

ENCROACHMENT PERMIT

THIS ENCROACHMENT PERMIT, entered into on this ____ day of _____, 2016, is between Transit Joint Powers Authority For Merced County, a joint powers authority (“Authority”) and City of Merced, a California Charter Municipal Corporation (“City”).

RECITALS

WHEREAS, Authority and City wish to enter into an Encroachment Permit for the placement, operation, and maintenance of bus stops within City’s property, as more fully described in Exhibit A; and

WHEREAS, Authority wishes to install a bus stops on City’s property referred to herein as “Project,” and desire to specify the terms and conditions under which the Project is to be engineered, constructed, financed, operated and maintained.

NOW THEREFORE, the parties hereto hereby agree as follows:

SECTION 1. The Recitals are incorporated into this Agreement as if set forth in full.

SECTION 2. AUTHORITY AGREES:

- A. To provide all necessary surveying and preliminary engineering, including plans and specifications, and all necessary construction engineering services for the Project.
- B. To advertise, open and review bids, award and administer the construction contract for the Project.
- C. To construct the Project in accordance with plans to the satisfaction of and subject to the written approval of City.
- D. To pay all of the actual Project construction cost.
- E. Upon completion of the Project, to schedule and operate the Project at no cost to City.

- F. To defend, indemnify and hold the City, its officers, agents and employees, free and harmless from any and all claims for damages of any kind whatsoever loss or liability, including injury to property or persons related to this Encroachment Permit granted to Authority or the Authority's use of the property described in Exhibit A.

SECTION 3. CITY AGREES:

- A. To allow the placement of a bus sign at a location to be approved by City.
- B. To allow the public to access the bus stop from the adjoining public property.

SECTION 4. INSURANCE. During the term on this Encroachment Permit, Authority shall maintain in full force and effect at its own cost and expense, the following insurance coverage:

- A. General Liability.
 - (i) Authority shall obtain and keep in full force and effect general liability coverage at least as broad as ISO commercial general liability coverage occurrence Form CG 0001.
 - (ii) Authority shall maintain limits of no less than Two Million Five Hundred Thousand Dollars (\$2,500,000) per occurrence and Five Million Dollars (\$5,000,000) combined for bodily injury, personal injury and property damage.
 - (iii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects liability arising out of work or operations performed by or on behalf of the Contractor.
 - (iv) The policy shall stipulate that this insurance will operate as primary insurance and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.

B. Automobile Insurance.

- (i) Authority shall obtain and keep in full force and effect an automobile policy of at least One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.
- (ii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respect to automobiles owned, leased, hired or borrowed by the Contractor.
- (iii) The policy shall stipulate that this insurance will operate as primary insurance and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.

C. Certificate of Insurance. Authority shall complete and file with the City prior to engaging in any operation or activity set forth in this Encroachment Permit, certificates of insurance evidencing coverage as set forth above and which shall provide that no cancellation or expiration by the insurance company will be made during the term of this Encroachment Permit, without thirty (30) days written notice to City prior to the effective date of such cancellation.

SECTION 4. TERMINATION OF ENCROACHMENT PERMIT.

The Project shall remain in operation until such time one party gives the other party ninety (90) day notice of termination of this Encroachment Permit.

SECTION 5. ASSIGNABILITY OF ENCROACHMENT PERMIT.

This Encroachment Permit does not constitute a deed or grant of easement and is not transferrable or assignable without the City's express written permission.

SECTION 6. AMENDMENT. This Agreement shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto.

SECTION 7. SUCCESSORS AND ASSIGNS. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the respective parties hereto.

SECTION 8. INTEGRATION. This Agreement constitutes the entire understanding and agreement of the parties and supersedes all previous and/or

contemporaneous understanding or agreement between the parties with respect to all or any part of the subject matter hereof.

SECTION 9. AUTHORITY TO EXECUTE. The person or persons executing this Agreement on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.

SECTION 10. INTERPRETATION. The use of the singular herein includes the plural, and the use of the neuter herein includes the masculine and/or feminine, as the context may require. The captions of the sections of this Agreement are for convenience only and shall not be considered nor referred to in resolving questions of interpretation and construction.

SECTION 11. NO PRESUMPTION RE DRAFTER. The parties hereto acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the parties and their attorneys, and this document reflects their mutual agreement regarding the same. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any party to be the drafter of this Agreement, and therefore no presumption for or against validity or as to any interpretations hereof, based upon the identity of the drafter, shall be applicable in interpreting or enforcing this document.

SECTION 12. RELATIONSHIP OF PARTIES. Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the parties hereto or their officers, officials, employees, volunteers or agents. Except as either party may specify in writing, neither party shall have the authority to act as an agent of the other party or to bind the other party to any obligation.

[Continued on next page]

IN WITNESS WHEREOF, the parties have caused this Encroachment Permit to be executed on the date first above written.

CITY OF MERCED
A California Charter Municipal
Corporation

BY: _____
City Manager

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

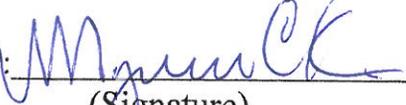
APPROVED AS TO FORM:

BY: Kelly C. Jimenez 9/2/14
City Attorney Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

TRANSIT JOINT POWERS
AUTHORITY FOR MERCED
COUNTY

BY: 
(Signature)

Marjie Kirn
(Typed Name)

Its: Executive Director
(Title)

BY: _____
(Signature)

(Typed Name)

Its: _____
(Title)

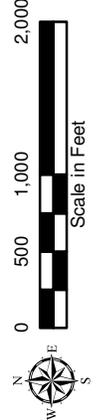
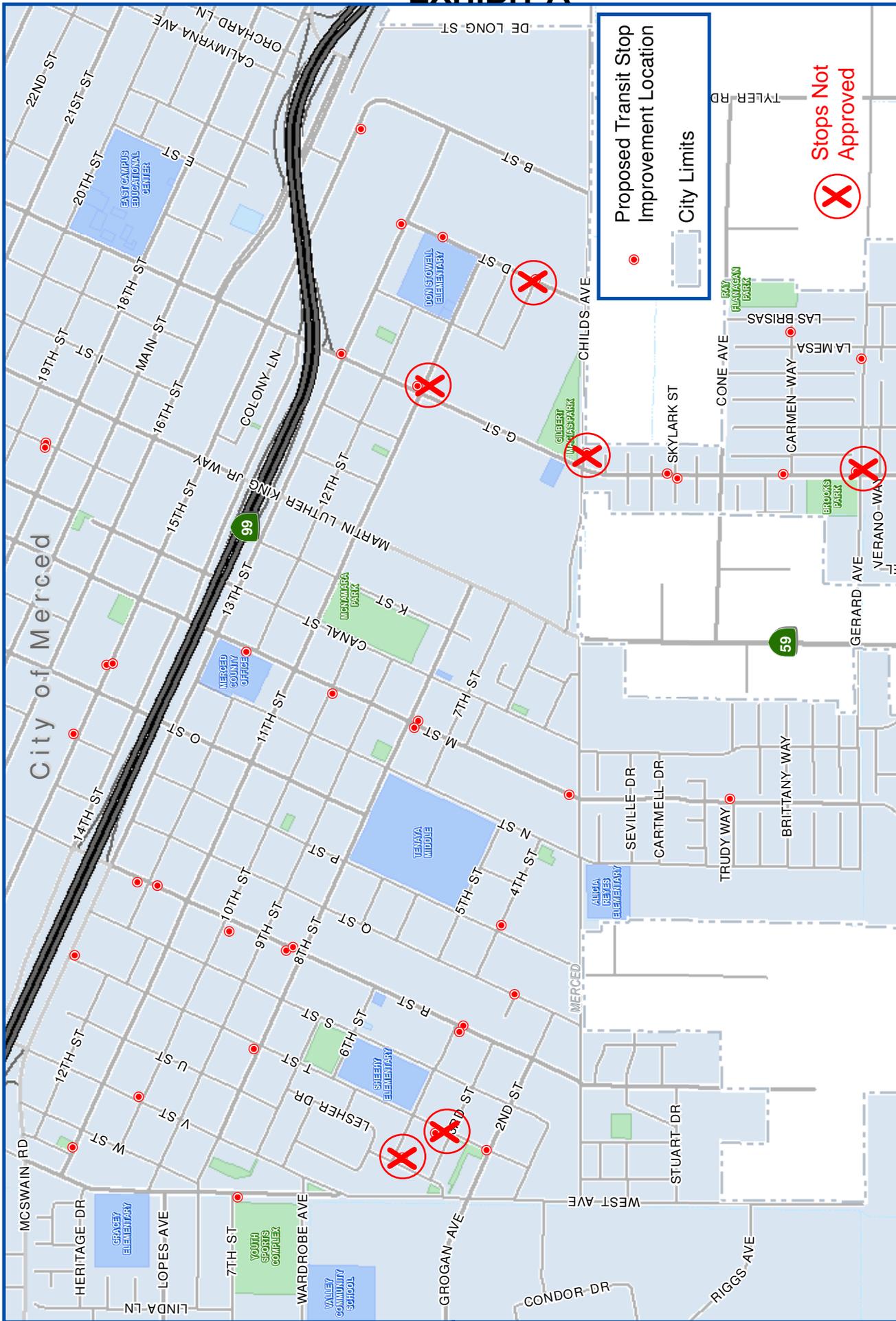
Taxpayer I.D. No. 37-1544347

ADDRESS: 369 W. 18th Street
Merced, CA 95340

TELEPHONE: (209) 723-3153
FAX: (209) 723-0322
E-MAIL: marjie.kirn@mcagov.org

Exhibit A

EXHIBIT A



Proposed Transit Stop Improvements South Merced

EXHIBIT "A"

SOUTH MERCED BUS STOP DESCRIPTIONS

| MERCED STOPS, PHASE I, August 2016 | PASSENGER LOAD COUNT | ROUTE | PROPOSED IMPROVEMENT |
|--|----------------------|-------|--|
| D St. @ 11th Street N/B - new location | 1,108 | M4 | Install Shelter, Bench & Trash Can |
| Beginning at a point on the centerline of 11th Street, thence North 352' to the proposed sign on the east side of D Street 2' behind the curb. Apply red paint to the curb on the East side of D Street from a point 294' North of the Centerline of 11th Street, thence North 60'. | | | |
| D St at 9th St. (N/B) (Sunnyside) | New Stop | M4 | Install Bench, Trash Can & ADA Concrete |
| Beginning at a point on the centerline of 9th Street, thence South 50' to the proposed sign on the east side of D Street 2' behind the curb. Apply red paint to the curb on the East side of D Street from a point 50' South of the Centerline of 9th Street, thence South along the curb 60'. | | | |
| G Street @ Skylark (N/B) - existing sign | 218 | M4 | Install Bench, Trash Can & ADA Concrete |
| Beginning at a point at the centerline of Skylark Court, thence North 62' to an existing sign behind the East Curb of G Street Apply red paint to the curb from a point 46' North of the centerline of Skylark Court, thence northerly 60'. | | | |
| G Street @ Skylark (S/B) - existing sign | 423 | M4 | Install Bench, Trash Can & ADA Concrete |
| Beginning at a point at the centerline of Skylark Court, thence South 60' to an existing sign behind the West Curb of G Street Apply red paint to the curb from a point 44' South of the centerline of Skylark Court, thence Southerly 60'. | | | |
| 13th Street @ D Street (W/B)- existing shelter | 769 | M4 | Relocate shelter, bench and sign |
| Beginning at a point at the centerline of D Street, thence Easterly 84' to a new sign on the North side of 13th Street 2' behind curb. Apply red paint to the north curb of 13th Street to match existing paint from a point 104' Easterly of the centerline of D Street an additional 30' East. | | | |
| C St. @15th St. (N/B) - no sign | 248 | M4 | Install Bus sign and ADA Concrete |
| Beginning at a point at the centerline of 15th Street, thence Southerly 118' to a new sign behind the sidewalk on the East side of C Street. | | | |
| Childs Ave. @ G St. (E/B) - no sign | New Stop | M4 | Install Sign |
| Beginning at a point at the centerline of G Street, thence Easterly 162' to a new sign 2' behind the curb on the South side of Childs Avenue. | | | |
| Carmen Way @ Las Brisas (W/B) - no sign | 152 | M4 | Install Sign and ADA Concrete |
| Beginning at a point at the centerline of Las Brisas Street, thence Westerly 148' to a new sign 2' behind the curb on the North side of Carmen Way. Apply red paint to the curb from a point 88' West of the centerline of Las Brisas Street, thence Westerly 60'. | | | |
| Gerard @ LaMesa (W/B) - existing sign | 516 | M4 | Install ADA Concrete |
| Beginning at a point at the centerline of La Mesa Street, thence Westerly 67' to an existing sign 2' behind the curb on the North Side of Gerard Avenue. Apply red paint on the north curb of Gerard Avenue from the centerline of La Mesa Street | | | |

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| Westerly 42', thence 60' West. | | | |
| G ST. @ Carmen (N/B) - existing sign | 1,433 | M4 | Install Shelter, Bench & Trash Can |
| Beginning at a point at the centerline of Carmen Way, thence Northerly 53' to an existing sign on a streetlight pole on the East side of G Street. Apply red paint to the curb on the East side of G Street from a point 45' North of the centerline of Carmen | | | |
| Way, thence Northerly 30'. | | | |
| G ST. @ Gerard (N/B) | New Stop | M4 | Install Sign and ADA Concrete |
| Beginning at a point at the centerline of Gerard Avenue, thence Northerly 183' to a proposed sign 2' behind the curb on the East side of G Street. Apply red paint to the curb on the East side of G Street from a point 113' North of the centerline of Gerard | | | |
| Avenue, thence north 70'. | | | |
| G St. @ 11th (N/B) | New Stop | M4 | Install Sign and ADA Concrete |
| Beginning at a point at the centerline of G Street, thence Northerly 100' on the East side of G Street to a proposed sign 2' back of curb. Apply red paint to the east curb of G Street beginning at a point 45' northerly of the centerline of 11th Street, thence continuing | | | |
| Northerly 55'. | | | |
| 13th St. @ G St. E/B - no sign | 115 | M4 | Install Sign and ADA Concrete |
| Beginning at a point at the centerline of G Street, thence Westerly along the South curb line of 13th Street 68' to a proposed sign 2' back of curb. Apply red paint to the South curb line of 13th street 83' west of the centerline of G Street matching the existing | | | |
| red paint and proceeding Westerly an additional 25'. | | | |
| M St @ 12th (S/B) existing sign | 182 | M3 | Install ADA Concrete |
| Beginning at the centerline of 12th Street, thence North 56' along the West curb of M Street to an existing sign located 2' | | | |
| behind the curb. | | | |
| M St @ 10th (S/B) existing sign | 0 | M3 | Install ADA Concrete |
| Beginning at the centerline of 10th Street, thence Southerly along the West curb of M Street a distance of 67' to an | | | |
| existing sign located behind the curb. Apply red paint to the west curb of M Street at a point 37' South of the centerline | | | |
| of 10th Street continuing Southerly a distance of 50'. | | | |
| M St @ 8th (S/B) existing sign | 303 | M3 | Install ADA Concrete |
| Beginning at a point on the centerline of 8th Street, thence 109' South along the West curb to an existing sign located | | | |
| behind the curb. Apply red paint to the west curb of M Street from a point 49' South of the centerline of 8th Street | | | |
| proceeding South 60' to the existing sign. | | | |
| M St @ 8th (N/B) existing sign | 625 | M3 | Install Shelter, Bench & Trash Can |
| Beginning at a point at the centerline of 8th Street, thence South along the East curb line of M Street a distance of 77' to an | | | |
| existing sign located behind the curb. Apply red paint to the East curb of M Street from a point 45' South of the centerline of | | | |
| 8th Street continuing south 62'. | | | |

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| M St @ Childs (S/B) - no sign | 123 | M3 | Install Sign and ADA Concrete |
| Beginning at a point on the centerline of Childs Avenue, thence Northerly along the westerly curb of M Street a distance of 58' to a proposed sign to be located 2' behind the curb. Apply red paint to the West curb of M Street from a point 38' North of the centerline of Childs Avenue, thence continuing Northerly a distance of 80'. | | | |
| M St @ Childs (N/B) - existing shelter | 256 | M3 | Install bench, sign, trash can & ADA Concrete |
| Beginning at a point on the centerline of Childs Avenue, thence Northerly along the Easterly curb of M Street a distance of 98' to a proposed sign. Apply red paint to the East curb of M Street at a point North of the centerline of Childs Avenue a distance of 61', thence proceeding Northerly a distance of 57'. | | | |
| M Street @ Trudy Way (N/B) - Existing Pull-out | 627 | M3 | Install Sign |
| Beginning at a point at the centerline of Trudy Way, thence Northerly along the East curb line of M Street a distance of 92' to a proposed sign to be located behind the sidewalk. | | | |
| Q St. @ 3rd St. (N/B) existing shelter | 1,255 | M2, M3 | Install ADA Concrete |
| Beginning at a point at the centerline of 3rd Street, thence Southerly along the East curb line of Q Street a distance of 40' to an existing sign 2' behind the curb. Apply red paint to the East curb of Q Street from a point 40' South of 3rd Street continuing southerly a distance of 50'. | | | |
| 4th St. @ P St. (E/B) existing sign | 518 | M3 | Install ADA Concrete |
| Beginning at a point on the centerline of P Street, thence Easterly along the South curb line of 4th Street a distance of 54' to an existing sign at the back of curb. | | | |
| 15th St. @ M St. (W/B) - no sign | 0 | M1, M2 | |
| Beginning at a point at the centerline of M Street, thence Westerly a distance of 280' to a proposed sign located at the back of walk. | | | |
| 15th St. @ P St. (W/B) - no sign | 45 | M1, M2 | Install sign and ADA concrete |
| Beginning at the centerline of P Street, thence Easterly 35' along the North curb of 15th Street to a proposed sign 2' behind the curb. Apply red paint along the North curb of 15th Street from a point 10' Easterly from the centerline of P Street, thence Easterly a distance of 70'. | | | |
| 15th St. @ O St. (E/B) - no sign | 13 | M2 | Install Sign - Sierra Meadows |
| Beginning at a point at the centerline of O Street, thence Easterly along the South curb line of 15th Street a distance of 356' to the location of a proposed sign located 2' behind curb. | | | |
| 15th St. @ O St. (W/B) - no sign, ex. Pull-out | 0 | M1, M2 | Install Sign - Senior Center |
| Beginning at a point at the centerline of O Street, thence Easterly along the North curb line of 15th Street a distance of 250' to the location of a proposed sign located behind the existing sidewalk. | | | |
| R St. @ 12th St. (N/B) no sign | 572 | M2 | Install Sign and ADA Concrete |
| Beginning at a point at the centerline of 12th Street, thence proceeding Southerly along the East curb line of R Street a | | | |

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| distance of 48.5' to a proposed sign to be located 2' behind the curb. Apply red paint along the East curb of R Street beginning at a point 38' South of the centerline of 12th Street, thence proceeding South a distance of 60'. | | | |
| R St. @ 12th St. (S/B) existing sign | 854 | M1, M2 | Install ADA Concrete |
| Beginning at a point at the centerline of 12th Street, thence proceeding Northerly along the West curb line of R Street a distance of 120' to an existing sign located behind curb. Apply red paint along the West curb of R Street beginning at a point 100' North of the centerline of 12th Street, thence proceeding North a distance of 60'. | | | |
| R St. @ 10th St. (S/B) existing sign | 48 | M1, M2 | Install ADA Concrete |
| Beginning at a point at the centerline of 10th Street, thence proceeding Southerly along the West curb line of R Street a distance of 96' to an existing sign located behind the curb. | | | |
| R St. @ 8th St. (N/B) - existing shelter | 1154 | M1, M2 | Redo Shelter & Install ADA Concrete |
| Beginning at a point at the centerline of 8th Street, thence proceeding Northerly along the East curb line of R Street a distance of 72' to a proposed sign to be located behind the curb. Apply red paint along the East curb of R Street beginning at a point 77' North of the centerline of 8th Street and matching existing red paint, thence Northerly 11'. | | | |
| R St. @ 8th St. (S/B) - no sign | 154 | M1 | Install sign & ADA Concrete |
| Beginning at a point at the centerline of 8th Street, thence proceeding Northerly along the West curb line of R Street a distance of 60' to a proposed sign to be located 2' behind curb. Apply red paint along the West curb of R Street beginning at a point 40' North of the centerline of 8th Street, thence proceeding North a distance of 60'. | | | |
| R St. at 4th St (S/B) no sign | 69 | M2 | Install sign & ADA Concrete |
| Beginning at a point at the centerline of 4th Street, thence proceeding South along the West curb of R Street a distance of 160' to a proposed sign to be located 2' behind the curb. Apply paint to the West curb of R Street at a point 120' South of the centerline of 4th Street, thence proceeding South 57'. | | | |
| R St. at 4th St (N/B) exist. Shelter | 1407 | M1, M2 | Add ADA Concrete |
| Beginning at a point at the centerline of 4th Street, thence proceeding South along the East curb of R Street a distance of 85' to an existing sign located behind the curb. Apply paint to the East curb of R Street at a point 92' South of the centerline of 4th Street matching the existing red curb, thence proceeding South an additional 40'. | | | |
| 2nd St. at T St. (W/B) - no sign | 64 | M2 | Install sign & ADA Concrete |
| Beginning at a point at the centerline of T Street, thence Easterly 97' along the North curb line of 2nd Street to a proposed sign 2' back of curb. Apply red paint to the North curb of 2nd Street matching the existing red paint 107' east of the centerline of T Street, thence proceeding Easterly an additional 45'. | | | |
| 8th at T St. (W/B) - existing sign | 260 | M1 | Install bench and trash can |
| Beginning at a point at the centerline of T Street, thence proceeding West along the North curb line of 8th Street a distance of 72' to an existing sign located behind the existing sidewalk. | | | |

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| T Street @ 13th Street (N/B) DMV - new stop | 442 | M1 | Install Bench, Trash Can & Sign |
| Beginning at a point at the centerline of 13th Street, thence Southerly along the East curb line of T Street a distance of 101' to a proposed sign to be located 2' behind the curb. Apply red paint to the East curb line of T Street from a point 101' South of the centerline of 13th Street, thence southerly a distance of 60'. | | | |
| V St. @ 10th St. (N/B) - existing sign | 214 | M1 | Install ADA Concrete |
| Beginning at a point at the centerline of 10th Street, thence proceeding Northerly along the East curb line of V Street a distance of 60' to an existing sign located behind the curb. Apply red paint to the East curb of V Street beginning at a point 29' North of the centerline of 10th Street, thence proceeding North a distance of 50'. | | | |
| 11th Street @ W Street (W/B) - existing sign | 1,161 | M1 | Install Shelter, Bench & Trash Can |
| Beginning at a point at the centerline of W Drive , thence Easterly along the north curb line of 11th Street a distance of 102' to an existing sign located behind the sidewalk. Apply red paint to the North curb of 11th Street from a point 85' Easterly of W Drive, thence continuing Easterly a distance of 80'. | | | |
| West St. @ 7th St. (S/B) - no sign | 25 | M1 | Install Sign and ADA Concrete |
| Beginning at a point on the centerline of 7th Street, thence Southerly along the West curb line of West Avenue a distance of 107' to a proposed sign 2' behind curb. Apply red paint to the west curb of West Avenue from a point 34' South of the centerline of 7th Street, thence Southerly a distance of 80'. | | | |
| U St. @ 4th St. (N/B) - add stop | New Stop | M1 | Install Sign , bench and trash can |
| Beginning at a point at the centerline of U Street, thence Southerly along the East curb line of U Street a distance of 57' to a proposed sign located behind the sidewalk. Apply red paint to the curb on the East side of U Street from the 57' south of the centerline of 4th Street continuing southerly a distance of 60'. | | | |
| T St. @ 3rd St. (S/B) - no sign, existing shelter and bench | New Stop | M1 | Install Shelter, Sign, Bench & Trash Can |
| Beginning at a point at the centerline of T Street, thence Northerly along the West side of T Street 57' to a proposed sign located behind the sidewalk. | | | |
| K St. at 18th St. (N/B) MCAG - no sign | 1505 | M5, UC | Install Sign , bench, concrete and trash can |
| Beginning at a point at the centerline of 18th Street, thence Northerly along the east curb line of K Street a distance of 182' to a proposed sign 2' back of curb. Apply red paint to the East curb of K Street from a point 144' Northerly from the centerline of 18th Street proceeding Northerly 30' to tie into existing red paint. | | | |
| K St. at 18th St. (S/B) Post Office - no sign | 327 | M5, UC | Install sign |
| Beginning at a point at the centerline of 18th Street, thence Northerly along the West curb line of K Street a distance of 153' to an existing streetlight pole. Install bus sign on pole. Apply red paint to the West curb of K Street from a point 125' Northerly from the centerline of 18th Street and proceeding Northerly a distance of 22' to match existing red paint. | | | |