Up ☐ Down ☐
N/A

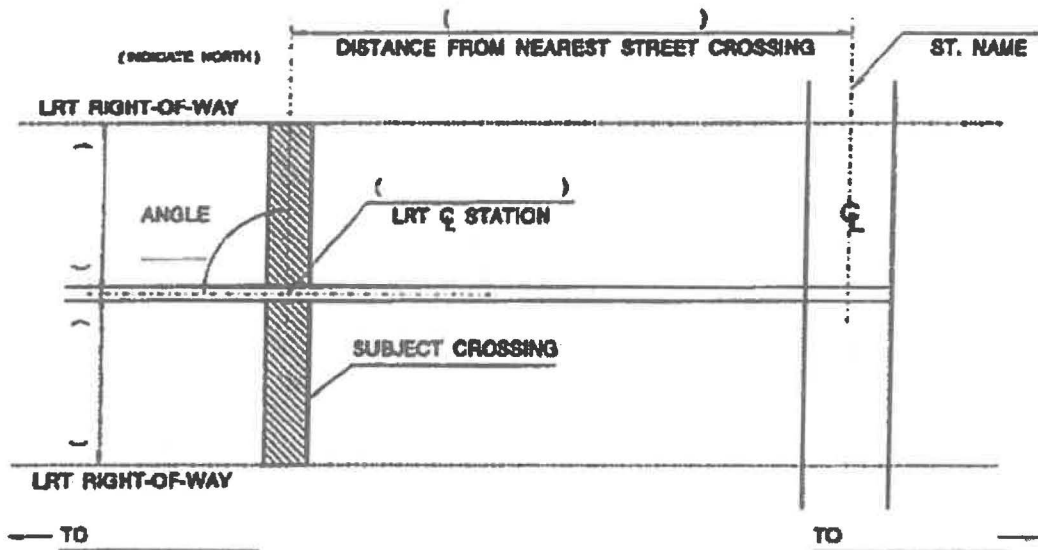


FIGURE "A"

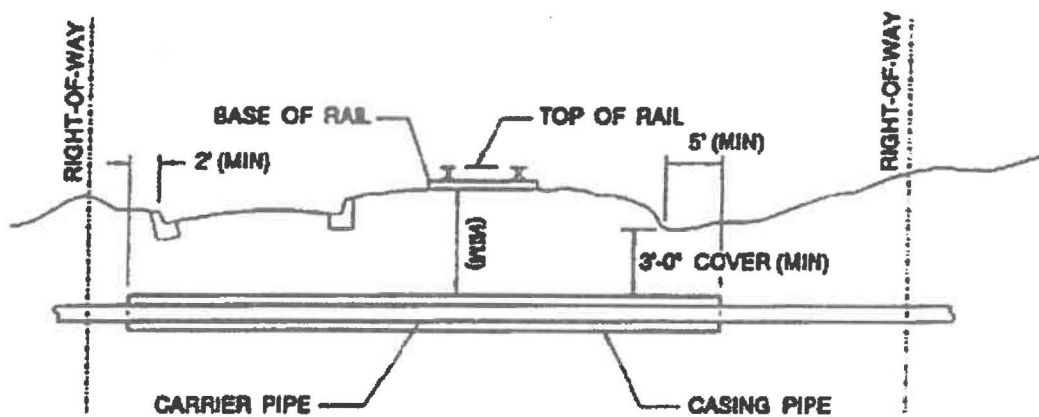


FIGURE "B"

- B. Construction shall be performed under applicable sections of current Oregon Department of Transportation (ODOT) Standard Specifications for Highway Construction.

List the major components of the proposed work and the applicable ODOT specification section:

Section	Title
	City of Portland standard specifications pursuant to Section 00756 "Plain Concrete Pavement"
_____	_____
_____	_____
_____	_____

- C. If you are drilling, jacking, or boring under our facility, what are the locations of the jacking and receiving pits (location, length, width, depth and distance from the nearest track)?

N/A

If you access our right-of-way with vehicles, where will they enter and exit?

There will be a 12 foot wide driveway for TriMet access (the ADA ramp will double as a driveway)

- E. If you are working in the TriMet right-of-way, you must complete a "MAX Right-of-Way Access Request/Permit" after you receive your license. A copy of our current MAX Right-of-Way Access Request/Permit is included with this application.

Please note: Licensee will be required to cover any expense involved in restoring the right-of-way, including roadways.

Send completed application to:

TriMet Real Property
Attn: Angela Johnson
1800 SW First Ave
Suite 300
Portland, OR 97201

johnsoan@trimet.org

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to assure proper pagination for double-sided printing.
For single-sided printing, this page can be skipped.

Permit Number: _____



MAX RIGHT-OF-WAY ACCESS REQUEST/PERMIT TRIMET

This Section Completed by Requesting Party:

Dates of Access: From: _____ To: _____

Limits of Access:

North or Eastbound Track From: _____ To: _____
Time: _____ From: _____ To: _____
South or Westbound Track From: _____ To: _____
Time: _____ From: _____ To: _____

Permit Holder: _____ **Number of People:** _____
Pager: _____ Cell: _____

Description of Work:

Equipment Required:

Requesting Party: _____ **Telephone:** _____
Fax: _____ Email: _____

CAUTION:

The overhead catenary electrical system must be considered **LIVE and HOT** at all times. Electrical power removal must be confirmed in the field with the designated power personnel.

This Section Completed by Trimet:

Special Operating Conditions:

1. Permits are good only for a maximum of 7 days
2. Request for Right-of-Way access permit must be submitted by 10:00 a.m. Monday, a week prior to the scheduled work.
3. All personnel must wear reflective safety vests that comply ANSI Class 2 standards.
4. Advise Control when entering and leaving the right-of-way. (Telephone 503-962-6262)
5. E-mail to johnsonj@trimet.org bacclm@trimet.org and to trackaccessrequests@trimet.org

Required:	Track Access RWP Training	Yes _____ No _____	# Personnel: _____
	Special Instruction:	Yes _____ No _____	Date: _____
	Train Order:	Yes _____ No _____	Number: _____
	Call Boards:	Yes _____ No _____	
	Flags:	Yes _____ No _____	
	EIC: If yes check one:	Yes _____ No _____	
	Control	<input type="checkbox"/>	
	MOW	<input type="checkbox"/>	
	Other: (explain)	<input type="checkbox"/>	
	Train Flagger	Yes _____ No _____	Limits: _____
	Lookout/Watchperson	Yes _____ No _____	
	Traffic Flagger	Yes _____ No _____	
	Manual Block:	Yes _____ No _____	
	Bus Bridge:	Yes _____ No _____	
	Power Removal:	Yes _____ No _____	
	Maintenance Advisory:	Yes _____ No _____	Name: _____
	Other:	_____	

Original: Control
Copies: Permit Holder, Requesting Party, Manager of Maintenance-of-Way, System Safety, File

Request
Approved:

Maintenance-of-Way Project Engineer

Field Operations Track Access Coordinator

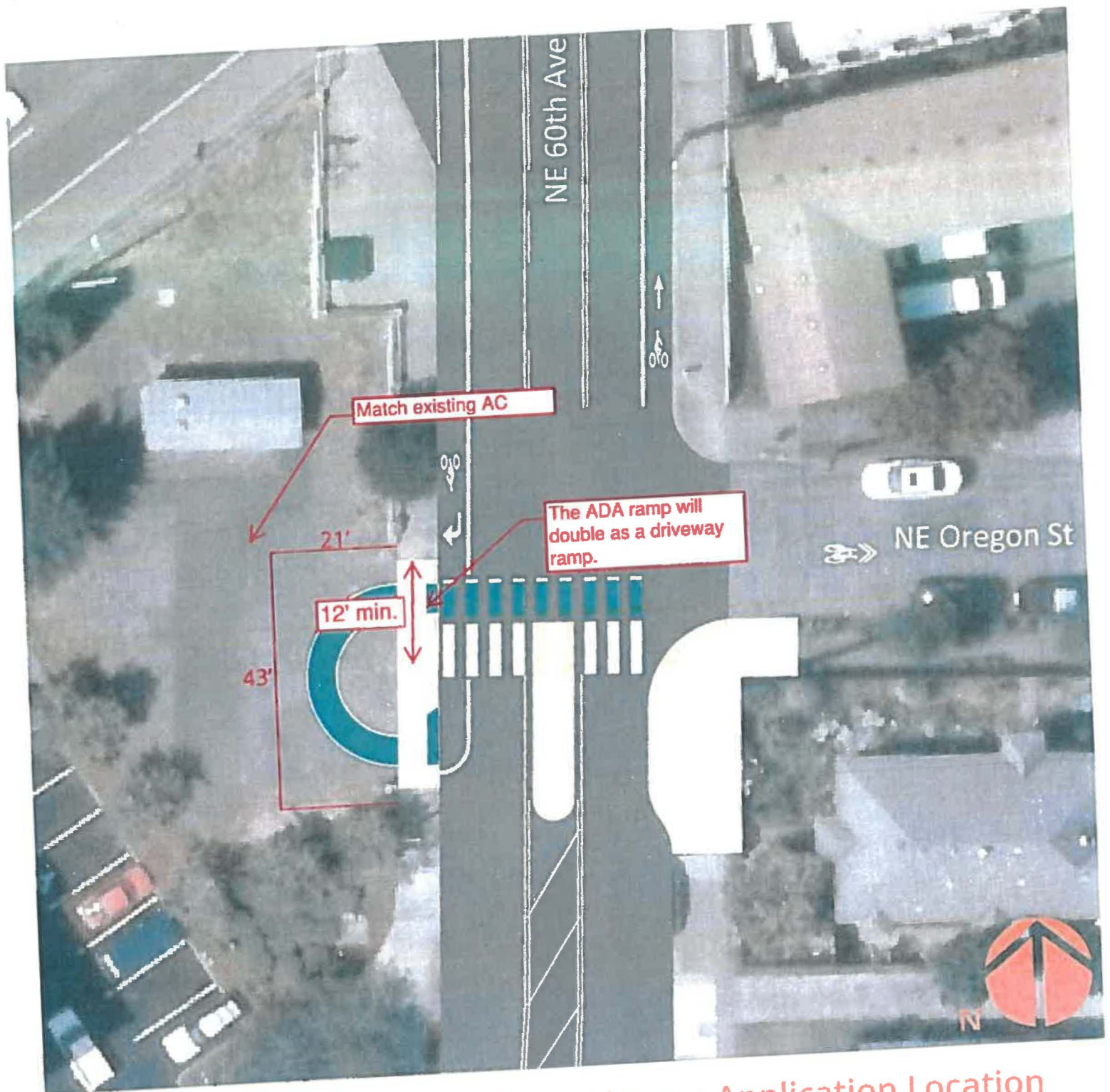
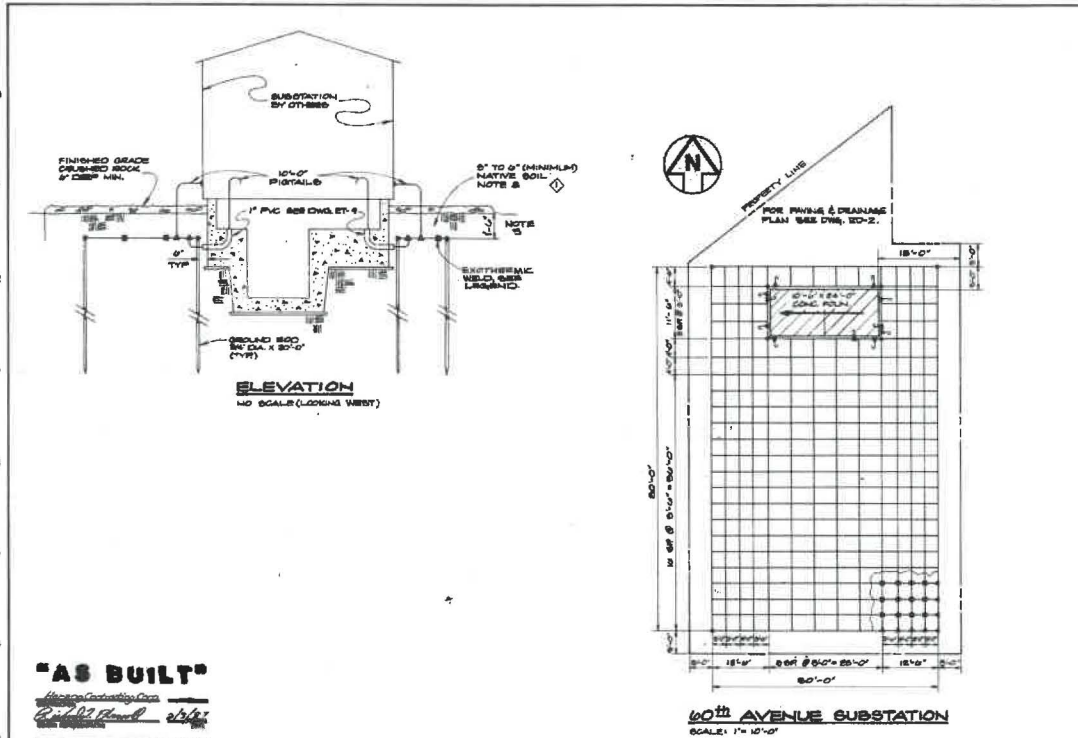


Exhibit A: PBOT Right of Way License Application Location

Note: Any excavation in the license area will be less then or equal to one foot below ground surface



LEGEND

- GROUND ROD 50' DIA. X 20'-0" LONG EXOTHERMIC "TEE" WELD TO CABLE.
- CABLE TO CABLE EXOTHERMIC "TEE" WELD.
- CABLE TO CABLE EXOTHERMIC "CROSS" WELD.
- 4/0 BARE COPPER CABLE.
- 4/0 BARE COPPER CABLE COILED PIGTAIL.
- SUBSTATION BUILDING ARROW INDICATES TRANSPOSER END.

NOTES:

1. USE "TEE" WELD AT ALL CONDUCTOR INTERSECTIONS AROUND PERIMETER OF GROUND MAT.
2. USE "CROSS" WELD AT ALL CONDUCTOR INTERSECTIONS WITHIN PERIMETER OF GROUND MAT.
3. DEPTH OF CONDUCTOR BURIAL IS 1'-0" MINIMUM.
4. NOT USED.
5. FOR ACTUAL STUB-UP LOCATION WITHIN SUBSTATION AREA SEE DIV. 21-9. LEAVE 10' OF WIRE COILED UP FOR CONNECTION BY OTHERS.
6. INSTALLATION TO COMPLY WITH THE NATIONAL ELECTRICAL SAFETY CODE ANSI-C2.
7. NOT USED.
8. THE 4/0 BARE COPPER GROUND MAT MUST BE LAYING ON NATIVE SOIL ONLY. A MINIMUM OF 8" TO 6" OF NATIVE SOIL MUST COVER DIRECTLY ON TOP OF THE 50'-0" X 20'-0" 4/0 COPPER GROUND MAT AREA.

"AS BUILT"

Handwritten signatures and dates for the 'AS BUILT' section.

Exhibit B

TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON ELCON ASSOCIATES INC. BEAVERTON OREGON		LOUIS T. KLAUDER AND ASSOCIATES CONSULTING ENGINEERS PHILA., PA.		TRACTION POWER SUBSTATION GROUND MAT 60th AVENUE	
DATE: MAY 1, 1984 DRAWN BY: [Signature] CHECKED BY: [Signature]	SCALE: AS NOTED PROJECT NO: ET-6 SHEET NO: 7030-1	165			