

Contract Review Sheet

PW-4417-21 (2)

 A&E Standard Prof Svcs Agmnt #: PW-4417-21 Amendment #: 2

 Contact: Alicia Henry Department: Public Works Department

 Phone #: (503) 373-4320 Date Sent: Wednesday, August 9, 2023

 Title: A&E Services for the Rambler Drive NE: Little Pudding River Bridge replacement project

 Contractor's Name: Dowl LLC

 Term - Date From: November 9, 2021 Expires: October 31, 2025

 Original Contract Amount: \$673,449.69 Previous Amendments Amount: \$347,587.22

 Current Amendment: \$0.00 New Contract Total: \$1,021,036.91 Amd% 52%
 Incoming Funds Federal Funds Reinstatement Retroactive Amendment greater than 25%

 Source Selection Method: 30-0220 Formal Selection A&E icitation Num

Description of Services or Grant Award

A&E Services for the Rambler Dr. NE: Little Pudding River Bridge replacement project. Services include Preliminary Engineering through Final Design (PS&E) of the bridge replacement project. This contract is funded by ODOT IGA 34397 (PW-3779-20). Amendment 1 adds additional effort for three existing tasks: 1.1 Administration & Record Keeping 1.2 Coordination 1.1 Bridge TS&L This Amendment adds one new task: 3.4.1 Hazardous Materials Corridor Study. Also adds additional funds of \$16,151.40 for a new not to exceed amount of \$673,449.69.

Amendment No. 2 will delete \$54,689.33 in contingency tasks for Phase 1 design services and add a total of \$402,276.55 which includes \$35,876.05 in contingency tasks for Phase 2 construction services. Contract Amendment No. 2 will increase the contract amount by 51.6% to a total of \$1,021,036.91.

 Desired BOC Session Date: 9/27/2023 BOC Planning Date: 9/14/2023

 Files submitted in CMS: 9/6/2023 Printed packet & copies due in Finance: 9/12/2023

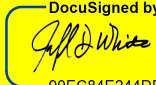
 BOC Session Presenter(s) Ryan Crowther


FOR FINANCE USE

 Date Finance Received: 8/21/2023 Date Legal Received: _____

 Comments: Y


REQUIRED APPROVALS

 DocuSigned by:

8/24/2023
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 Finance - Contracts Date

 DocuSigned by:

8/21/2023
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 Contract Specialist Date

 DocuSigned by:

9/2/2023
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 Legal Counsel Date

 DocuSigned by:

9/3/2023
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 Chief Administrative Officer Date



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 27, 2023

Department: Public Works

Agenda Planning Date: Sep. 14, 2023

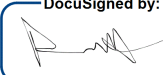
Time required: 10 min.

 Audio/Visual aids Powerpoint

Contact: Ryan Crowther

Phone: 503-365-3112

Department Head Signature:

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TITLE

Rambler Dr NE: Little Pudding River Bridge - Amendment 2 to Engineering and Related Services Contract PW-4417-21 with DOWL, LLC.

Issue, Description & Background

The Little Pudding River Bridge (#05419A) is a 1575-foot-long, 2-lane timber bridge built in 1963. Although the Agency puts significant maintenance effort into this structure each year, the bridge is showing all of the timber deterioration issues common for a bridge that has seen heavy use for over 57 years. The Agency has replaced 14 of the original timber piling with steel H-pile. 22 piles and 4 pile caps were identified as needing replacement in the 2016 bridge inspection report. The timber decking system has wide-spread decay and the deck membrane has failed, as evidenced by staining and saturation of the underlying stringers. Softening of the timber decking has led to repeated failure of the asphalt concrete wearing surface. The existing bridge rails are very short (only about 20 inches tall), non-crash-tested timber railing and the felloe guards protrude toward the roadway about 16 inches in front of the face of rail, creating a launching hazard on this Basic Rule roadway. Approach guard rails and rail transitions are completely non-standard. Guardrails are not connected to the bridge, there are no stiffness transitions or safety end pieces, and the trailing ends of the bridge rails have no guardrail treatment even though they are within the clear zone of opposing traffic.

The project addresses the deficiencies noted above, including (1) replacing the rotting timber decking system and installing a new deck membrane, ACWS and deck joints to protect the timber girders and pile caps, (2) installing new thrie-beam bridge rails and compatible felloe guards to improve roadway safety, and (3) installing new guardrail and guardrail transitions at the bridge approaches. This will prolong the remaining service life of the existing structure by dramatically improving roadway safety and by replacing the deteriorated bridge components that the Agency cannot replace incrementally as part of a perpetual maintenance program.

As approved by the Board on 11/3/2021, DOWL, LLC. was contracted to complete all of the design work, acquire the necessary right-of-way and prepare final plans, specifications and estimate (PS&E) for bidding. Because of current and projected workload over the next two construction seasons, the Capital Projects Section will not have adequate staffing to accommodate the additional construction management and inspection work required for this project. Therefore, DOWL's contract is being amended to add the required construction related services. With this amendment, the Consultant will administer the construction contract and provide all required construction engineering and inspection services on behalf of the County.

Financial Impacts:

The total not-to-exceed cost of this Contract Amendment No. 2 is \$402,276.55 that includes \$35,876.05 in contingency tasks which must be individually authorized (if needed). With this amendment, the overall Consultant contract is valued at \$1,021,036.91 with \$39,458.13 in contingency tasks. This Project is federally funded with Marion County providing the required matching funds under Supplemental Project Agreement 34397.



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Impacts to Department & External Agencies: This contract does not directly impact any other Marion County departments and will benefit the public at large, and farmers in particular, by providing a stable and safe bridge between Highway 99E and Howell Prairie Road.

Options for Consideration:

1. Approve and sign Amendment 2 to Engineering and Related Services Contract #PW-4417-21 between Marion County and DOWL, LLC.
2. Take no action at this time.

Recommendation: The Public Works Department recommends that the Board choose option 1, allowing project construction to proceed in early 2024.

List of attachments:

1. Amendment No. 2 to Engineering and Related Services Contract PW-4417-21
2. Exhibit A.1

Presenter: Ryan Crowther, Capital Projects Manager

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

Copies to: Alicia Henry, ahenry@co.marion.or.us
Ryan Crowther, rcrowther@co.marion.or.us

REQUEST FOR AUTHORIZATION OF CONTRACT PW-4417-21

Date: August 9, 2023
To: Chief Administrative Officer
Cc: Contract File
From: Alicia Henry

I. Subject: Amendment Exceeds 25%

DIPS CODE: 130-40-44-441-4402-533500-104448

Budget Authority: Yes No

CIP: 21-122

The Marion County Public Works Department is requesting approval to amend a contract as described in Section 20-0265, 20-0270, 30-0320, 40-0160, and 40-0910 of the Marion County Public Contracting Rules. The contract is with Dowl LLC for A&E Services for the Rambler Drive NE: Little Pudding River Bridge replacement project with a value of \$673,449.69 and an additional \$347,587.22 will be added to the contract for a new contract total of \$1,021,036.91 upon approval.

A. BACKGROUND

Marion County applied for and was granted federal Local Bridge Program (LBP) funds to repair the existing structure as required to extend its useful life. Repairs will be completed in compliance with current AASHTO and ODOT standards as applicable.

B. CURRENT AMENDMENT PURPOSE

DOWL's current contract is valued at \$673,449.69 which includes \$140,457.63 in contingency tasks. Amendment 1 added additional effort for three existing tasks: 1.1 Administration & Record Keeping, 1.2 Coordination, 1.1 Bridge TS&L, and adds one new task: 3.4.1 Hazardous Materials Corridor Study. Additional funds were added of \$16,151.40 for a new not to exceed amount of \$673,449.69. Contract Amendment No. 2 will delete \$54,689.33 in contingency tasks for Phase 1 design services and add a total of \$402,276.55 which includes \$35,876.05 in contingency tasks for Phase 2 construction services.

C. JUSTIFICATION

DOWL was selected through a competitive RFP process that allows the County to amend the contract to include construction services if needed. At the time of selection, it was undetermined if those services would be needed. Since then, the Capital Projects Section has finished an in-depth look at our workload and find that this project is one of many large projects that we will have under construction in 2024 and 2025.


With limited Capital Projects staff available to oversee all of our projects, it has been determined that amending DOWL’s contract to add contract administration, construction engineering and inspection services is the most viable option and is in the best interest of the County.

D. BUDGET IMPACTS


1. Are the expected expenditures for the current fiscal year under the contract, including any additional funds being requested with this action, already included in the current year adopted budget? Yes No
2. If yes, amount \$1,021,036.91 Program / Account 441-4402
3. If no, describe the amount and how the anticipated expenditures will be handled within the budget:
 - a. Amount: \$ _____
 - b. Managed with anticipated savings– explain why and from what costing:

 - c. Will require a supplemental budget request – provide the expected funding source and costing:
 - i. Funding Source: _____
 - ii. Costing: _____

Submitted by:

DocuSigned by:

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 Alicia Henry
 Public Works Department

Reviewed by:


DocuSigned by:

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 Contracts & Procurement

Acknowledged by:

DocuSigned by:

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 Department Head

Acknowledged by:

DocuSigned by:

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 Jan Fritz, CAO

**AMENDMENT NO. 2 TO
CONTRACT NO. PW-4417-21
PROJECT TITLE: RAMBLER DR NE: LITTLE PUDDING RIVER BRIDGE**

1. This is Amendment No. 2 to Contract No. PW-4417-21 (as amended from time to time) between Marion County, hereafter called Agency, and DOWL, LLC, which the Parties agree is synonymous with the defined term “Contractor” or “Consultant” as referenced in the Contract.

2. Amendment Information Table:

Project Title: Rambler Dr NE: Little Pudding River Bridge	Agency Project Number: 104448
Project Location: 3 Miles East of Brooks, OR	Associated RFP Number: PW853-21
Federal Aid Number: C047(102)	DBE Goal: 8.5% (see Exhibit E)

3. Except as expressly revised in this Amendment, or as previously amended, all other terms and conditions of the original Contract and any previous amendments remain in full force and effect.

4. The Parties agree that Phase 1 Services - Preliminary Engineering through Final Design (PS&E) shall terminate upon Agency’s award of the construction contract.

5. The Contract is hereby amended as follows (new language is indicated by underlining and deleted language is indicated by [brackets]):

a. Under **Terms and Conditions 1, Contract Effective Date and Term**, modify the last sentence as follows:

Unless otherwise amended or terminated, this Contract shall expire [October 31, 2024] October 31, 2025.

b. Under **Exhibit A - Statement of Work**, subsection **B(1) Standards**, add the following paragraph:

Construction Phase Services - Consultant shall complete Construction Engineering, Inspection and Construction Contract Administration (“CEI/CA”) Services in accordance with ODOT’s Construction Manual, the Manual of Field Test Procedures and the ODOT Inspectors Manual. All Inspection work must be performed by ODOT-certified Inspectors as required by ODOT’s Inspection Quality Assurance Program (“IQAP”). Consultant’s qualified staff shall diligently monitor the work of the construction contractor in order to determine whether the Project is constructed in compliance with the construction contract documents and any applicable current standards and Agency manuals. Consultant shall immediately advise Agency of any construction which Consultant knows, or with the exercise of professional care should know, fails to conform to the Federal or State standards applicable to construction of the Project.

c. **Exhibit A - Statement of Work**, subsection **E. Tasks, Deliverables and Schedule** is hereby amended to delete existing contingency tasks and associated language as follows:

- 2.6 Record of Survey / Control, Recovery, Retracement
- 3.2.2 Phase 1 Archaeological Investigation with Technical Report

- 3.4.7 Asbestos Abatement Specification
 - 3.5.8 Fish Passage Plan
 - 3.6.2 Wetland/Waters of the U.S./State Delineation Report
 - 3.6.3 Wetland Functional Assessment Report
 - 3.6.4 Stream Functional Assessment
 - 10.3 Roadway Design Exceptions
 - 11.3 Bridge Design Exceptions
 - 15.4 Letter of Public Interest Finding (LPIF) & Exemption Orders
- d. **Exhibit A.1 Statement of Work and Delivery Schedule for Construction Contract Administration and Construction Engineering & Inspection** is hereby added to the Contract for Phase 2 Services.
- e. Under **Exhibit B - Compensation**, subsection **A. Method of Compensation for Non-Contingency Tasks**, replace the last sentence with the following:
The dollar amount for Phase 1 T&M non-contingency Services is: \$532,992.06. The dollar amount for Phase 2 T&M non-contingency Services is: \$366,400.50.
- f. Under **Exhibit B - Compensation**, subsection **L. Breakdown of Costs (BOC)**, Replace the last paragraph with the following:
The final BOC's, dated 9/21/2021 for the original Contract (Phase 1 Services), 9/13/2022 for Amendment 1 (Phase 1 Services) and 7/21/2023 for Amendment 2 (Phase 2 Services) are not physically attached, but are incorporated into this Contract by this reference with the same force and affect as though fully set forth herein. A copy of the final BOC's have been provided to the Consultant prior to execution of this Contract.

6. Amendment Compensation Table:

1. Prior total not-to-exceed ("NTE") amount for this Contract (including any previous amendments and contingency amounts)		\$673,449.69
2. Amount for T&M	NTE Amount for allowable costs of non-contingency Services added by this Amendment.	\$366,400.50
3. Amount for Fixed-Fee	Total of Fixed-Fee amount (for CPFF only) for non-contingency Services added by this Amendment.	N/A
4. Fixed Price amount	Total of Fixed Price amount(s) for non-contingency Services added by this Amendment.	N/A
5. Total non-contingency amount added by this Amendment (lines 2 through 4):		\$366,400.50
6. Total NTE for contingency tasks, if any, included in this Amendment:		\$35,876.05
7. Credits for deleted contingency and non-contingency tasks, if any	2.6 Record of Survey / Control, Recovery, Retracement	(\$4,619.41)
	3.2.2 Phase 1 Archaeological Investigation with Technical Report	(\$8,040.89)
	3.4.7 Asbestos Abatement Specification	(\$1,726.69)

	3.5.8 Fish Passage Plan	(\$5,133.29)
	3.6.2 Wetland/Waters of the U.S./State Delineation Report	(\$8,807.05)
	3.6.3 Wetland Functional Assessment Report	(\$7,796.04)
	3.6.4 Stream Functional Assessment	(\$7,822.05)
	10.3 Roadway Design Exceptions	(\$1,634.93)
	11.3 Bridge Design Exceptions	(\$4,099.28)
	15.4 Letter of Public Interest Finding (LPIF) & Exemption Orders	(5,009.70)
Total Credits		(\$54,689.33)
8. Net Amount of this Amendment (line 5 plus line 6, less any credits in line 7): This amount includes all costs; profit; Fixed-Fee amount (if any); and contingency tasks (if any), each of which must be separately authorized by Agency.		\$347,587.22

9. TOTAL NTE AMOUNT of Contract revised to include this Amendment (line 1 plus line 8):	\$1,021,036.91
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CONSULTANT CERTIFICATIONS

A. Any individual (the undersigned) signing on behalf of Consultant hereby certifies under penalty of perjury:

- (1) Consultant has provided its correct TIN to Agency;
- (2) Consultant is not subject to backup withholding because (a) Consultant is exempt from backup withholding, (b) Consultant has not been notified by the IRS that Consultant is subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified Consultant that Consultant is no longer subject to backup withholding; and
- (3) The undersigned is authorized to act on behalf of Consultant, the undersigned has authority and knowledge regarding Consultant's payment of taxes, and to the best of the undersigned's knowledge, Consultant is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a State tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321, and 323; and local taxes administered by the Department of Revenue under ORS 305.620.

B. Any individual signing (the undersigned) on behalf of Consultant hereby certifies the undersigned is authorized to sign this Amendment and that:

- (1) Consultant has read this Amendment, understands it, and agrees to be bound by its terms and conditions.**
- (2) Consultant understands and agrees that various documents are not physically attached, but are incorporated by reference and have the same force and effect as if fully set forth herein.**
- (3) Consultant understands and has provided to all Associates the COI Disclosure Form available at: <https://www.oregon.gov/ODOT/Business/Procurement/Pages/PSK.aspx>. Consultant and (to the best of the undersigned's information, knowledge and belief) Consultant's Associates are in compliance with the disclosure requirements of the COI Disclosure Form and have no conflicts of interest to disclose. If disclosures regarding this Amendment or the related Project are required per the COI Disclosure Form, Consultant has made such disclosures to Agency on a properly prepared and submitted form and, if determined necessary by Agency or ODOT, a mitigation plan has been approved by Agency and ODOT.**
- (4) (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.**
(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, the undersigned shall complete and submit [Standard Form-LLL, "Disclosure Form to Report Lobbying,"](#) in accordance with its instructions.
(c) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
(d) Consultant shall require that the language of this certification be included in all subcontracts in excess of \$100,000 at all tiers and that all such subcontractors shall certify and disclose accordingly.
- (5) Consultant is an independent contractor as defined in ORS 670.600 and as described in [IRS Publication 1779](#).**
- (6) In the event that Consultant is a general partnership or joint venture, Consultant signature(s) on this Amendment constitutes certifications to the above statements pertaining to the partnership or joint venture, as well as certifications of the above statements as to any general partner or joint venturer signing this Amendment.**

<p>This Amendment shall not become effective and no Payment shall be made for Services that are performed before all necessary governmental approvals have been obtained, the Amendment is fully executed, and Notice-To-Proceed has been issued by Agency.</p>

Counterparts: The Amendment may be executed in several counterparts, 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 the Amendment so executed shall constitute an original.

CONSULTANT SIGNATURE(S):

Signature: _____ Date: _____

Name: _____ Title: _____

Signature: _____ Date: _____

Name: _____ Title: _____

AGENCY SIGNATURES, BOARD OF COMMISSIONERS:

Chair _____ Date _____

Commissioner _____ Date _____

Commissioner _____ Date _____

Authorized Signature: _____
Department Director or designee Date

Authorized Signature:  _____ Date 9/3/2023
DocuSigned by: DC16351248DE4EC
Chief Administrative Officer Date

Reviewed by Signature:  _____ Date 9/2/2023
DocuSigned by: 60C98A6E708240B
Marion County Legal Counsel Date

Reviewed by Signature:  _____ Date 8/24/2023
DocuSigned by: 90EC84E244DF43D
Marion County Contracts & Procurement Date

Exhibit A.1

Statement of Work and Delivery Schedule for Construction Contract Administration and Construction Engineering & Inspection (“CA/CEI”)

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A. PROJECT DESCRIPTION AND OVERVIEW OF SERVICES

This statement of work for CA/CEI Services (CA/CEI SOW) describes the Construction Engineering (CE) Tasks required for the contract. The delivery schedule is provided in the “Deliverables and Schedule” section of each task.

The CA/CEI Services will culminate when Agency issues Final Acceptance of the Project and Consultant has completed all tasks and provided all deliverables as required.

Notes:

- Reference to “Contract” in this CA/CEI SOW is applicable if this is a Contract or Contract Amendment.
- Tasks/subtasks labeled as “Contingency Task” require written authorization from APM. See detailed requirements in Section F of this SOW.

Background

The background for the Project is unchanged.

Phases of Services

The Services are divided into the following phases:

- Phase 1 - Preliminary Engineering through Final Design (PS&E)
- Phase 2 - Construction Contract Administration, Construction Engineering and Inspection (CA/CEI)

Definitions and Acronyms

DEFINED TERMS	
Acceptance	In this CA/CEI SOW, “Acceptance” or “Accept” means that Agency has reviewed the deliverable(s) submitted by Consultant and finds the deliverable(s) submitted in reasonable compliance with applicable requirements. Agency Acceptance does not release Consultant from liabilities due to any Errors or Omissions with respect to Consultant’s Services and deliverables.
Standard Specifications	General Conditions for Construction for Marion County published by the Agency and the “2021 Oregon Standard Specifications for Construction”, Parts 00200 through 03000, “Technical Specifications”, current edition, published by the Oregon Department of Transportation and as amended by the Agency.

ACRONYMS			
AASHTO	American Association of State Highway and Transportation Officials	OCR	ODOT Office of Civil Rights
ODOT	Oregon Department of Transportation	OFW	Order for Force Work
APM	Agency’s Project Manager for CA/CEI Phase	OJT	On-the-Job Training
CA	Contract Administrator	ORS	Oregon Revised Statutes
CA/CEI	Contract Administration, Construction Engineering and Inspection	OSSC	Oregon Standard Specifications for Construction
CC	Construction Contractor	PA	Price Agreement
CCO	Contract Change Order	PE	Preliminary Engineering

CE	Construction Engineering	PM	Consultant's Project Manager for CA/CEI Phase
CECI	Certified Environmental Construction Inspector	POR	Professional of Record
DBE	Disadvantaged Business Enterprises	PS&E	Plans, Specifications and Estimates
EEO	Equal Employment Opportunity	QA	Quality Assurance
EWO	Extra Work Order	QAC	Quality Assurance Coordinator
FHWA	Federal Highway Administration	QA/CA Plan	Quality Assurance & Contract Administration Plan (Form #734-5033)
FIR	Field Inspection Report	QC	Quality Control
IA	Independent Assurance	QCCS	Quality Control Compliance Specialist
IGA	Intergovernmental Agreement	RAS	Region Assurance Specialist
IQAP	Inspection Quality Assurance Program	RFI	Request for Information
LPA	Local Public Agency	RFP	Request for Proposal
LRFD	Load and Resistance Factor Design	ROW	Right of Way
NTE	Not to Exceed	SFM	Survey Filing Map
NTP	Notice to Proceed	SOW	Statement of Work

B. STANDARDS and GENERAL REQUIREMENTS

1. Standards applicable to CA/CEI Services

Consultant shall perform all Services in accordance with the professional standard of care set forth in the Contract.

Consultant shall complete the CA/CEI Services in accordance with the Contract, the current version in effect of the Agency's Quality Control Plan and the Local Agency Guidelines for Certified Local Public Agencies (LAG Manual), particularly Section C Chapters 8, 16, 17, [ODOT Construction Manual](#), the [Quality Control Compliance Specialist \("QCCS"\) Handbook](#), the [Manual of Field Test Procedures](#), the [ODOT Inspector's Manual](#).

The standards, manuals, directives, and other procedural guidance identified are not exhaustive and may not include all applicable standards for a given project. Consultant shall be responsible for determining all applicable practices and standards to be used in performing Professional Services and Related Services. Consultant shall inform and demonstrate to Agency if standards, directives, or practices required by Agency in performance of the work are insufficient, in conflict with applicable standards, or otherwise create a problem for the design or construction. Should the requirements of any reference, standard, manual or policy referenced conflict with another, Consultant shall request Agency in writing to resolve the conflict.

ADA Compliance - Assessment, Design, Inspection. The Services under this Contract do not include **assessment or design (or both)** for curb ramps, sidewalks, or pedestrian-activated signals (new, modifications or upgrades).

Unless otherwise specified in a Contract, the most current version of applicable standards, manuals, directives and other procedural guidance shall apply. Unless otherwise specified, the system of measurement and language used in all deliverables will be English.

2. General Requirements

As required in **ORS 672.002 to 672.325**, Consultant shall provide appropriate supervision and control with a licensed Professional Engineer in responsible charge of the CA/CEI Services.

All Inspection work must be performed by ODOT-certified Inspectors as required by the ODOT's Inspection Quality Assurance Program ("IQAP"). Consultant's ODOT-certified Inspectors shall diligently monitor the work of the Construction Contractor ("CC") in order to determine whether the Project is constructed in compliance with the construction contract documents and any applicable current standards and Agency manuals or procedures, including but not limited to those listed in the Contract. All Quality Control ("QC") monitoring tasks must be performed by individual(s) certified by ODOT's Technician Certification Program.

Consultant shall immediately advise Agency of any construction or planned construction which fails to conform to the construction contract requirements applicable to the Project. Consultant shall also immediately advise Agency of any design errors or deficiencies or other problems that could have a negative impact on the Project construction schedule or construction cost. In addition, Consultant shall immediately advise Agency of any construction which Consultant knows, or with the exercise of professional care should know, fails to conform to the federal or state standards applicable to construction of the project.

3. Communication

Communication is an important element to the successful completion of the Project and CA/CEI Services. All communication and deliverables covered under this CA/CEI SOW shall be directed to the APM (or such other individual as designated in writing to Consultant). In addition, Consultant shall submit deliverables specific to the administration of the construction contract, excluding claims to the APM for construction, as described within the ODOT Construction Manual. To the extent possible, all transmittals from Consultant to Agency must include the Project name, the Agency project number and the ODOT key number. For submittals, Consultant shall comply with naming conventions, and other instructions as specified by the APM.

The CC for the Project will be determined through the competitive bidding or proposal process. When the CC has been determined, Consultant shall establish appropriate contacts with that firm prior to the Pre-Construction Conference.

4. Roles and Responsibilities

Agency

The APM is Agency's primary point of contact for Consultant. The APM has the authority to review and accept, or recommend Acceptance of, all Consultant deliverables. The APM may distribute deliverables to appropriate Agency personnel for review and approval.

Agency has overall authority in scope, schedule, and budget of the Project. All construction Change Orders [Contract Change Orders ("CCO"), Extra Work Orders ("EWO") and Orders for Force Work (OFW)] prepared by Consultant will be delivered to the Agency through the APM and are subject to Agency review and approval prior to implementation by the CC. Authority to approve all CCOs shall be by Agency.

Agency is responsible for the following:

- Execution of Intergovernmental Agreements ("IGAs") related to the Project
- Attend Pre-Construction Conference
- Contracting for material verification sampling and testing
- Providing access to construction related forms referenced in this CA/CEI SOW, Agency's construction forms, and hardcopy forms as needed

- Approving construction CCOs, EWOs and OFWs
- Approving requests for overrun or increase in Project authorization
- All contact with ODOT/Federal Highway Administration (“FHWA”) or other federal agencies
- All contact with ODOT for consultation with Native American Tribes (i.e. [government-to-government discussions](#))
- Reviewing and processing monthly pay estimates for construction contract
- Final Project Acceptance
- Providing access to Agency-owned Right of Way (“ROW”) and easements
- Performing periodic quality, quantity and labor compliance documentation reviews
- Inspecting Project specific fabricated items (Agency or ODOT)

Consultant:

Unless specifically stated otherwise in a particular task, Consultant shall provide all labor, equipment and materials to manage, coordinate and complete all tasks and provide all deliverables as set forth in this CA/CEI SOW (collectively, the “CA/CEI Services”) in accordance with the delivery schedules identified.

- Changes to Consultant’s Project Manager are subject to Agency approval and will require written notice to Agency prior to the change.
- If Consultant is performing the Construction Inspection, Quality Control Manager and Quality Control Compliance Specialist functions, then Consultant’s Key Persons (as identified on the approved QA/CA Plan) may not be substituted or replaced unless approved in writing by Agency.
- Consultant is not responsible for the means, methods, operating procedures or safety precautions of any CC or other entity.

Consultant is responsible for the following:

- Providing survey package to Agency and CC
- Attend Project meetings when requested by Agency
- Review and comment on progress submittals
- Coordination with Agency and ODOT related to performing environmental compliance inspection
- Assist Agency with public outreach on the Project
- Design modifications, as required

C. REVIEW, COMMENT and SCHEDULE REQUIREMENTS

Consultant shall complete all CA/CEI tasks and deliverables in a timely manner to avoid unnecessary delays in the construction Project. Consultant shall provide written notice to Agency at the first sign of delays caused by Agency, Consultant, CC, or any other entity that may delay completion of the Project or otherwise have a negative impact on the construction schedule.

- Consultant shall notify APM immediately (within 2 business days) upon discovery of any changes in the Project that may impact scope, schedule, or budget of the Project or CA/CEI Services.
- Consultant shall submit to Agency all construction contract administration deliverables, excluding claims. Consultant shall submit all deliverables to APM or designee unless otherwise stated in specific tasks.
- All deliverables are considered draft until reviewed and accepted by Agency. Agency will return comments on deliverables within 5 business days of receipt. Consultant shall make revisions to address Agency comments and submit revised deliverable(s) to APM within 3 business days of receipt of Agency review comments, unless a different timeframe is stated in specific tasks

or otherwise agreed to in writing by Agency. If no revisions are necessary, the submittal will be considered final.

D. FORMAT REQUIREMENTS

- Deliverables shall be submitted to Agency in the format described in the ODOT Construction Manual and individual tasks. Following NTP, Consultant shall submit all construction contract deliverables, excluding claims, to the APM as described within the ODOT Construction Manual. Claims must be submitted according to Section 00199.
- The time zone is Pacific Standard Time (PST) to determine time of receipt of notices and other documents. Non-business days are Saturdays, Sundays and legal holidays as defined by ORS 187.010 and 187.020. If received on a non-business day, or after 5:00 p.m PST on a business day, it shall be considered as received at 8:00 a.m. PST on the next business day.
- **Agency and ODOT Forms** - Consultant shall use Agency Forms supplied by the APM. Utilize ODOT forms where required. ODOT Construction related forms referenced in this CA/CEI SOW are available online at: <https://www.oregon.gov/ODOT/Construction/Pages/Forms.aspx>
- Each draft and final text-based or spreadsheet-based deliverable shall be provided in MS Office file formats (i.e., Word, Excel, MS Project, etc.) and must be fully compatible with version used by Agency.
- Additional format requirements may be listed with specific tasks or deliverables throughout the CA/CEI SOW or in the Contract.

E.1 TASKS, DELIVERABLES and SCHEDULE

Task Numbering: For purposes of standardization, task numbers in this SOW may be non-sequential due to deletion of unneeded tasks from Agency's CA/CEI SOW template. For convenience to the reader, the task numbering for the CA/CEI phase will use the standard task number prefaced with "CE" (CE-1, CE-2).

TASK CE-1 PROJECT MANAGEMENT OF CA/CEI SERVICES

This activity is continuous throughout the duration of these CA/CEI Services. Consultant shall guide and direct the CA/CEI Services and Consultant's team in conformance with all applicable requirements of the CA/CEI Services and the Project's goals and objectives. Consultant shall monitor progress of the Project and CA/CEI Services.

Task CE-1.1 Coordination

Consultant shall provide leadership, direction, and control of these CA/CEI Services to the subconsultant team.

Consultant shall:

- Direct Consultant's team regarding overall CA/CEI activities and team meetings.
- Maintain liaison, communication and coordination between Consultant and subconsultant staff, APM, if applicable, CC and Agency staff to facilitate timely, efficient operations for all involved.

Consultant Deliverables and Schedule:

- On-going coordination and communication as needed to appropriately manage the CA/CEI Services (no tangible deliverables for this task).

Task CE-1.2 Status Reports and Invoices

Consultant shall prepare up to 12 Monthly Status Reports throughout the duration of the CA/CEI Services which is through 3rd notice. See Section E.2, Project Schedule.

The Monthly Status Report must:

- Describe the previous month's Consultant activities. For T&M method of compensation, the staffing used must be identified in the invoice backup documentation.
- Describe the planned activities for the next month.
- Identify any issues or concerns that may affect the CA/CEI Services and budget or the Project schedule and Project budget.

If the construction Project schedule milestones are significantly revised, Consultant shall attach the updated Project schedule and submit with the Monthly Status Report. Consultant shall submit the Monthly Status Reports to APM with the monthly Consultant invoice.

Consultant Deliverables and Schedule:

- Monthly Status Report - Submitted to APM with the monthly invoice no later than the 5th calendar day of the month following the reporting month.

TASK CE-2 CONSTRUCTION CONTRACT ADMINISTRATION/CONSTRUCTION ENGINEERING and INSPECTION (CA/CEI)

Consultant shall support the Project's needs by providing CA/CEI Services required for the Agency to certify, at Second Notification and Third Notification that the Project was completed according to the Plans and Specifications for the Project. Consultant shall engage the Professional of Record ("POR") as required to provide engineering Services required to administer design changes that may become necessary during the construction phase of the work.

Task CE-2.1 Pre-Construction Conference

Consultant shall prepare for and lead the Pre-Construction Conference referenced in the Specifications in 00180.42, and the ODOT Construction Manual, Chapter 11 - Before On-Site Work Begins. Attendees will include the Consultant, CC, APM, ODOT staff, permitting agencies, utility representatives, local officials and others as may be appropriate to discuss the construction schedule, utility involvement, permit concerns, required documentation submittals, materials, and other items relevant to the construction of the Project.

APM will consult with the CC, and the Consultant to determine participants and schedule the Pre-Construction Conference at an agreed upon time and place.

Consultant shall:

- Lead, record, facilitate and participate in Pre-Construction Conference.
- Schedule the Pre-Construction Conference in cooperation with CC, APM, utilities and applicable ODOT staff.
- Prepare and distribute the Pre-Construction Conference agenda and minutes.

Consultant Deliverables and Schedule:

- Pre-Construction Conference Agenda - 1 electronic copy to each conference attendee, APM, and EDMS 1 week prior to the scheduled conference.
- Pre-Construction Conference Minutes - 1 electronic copy to each conference attendee, APM, and EDMS within 1 week after the conference.

Task CE-2.2 Cooperative Arrangement (Partnering) (RESERVED)

Task CE-2.3 Quality Assurance & Contract Administration Plan

Consultant shall prepare a Quality Assurance & Contract Administration Plan ("QA/CA Plan") for the CA/CEI Services for the Project, using ODOT form 734-2857 (as may be amended from time to time by

ODOT) which is available electronically on the following website:
<https://www.oregon.gov/ODOT/Construction/Pages/Forms.aspx>.

The QA/CA Plan must identify Consultant's certified quality assurance and construction inspection personnel and the personnel responsible for each of the major construction-related tasks identified in this CA/CEI SOW.

Consultant shall submit a draft QA/CA Plan (electronically via email) to the APM for review and comment. Agency will review the draft QA/CA Plan and return any comments to Consultant within 5 business days. Consultant shall respond to Agency comments and revise the draft QA/CA Plan as necessary.

Consultant shall prepare the final QA/CA Plan making all required revisions per the Agency draft review comments. Agency will issue approval or return any additional comments to Consultant within 5 business days of receipt of the final QA/CA Plan. If necessary, Consultant shall revise the final QA/CA Plan to address Agency's additional comments.

Consultant shall make any necessary updates to the QA/CA Plan as work progresses and submit the updated QA/CA Plan to the APM for review and approval.

Consultant Deliverables and Schedule:

- Draft QA/CA Plan (form 734-2857) - Submit to APM no later than 5 business days following the date of NTP for CA/CEI phase.
- Final QA/CA Plan (form 734-2857) - Submit to APM within 5 business days of receiving Agency comments on draft QA/CA Plan.
- Updated QA/CA Plan (form 734-2857) - Submit to APM within 5 business days of changes that require the update.

Task CE-2.4 Construction Contract Administration

Agency shall perform all Labor Compliance monitoring and review all Contractor's Request for Subcontract Consent forms (form 734-1964). Consultant shall perform day to day administration of the construction Contract which include administration tasks as outlined in the ODOT Construction Manual, the Manual of Field Test Procedures, the Nonfield-Tested Materials Acceptance Guide, the ODOT Inspector's Manual, QCCS Handbook, Qualified Products List ("QPL"), the Contract Plans and Specifications, and this CA/CEI SOW.

Consultant shall assist Agency to prepare for up to two periodic reviews on all Project quality, quantity, and Civil Rights documentation. The reviews will be performed by the ODOT Region Assurance Specialist ("RAS") per the ODOT Construction Manual, Chapter 12B - Quality, Section 12B-3, and the Office of Civil Rights ("OCR") per the ODOT Construction Manual, Chapter 18 - Workforce and Small Business Equity Programs and Section C Chapters 16- Construction Adm., 17 - Closeout, and 8 - Civil Rights in the LAG. Consultant shall resolve all documentation deficiencies noted during the periodic reviews prior to the next scheduled review. Final documentation reviews by the RAS and OCR Field Coordinator will be performed as directed in the ODOT Construction Manual.

In addition to any other requirements identified in the reference standards identified above, Consultant shall:

- When requested prepare up to five CCO, EWO, OFW as outlined in the ODOT Construction Manual, Chapter 15 - Change Orders, Force Account, Work by Other Forces, and Chapter 12G - Extra Work Performed on a Force Account Basis. Change Orders may include, but are not limited to, modification to the plans, specifications, and contract time. Consultant may be liable for payment of the cost for any CCOs, EWOs and OFWs authorized without obtaining prior review and approval by Agency. Only the Agency has the authority to approve and authorize changes to the construction contract including CCOs, EWOs, or OFWs.
- When requested review up to five Force Account billings from CC.
- Issue First Notification when on-site construction work begins.

- Monitor and evaluate the construction schedule and determine whether the CC is proceeding in a manner that will result in timely Project completion in conformance with the construction contract documents. If the CC is not proceeding in this manner, document the delay, consult with the CPM and determine and pursue the appropriate action.
- Conduct Commercially Useful Function (“CUF”) reviews on all DBE contractors and subcontractors as outlined in the ODOT Construction Manual, Chapter 18 - Workforce and Small Business Equity Programs.

Consultant Deliverables and Schedule:

- Resolution of any documentation deficiencies as noted on the Documentation Review Report per the RAS review. Deficiencies -must be resolved prior to next review.
- First Notification (ODOT form 734-3233) - Issue when on-site construction work begins. Submit 1 electronic copy to APM within 5 calendar days of notice.
- Draft CCO, EWO, OFW documents with supporting documents (cost estimate and justification) - Submit to APM prior to date needed to start the work.

Task CE-2.5 Monthly Preliminary Progress Estimates

Consultant shall prepare all source documents as “paynotes” for the monthly progress estimate and provide them to the Agency for entry into the Agency’s Engineering Contract Management System (“ECMS”) for CC’s work performed through the last working day of the pay period. (Refer to the ODOT Construction Manual Chapter 12D - Quantities).

After all paynotes are entered, Agency will generate the Preliminary Progress Payment Report and provide it to Consultant for review with the CC for concurrence on quantities being paid for the previous month’s work.

Consultant Deliverables and Schedule:

- Following each month in which CC’s work was performed, submit all source documents (“paynotes”), in electronic .pdf format, as necessary for each monthly Progress Estimate for Agency review by the Monday following the Thursday established at the pre-construction conference for the close of the pay period.

Task CE-2.6 Project Progress Meetings

Consultant shall conduct periodic Project Progress Meetings with the CC, Agency, ODOT and others as needed, including but not limited to, APM, permitting agencies, and local officials if required. The Project Progress Meetings are intended to promote Project progress, proper communications, effective working relationships and timely issue resolution.

Consultant shall also conduct additional activity-specific technical kick-off meetings for various activities required by the construction contract. These activities may include, but are not limited to:

- Survey
- Asphalt Concrete Pavement
- Hazardous Materials Handling
- Bridge Deck Replacement

Consultant shall:

- Schedule, conduct and participate in Project Progress Meetings as needed, or as agreed to by APM. Project Progress Meetings are recommended to be held weekly during active construction periods but may be held less frequently during periods of low construction activity.
- Prepare Project Progress Meeting agendas and inform attendees.
- Record and distribute Project Progress Meeting minutes.

ASSUMPTIONS FOR BUDGETING PURPOSES: Project Progress Meetings are assumed to be weekly (during active construction) with no more than three Consultant staff attending and (26) meetings are assumed, see Section E.2 Project Schedule.

Consultant Deliverables and Schedule:

- Project Progress Meeting agendas - 1 electronic copy to each meeting attendee and APM, 2 business days prior to scheduled meeting.
- Conduct and participation at Project Progress Meetings.
- Project Progress Meeting minutes - 1 electronic copy to each meeting attendee and APM, within 5 business days after the meeting.
- Request to cancel Project Progress Meetings based on inactive construction period - Submit written request electronically to APM at least 2 business days prior to scheduled meeting.

Task CE-2.7 Working Drawings, Shop Drawings, and other Submittal Reviews

Agency will coordinate and review construction Working Drawings, shop drawings, and other submittals submitted electronically by the CC. Consultant shall assist Agency with review of specific drawings and submittals when requested. When electronic Working Drawings, shop drawings, and other submittals are received, according to 00150.35(c)(2), 00150.37, & 00170.08, when requested Consultant shall ensure the review is complete and the Working Drawings, shop drawings, and other submittals are returned to the Agency within the timeframes specified in the construction contract. Consultant shall log in the submittal when it arrives, track the submittal to ensure timely response, and log out the reviewed submittal when it is returned to the Agency. Consultant shall conduct submittal review in accordance with the Specifications in 00150.35, 00150.37, and the ODOT Construction Manual, Chapter 16 - Working Drawings and Submittals.

Consultant shall:

- Maintain as-submitted copy in the Project files
- Review specific drawings and submittals when requested by the Agency. Consultant shall review and prepare mark-up/comment copies of the Working Drawings, shop drawings, and other submittals. Stamped Drawings must be signed and dated by the POR and marked as either RV = Reviewed, or RVC = Reviewed with Comment. Unstamped Drawings shall be marked as either AP = Approved, AX = Approved as Noted, RC = Returned for Correction, or R= Rejected. All reviews will identify the individual making comment and be date marked.
- Include construction contract number on all Working Drawings, shop drawings, and other submittals.

Consultant shall review the following submittals as required using the guidelines in ODOT's Construction Manual, Chapter 16 - Working Drawings and Submittals, and the Specifications in 00150.35, 00150.37, & 00170.08:

- Traffic Control Plans
- Erosion Control Plans
- Pollution Control Plans
- Construction baseline schedule
- Work Containment Plan and System
- Health and Safety Plan
- Timber Repair Materials
- Asphalt Concrete Pavement Mix Design(s)
- Waterproof Membrane
- Water Quality Swale
- Manufactured items (Prestress girders, steel fabrications, castings, etc.)
- Others as required by the Agency and construction contract specifications

Consultant Deliverables and Schedule:

- Return approved Working Drawings, shop drawings, and other submittals with comments (within time frame established in construction contract specifications):
 - 1 copy maintained in Project files
- Electronic Submittals:
 - Submit 1 electronic PDF mark-up/comment to the APM as required by the construction contract.

Consultant shall also ensure notification of approved Working Drawings, shop drawings and other submittals is provided to the Agency when applicable.

Files Retained by Consultant:

Consultant shall maintain files of all reviewed Working Drawings, shop drawings, and other submittals according to the retention period set forth in the terms and conditions of the Contract. Agency may request these files at any time during the retention period. Consultant shall provide the files to Agency within 14 calendar days of the request.

Task CE-2.8 Consultation during Construction

Consultant shall provide consultation and technical Services regarding design issues raised during construction of the Project. Consultant shall clarify construction contract documents and provide written responses to Requests for Information (“RFIs”). The design consultation will occur only as required and may be ongoing throughout the CA/CEI Services and the Project.

Upon request of Agency during construction, Consultant shall:

- Clarify construction contract documents.
- Respond to field inquiries.
- Engage the services of the POR on all matters involving design changes.

NOTE: Design requests must be initiated by either Agency or Consultant using a Change Request Form or an RFI. A response to a RFI may also initiate a Change Request or a formal contract amendment for Consultant or CC. No work shall be conducted on a Change Request until the APM approves the request and the appropriate Change Order document is approved. The Change Request must clearly outline Consultant’s cost, the estimated construction cost, and the cause of the change.

ASSUMPTIONS FOR BUDGETING PURPOSES: This task assumes up to 20 RFIs, each requiring up to 3 hours of staff time for preparation and documentation of the response. Task also assumes up to 20 hours of general coordination and consultation during construction.

Consultant Deliverables and Schedule:

- Written documentation of responses to CC or Agency inquiries. Submit 1 electronic copy to APM within 2 business days of inquiry unless other delivery date is agreed to by APM.

Task CE-2.9 Design Modifications (CONTINGENCY TASK)

If Consultant or CC determines that design modifications may be necessary, Consultant shall discuss potential changes with APM and POR prior to verbally agreeing on changes with CC or preparing the appropriate Change Order documents, depending upon the type of work (changed work, extra work, or force account work). Upon request of the APM, Consultant shall work with the POR to prepare detailed engineering design revisions necessitated by conditions encountered during construction. These design revisions must be accompanied by the necessary Change Order documents (CCO, EWO or OFW) to make them a part of the construction contract.

Consultant Deliverables and Schedule:

- Design details for modifications (prepared or approved by the POR for appropriate changes to Project design) - Submit to APM at date agreed to when work was requested.
- Draft CCO and EWO or OFW documents with supporting documents (cost estimate and justification) - Submit to APM at date agreed to when work was requested.

Task CE-2.10 Claim(s) Support (CONTINGENCY TASK)

If authorized by APM, Consultant shall provide support to Agency to review and respond to any and all claims submitted by the CC as specified in the Specifications in Section 00199 - Disagreements, Protests and Claims. Consultant tasks for claim(s) support may include but are not limited to:

- Prepare memoranda and supporting documentation (photo logs, inspection reports, memos, drawings, etc.) related to claims.
- Provide consultation related to claims (in person, via telephone or email).
- Attend claim resolution meetings.
- Prepare a claim decision in conformance with the requirements of the Specifications in 00199.40(a).

ASSUMPTIONS FOR BUDGETING PURPOSES: This task assumes no more than 64 hours for claim(s) support. Assume up to 1 claim submittal, each requiring 3 staff to do 2 days of preparation and attend up to 1 all-day meeting for each claim, plus Consultant Principal and PM reviews and clerical assistance.

Consultant Deliverables and Schedule:

The deliverables for claim(s) support may include but are not limited to:

- Memoranda and supporting documentation (photo logs, inspection reports, memos, drawings, etc.) related to claims
- Consultation related to claims (in person, via telephone or email)
- Attendance at claim resolution meetings
- Claim decision that satisfies the Specifications in 00199.40(a)

Task CE-2.11 Public Records Request Support (RESERVED)

TASK CE-3 CONSTRUCTION, ENVIRONMENTAL COMPLIANCE AND WORK ZONE MONITORING AND INSPECTION

Consultant shall provide on-site monitoring and inspection of construction for conformance with, and shall enforce compliance with, construction contract documents. Consultant shall coordinate and conduct on-site monitoring and inspections so they do not cause unnecessary adverse impacts to the construction schedule. On-site monitoring and inspections must occur at critical times during the construction process based on Consultant's evaluation of the CC's schedule, construction contract documents and as outlined in the ODOT Construction Manual, the Manual of Field Test Procedures and the ODOT Inspector's Manual.

Consultant shall have certified Inspector(s) on site during all critical times during the construction process. Consultant shall monitor the CC's quality control process for compliance with the construction contract requirements. All persons involved in performing inspection duties must be certified through the ODOT Inspection Quality Assurance Program ("IQAP") in the discipline for the work they will be inspecting. Consultant's Inspectors must be certified prior to commencement of any on-site work by the CC.

If circumstances occur that prevent the use of a Certified Inspector, Consultant may assign specific tasks to a non-certified individual. Refer to the IQAP for a list of limited duties that may be performed by non-certified personnel.

The following are the approved ODOT Inspector Certifications currently in place in the Inspection Quality Assurance Program:

- Certified Bridge Construction Inspector (“CBCI”)
- Certified Environmental Construction Inspector (“CECI”)
- Certified Traffic Signal Inspector (“CTSI”)
- Certified General Inspector (“CGCI”)
- Certified Asphalt Concrete Pavement Inspector (“ACP”)
- Certified Drilled Shaft Inspector (“CDSI”)
- Certified ADA Curb Ramp Inspector (“ADAI”)

Consultant shall perform work zone monitoring as required by the ODOT Construction Manual, ODOT Inspector’s Manual and the construction contract documents. Accordingly, Consultant shall monitor and enforce the following for compliance to construction contract requirements:

- Permit compliance during construction
- Temporary Traffic Control measures
- Temporary Pedestrian Access Route measures
- Erosion Control installation and maintenance
- Turbidity Monitoring (if required)

Consultant shall monitor the CC to verify the following deliverables are completed and submitted (to the extent the deliverables are required by the construction contract documents). If the documents are not submitted to the Consultant, then the Consultant shall take appropriate action to require compliance by the CC:

- Traffic Control Inspection Reports (Form number 734-2474)
- Erosion and Sediment Control Monitoring Reports
- Turbidity Monitoring Reports (if required)

Task CE-3.1 Environmental Compliance and Mitigation Monitoring

This task involves conducting environmental inspection site visits during the construction phase of the Project, typically to document compliance with the environmental permits, including effectiveness of best management practices, avoidance and minimization measures, challenges encountered and corrective actions.

Consultant shall:

- Perform compliance and mitigation monitoring related to environmental conservation measures agreed upon with State and Federal regulatory agencies through permit conditions and as included in the construction contract.
- Conduct environmental inspections site visits to assist CC and Agency in maintaining compliance with issued regulatory permits and the special provisions.
- Provide documentation of the construction process relative to this environmental compliance.
- Coordinate and schedule monitoring visits coincident with activities that have significant environmental components.
- Evaluate on-site conditions and construction techniques during environmental inspection site visits to assess compliance with Project permits, the Pollution Control Plan, the Erosion and Sediment Control Plan, proposed site rehabilitation measures, and general environmental conservation measures.
- Identify deficiencies and potential permit compliance issues and provide guidance to Agency and CC to aid in avoiding potential regulatory agency involvement or violations.

- Provide input and clarifications during construction activities to facilitate biological functioning as outlined in Project permits.

If deficiencies are noted, Consultant's Environmental Specialist shall immediately bring the deficiency to the attention of the CC, APM and ODOT Environmental Unit and recommend a corrective course of action to comply with environmental regulations, performance standards, and permit conditions.

Consultant shall review the CC's following submittals for compliance with the construction contract and permits.

- Erosion and Sediment Control Plan ("ESCP"),
- Pollution Control Plan ("PCP"), and
- Weed Control Work Plan ("WCWP").

Consultant shall conduct up to 4 environmental inspection site visits and prepare brief construction environmental inspection report or monitoring memorandums summarizing site conditions and providing recommended measures to facilitate permit compliance and correct deficiencies.

Consultant Deliverables and Schedule:

- Reviewed CC-submitted Erosion and Sediment Control Monitoring Reports (Form 734-2361) for compliance no later than 14 calendar days after each inspection site visit. Submit to APM as Project work progresses along with following protocol provided in Task CE-5.4 - Submittal of Final Project Documentation.
- Completed Consultant construction monitoring memorandums - If compliance issues are noted, document the deficiencies, recommendations and corrective action taken to correct deficiencies. Submit 1 electronic copy each to APM within 5 business days after the monitoring site visit.
- General Daily Progress Reports / Project Diary - Complete daily when performing onsite visits. Submit to APM as Project work progresses along with following protocol provided in Task CE-5.4 - Submittal of Final Project Documentation.
- Project Photography / Photo Logs - Submit with reports (when applicable) along with following protocol provided in Task CE-5.4 - Submittal of Final Project Documentation.

Task CE 3.1.1 Endangered Species Consultation for the Federal-Aid Highway Program ("FAHP")

This task involves conducting FAHP Programmatic environmental inspection site visits during the construction phase of the Project and post construction phase.

If the project utilized the FHWA Programmatic Endangered Species Consultation for the FAHP Environmental Inspections shall conform to the [FAHP User's Guide](#).

FAHP Environmental inspections site visits are required of all projects implemented under the FAHP Programmatic Biological opinion.

For the FAHP, this includes at least 1 FAHP environmental inspection site visit and environmental inspection report for the Project for each construction year, a FAHP environmental completion inspection site visit at Project completion and Project Completion Report, and As-Built Report.

FAHP environmental inspections by Consultant shall be completed by a qualified Biologist or when approved by the ODOT Region Environmental Unit, an ODOT CEI.

Professional Licenses, Registrations and Qualifications

For Services under CE Task 3.1.1, the Consultant is the Professional of Record for the work, which shall be executed by a qualified Biologist or other qualified professional meeting the

following minimum qualifications: 3 full years of environmental analysis or resource project management experience and a Bachelor's degree that included 30-quarter or 20-semester hours in biology, environmental science, physical science, natural science, or closely related field. Individuals who make determinations of effect under the Endangered Species Act ("ESA") and prepare ESA documentation must also have ODOT Biologist certification (as per Technical Services Bulletin GE12-01(B) or updated). Additional qualifications may be required for certain tasks.

The number of FAHP environmental inspection site visits shall correspond with construction stages that include high risk environmental items and best management practices. The Consultant, through the Biologist or approved CECI, shall review high risk items related to the following:

- Erosion and Sediment Control
- Pollution Control/ Containment
- Sensitive Areas (No work zones)
- Site Restoration
- Fish screens and in-water work area isolation
- Containment practices and structures
- Treated wood

Consultant shall conduct up to 3 FAHP environmental inspection site visits and prepare environmental inspection reports summarizing site conditions and providing recommendations of measures to facilitate permit compliance and correct deficiencies.

Consultant shall conduct 1 FAHP environmental completion inspection site visit and prepare the final Project Completion Report summarizing site conditions and providing recommended measures to facilitate permit compliance and documentation of any corrected deficiencies.

ASSUMPTIONS FOR BUDGETING PURPOSES: This task assumes no more than 3 environmental site inspection(s) for Endangered Species Consultation for the FAHP. Assume up to 8 hours for each FAHP environmental site inspection(s) and up to 4 hours for each environmental inspection report by either an ODOT-certified Biologist or approved CECI.

Consultant Deliverables and Schedule:

- A draft and final Environmental Inspection Report for each inspection site visit using ODOT's template report 734-2902 (for the FAHP, it is available on the [FAHP website](#)) - and submitted to the Agency and the ODOT Region Environmental Unit. The draft Environmental Inspection Report due no later than 14 calendar days after each inspection. Final Environmental Inspection Report due no later than 14 calendar days after receiving final comments from Agency.
- Final Project Completion Report - Summarizing site conditions, recommended measures to facilitate permit compliance and documentation of any corrected deficiencies. Submitted to the REU within 60 calendar days of Second Notification.

Task CE-3.1.2 Restoration As-Built Report (RESERVED)**Task CE 3.1.3 Biology Restoration Monitoring Report (RESERVED)****Task CE-3.1.4 Archaeological Monitoring and Report (RESERVED)****Task CE-3.2 Construction Activity Monitoring**

Consultant shall monitor construction activities during construction of the Project utilizing ODOT-certified Inspectors and require compliance with the construction contract documents. Consultant shall provide inspection concurrently with the CC's operation. Consultant shall coordinate closely with CC to ensure on-site inspections are coordinated with the construction schedule. Consultant shall perform inspections as detailed in the ODOT Construction Manual and the ODOT Inspector's Manual. Consultant shall prepare General Daily Progress Reports of construction for days Consultant is on site. Consultant shall take photos of the various construction activities and keep a current digital photo-log of critical construction activities. The photo-log must be kept up to date throughout construction and available for review by Agency.

Consultant shall determine and document all pay quantities for work and materials incorporated into the Project. As required by the ODOT Construction Manual, Chapter 12D - Quantities, Consultant shall prepare source documents ("paynotes") for all pay items and include supporting documentation to support each payment. Consultant shall always keep quantity documentation current and available for Agency review upon request.

Consultant Deliverables and Schedule:

- General Daily Progress Reports - Complete each day Consultant is on-site. Submit to APM as Project work progresses along with following protocol provided in Task CE-5.4 - Submittal of Final Project Documentation.
- Current Digital Photo-log of construction activities - Submit to APM as Project work progresses along with following protocol provided in Task CE-5.4 - Submittal of Final Project Documentation.
- Source Documents "paynotes" - Field notes, calculations, receipts, invoices, reports used to determine Project pay quantities, installation sheets, and other supporting documentation - Complete and submit to APM as work is performed. In addition, follow protocol provided in Task CE-2.5 - Monthly Preliminary Progress Estimates and Task CE-5.4. - Submittal of Final Project Documentation.
- CC's EEO/DBE and OJT/Apprenticeship reports, if required - Submit as required by construction contract.

ASSUMPTIONS FOR BUDGETING PURPOSES: This task assumes full-time inspection during the CC's activities for 30 Weeks for one inspector at 40 hours per week.

Task CE-3.3 Quality Control Monitoring (Nonfield-Tested and Field-Tested Materials)

Consultant shall document the work and Nonfield-Tested materials incorporated into the Project by completing Field Inspection Reports (FIRs) as required by the ODOT Construction Manual, Chapter 12C - Quality and the Nonfield-Tested Materials Acceptance Guide. Consultant shall log the FIRs and other supporting quality documentation into the applicable Test Summary and keep up to date and available for review by Agency. Consultant shall maintain the Nonfield-Tested Materials Test Summary (Test Summary "A" 734-1902A) as detailed in the ODOT Construction Manual.

Consultant shall monitor the CC's Quality Control ("QC") program for conformance with requirements of the ODOT Manual of Field Test Procedures and the construction contract documents. Consultant shall coordinate with the ODOT Region Quality Assurance Coordinator ("QAC") to confirm that adequate verification and independent assurance ("IA") testing is performed.

Agency's independent testing contractor/laboratory will perform the verification and IA testing; it is **not** a Consultant task under this CA/CEI SOW.

Consultant shall monitor the CC's QC Program. Oversight of the QC Program is conducted by the QCCS who is experienced and certified in all areas of field material testing and documentation. According to the Agency's Technician Certification Program, the QCCS is required to maintain certification in at least the following disciplines: CAgt, CEBT, CAT 1, CDT and QCT. The QCCS is required to maintain certification in these material testing disciplines throughout the duration of all the CA/CEI Services. The QCCS shall follow the requirements of the Quality Assurance Program located in Section 2 of the ODOT Manual of Field Test Procedures and the roles and responsibilities outlined in the QCCS Handbook.

The following are the approved Technician Certifications currently in place in the Technician Certification Program:

- Certified Aggregate Technician ("CAgT")
- Certified Embankment and Base Technician ("CEBT")
- Certified Density Technician ("CDT")
- Certified Asphalt Technician I ("CAT-I")
- Certified Asphalt Technician II ("CAT-II")
- Certified Mix Design Technician ("CMDT")
- Quality Control Technician ("QCT")
- Concrete Control Technician ("CCT")
- Concrete Strength Testing Technician ("CSTT")

Consultant shall:

- Review and monitor the CC's documentation for the quality of all materials incorporated into the Project.
- Verify that all materials furnished and placed on the Project comply with the approved specifications.
- Certify that the documentation confirms that all materials comply with construction contract requirements.
- Maintain the Test Summary for Nonfield-Tested Materials and Field-Tested Materials (Test Summary "A", "B" and "C" Form numbers 734-1902A, 734-1902B and 734-1902C) as detailed in the ODOT Construction Manual, Chapter 12B - Quality.
- Identify and monitor CC's quality control technicians and require proper and current certification(s) and require that proper testing frequencies and procedures are being followed. Monitoring must be done by Consultant staff experienced in all areas of field testing and documentation and certified by ODOT's Technician Certification Program for the specific tests being monitored.
- Take appropriate action if CC's quality contract technicians do not have proper or current certifications or if proper testing frequencies and procedures are not being followed.
- Obtain, review and compile all required Project quality documentation in accordance with the ODOT Construction Manual and the construction contract documents.
- Communicate with Agency's QAC to facilitate timeliness and efficiency in the verification and IA testing work and compliance with all requirements of the ODOT Manual of Field Test Procedures and contract documents.
- Compare CC's QC test results to ODOT's verification test results to verify they are within IA parameters.
- Take appropriate action and work with APM to resolve any discrepancies between CC's QC test results and the ODOT verification test results.
- Prepare quality price adjustments as necessary for materials.

Consultant Deliverables and Schedule:

- Field Inspection Reports (“FIRs”) and Nonfield-Tested Summary - Submit to APM as Project work progresses along with following protocol provided in Task CE-5.4 - Submittal of Final Project Documentation.
- Field-Test Summaries and other Project field-tested materials quality documentation - Submit to APM as Project work progresses along with following protocol provided in Task CE-5.4 - Submittal of Final Project Documentation.

Task CE-3.4 ADA Ramp and Push Button Inspection (RESERVED)

Task CE-3.5 Additional Construction Activity Monitoring (CONTINGENCY TASK)

If authorized by APM, Consultant shall provide additional construction activity monitoring during construction in coordination with Task CE-3.2.

ASSUMPTIONS FOR BUDGETING PURPOSES: This task assumes no more than 120 additional hours.

Consultant Deliverables and Schedule:

Deliverables and schedule are defined in Task CE-3.2.

TASK CE-4 CONSTRUCTION SURVEYING

CC licensed Land Surveyor shall provide land surveying Services and deliverables that conform to all state statutes pertaining to survey and land boundary laws. These include, but are not limited to, the following Oregon Revised Statutes (ORS):

- ORS Chapter 92 - Subdivisions and Partitions
- ORS Chapter 93 - Conveyancing and Recording
- ORS Chapter 209 - Agency Surveyors
- ORS Chapter 672 - Professional Engineers; Land Surveyors; Photogrammetrists; Geologists

Consultant shall provide qualified personnel to verify the Project is constructed to the lines and grades as shown, specified, or established.

Task CE-4.1 Coordination, Calculations and Quality Assurance (QA) of Construction Contractor’s Survey Work

Consultant shall:

- Coordinate with APM and CC as needed to require compliance with and verify that the construction survey work completed by the CC for the Project is in conformance with the approved plans, specifications and applicable laws.
- Attend and participate in a pre-survey meeting with the CC, APM, and others as appropriate.
- Coordinate with CC, APM and (LAPM if applicable) to determine participants and to schedule the pre-survey meetings at an agreed-upon time no later than 14 calendar days prior to beginning construction.
- Prepare and distribute the meeting agenda to APM and other participants at least 4 business days prior to meeting.
- Prepare and distribute the meeting minutes to APM and other participants within 1 week of meeting.
- Perform QA review of CC’s survey data such as, but not limited to, office calculations and stakeout information.
- Provide memo indicating dates and times grade calculation checks were performed and the results of the calculation checks along with copy of notification to CC on items not in compliance from calculation checks and when/what corrections were made.

- Perform QA review of CC's field survey work. Provide memo indicating dates and times the survey field checks of CC's survey work were performed and the results of the field checks along with copy of notification to CC on items not in compliance with approved construction plans and when/what corrections were made.
- Provide a map, digital ASCII file of the coordinates, and field notes as applicable, of horizontal and vertical control points (from the construction contract plans) for use by the CC's surveyor.
- Prepare horizontal and vertical alignment print outs, construction grade data, including annotated cross sections (from the construction contract plans) for use by the CC's surveyor.

ASSUMPTIONS FOR BUDGETING PURPOSES: This task assumes no more than five (5) 1-day site visit(s) by a 2-person survey crew for construction surveying.

Consultant Deliverables and Schedule:

- Pre-survey meeting agenda - Submit 1 copy to each meeting attendee and the APM 4 business days prior to the scheduled meeting.
- Pre-survey meeting minutes - 1 copy to each meeting attendee and the APM within 1 week after the meeting.
- Memo regarding grade calculation checks - Submit via email to CC with copy to APM within 5 business days of receipt of survey data from CC.
- Memo regarding survey field checks - Submit via email to CC with copy to APM within 5 business days of request.
- Map, digital ASCII file of the coordinates and field notes as applicable, of horizontal and vertical control points - Submit original to CC at the pre-construction or pre-survey meeting.
- Horizontal and vertical alignment print outs, construction grade data, including annotated cross sections - Submit original to CC at the pre-construction or pre-survey meeting.

Task CE-4.2 Construction Survey and Staking (RESERVED)

Task CE-4.3 Locate, Recover and Reference Monuments (RESERVED)

Task CE-4.4 Right of Way ("ROW") Monumentation (RESERVED)

Task CE-4.5 Monumentation Survey Filing Map (SFM) (RESERVED)

TASK CE-5 PROJECT CLOSE-OUT

Consultant shall assist Agency to complete interim and final on-site inspections and submit all Project records required for final payment and Project Acceptance.

Task CE-5.1 Final Inspection(s) and Submittals

Agency shall issue Second Notification when all on-site work including CCO and EWO work is completed per the Specifications, in 00150.90(a) and 00180.50(g) (Refer to the ODOT Construction Manual, Chapter 13 - Contract Time).

Consultant shall:

- Schedule a review of the Project at a time close to completion of on-site work.
- Schedule and lead a Project Final Inspection with CC, ODOT and Agency within 15 days after receiving notice from the CC that all punch list items, final trimming and cleanup according to the Specifications in 00140.90 have been completed.
- Prepare a punch-list of items to be corrected by the CC.

- Once the punch-list items have been corrected, meet at Project site with Agency and ODOT for a follow-up to the Final Inspection.
- Prepare and send the Recommendation of Project Acceptance (ODOT form 734-1384) to APM, once CC has satisfactorily completed all construction contract work and fulfilled its obligations concerning Project documentation. (Refer to the ODOT Construction Manual, Chapter 36 - Acceptance of Project.)
- Issue Third Notification to CC after all construction contract work and inspections are complete, and all required documentation is submitted per OSSC, according to the Specifications in 00150.90. (Refer to the ODOT Construction Manual, Chapter 40 - Third Notification.)

Consultant Deliverables and Schedule:

- Provide a punch-list of items.
- Second Notification - due within 2 business days of completion of on-site work. Submit 1 electronic copy to APM. Also submit via email, 1 copy to ODOT.
- Recommendation of Project Acceptance (ODOT form 734-1384) - Submit electronic copy to APM upon completion of final inspection per Construction Manual Chapter 36 - Acceptance of Project.
- Third Notification - due within 2 business days of completion of all construction contract work. Submit 1 electronic copy to APM. Also submit via email, 1 copy to ODOT.
- Contractor Construction Process Feedback (form 734-2469). Send to CC when sending final evaluation for the Project. Submit electronic form to Agency upon receipt from CC.

Task CE-5.2 As-Constructed Plans

Throughout Project construction, Consultant shall maintain a paper copy of the plans with any field changes noted in red. Based upon those red-lined plans, Consultant shall prepare, stamp and sign as-constructed drawings prepared in AutoCAD .dwg format. As-constructed plans must be reviewed and approved by the POR prior to submittal to Agency.

Consultant Deliverables and Schedule:

- Submit the red-lined plan set and final as-constructed plans (AutoCAD and PDF format) to the APM within 90 calendar days of issuance of Second Notification.

Task CE-5.3 Structure Load Rating

ODOT Bridge Section has implemented the Load and Resistance Factor Rating (“LRFR”) method, based on the AASHTO Manual for Bridge Evaluation (“MBE”) with interim revisions. All bridges in Oregon (regardless of the owner) will be rated following the [ODOT LRFR Load Rating Procedures](#). ODOT owned bridges will use the Oregon Specific Live Load Factors and all other bridges will use the re-calibrated National Live Load Factors.

Consultant shall perform load ratings in conformance with the LRFR procedures and software specified in the ODOT LRFR Manual (current edition at time load rating work is performed), including all reference standards incorporated into the manual in section 1.3.1.

The ODOT LRFR Manual and all resources and templates that must be used for LRFR load rating procedures, as described in the ODOT LRFR Manual, are available online at the following link: <ftp://ftp.odot.state.or.us/Bridge/LoadRating/LRFR>.

For structure types that are not covered in the ODOT LRFR Manual - as stated in Section 23.2 of the ODOT LRFR Manual; it is expected that the methodology and workflow be as consistent as possible with the other structure types already covered in the manual. All load ratings in LRFR follow the same Load and Resistance Factor methodology.

Consultant shall base load rating on the final construction contract plans and modified to reflect as-constructed conditions. Consultant shall develop load rating reports for the bridge completed for the Project based on the ODOT load rating format.

Consultant Deliverables and Schedule:

- Load Rating Report conforming to the requirements detailed in Section 22: “Deliverables” of the ODOT LRFR Manual, due to AMP within 90 calendar days after Second Notification.

Task CE-5.4 Submittal of Final Project Documentation

Consultant shall:

- Assist Agency with organizing and submitting the final Project quality, quantity documentation according to the Semi-Final Documentation Submittal (form 734-2706) associated with the Project and as detailed in the ODOT Construction Manual, Chapter 37 - Submittal of Final Project Documentation. Note that Agency does not use Doc Express.
- Organize and submit the final Project quality, quantity documentation to the Agency.
- Review documentation with Agency’s QAC and the ODOT RAS.
- Upon issuance of Second Notification, perform a final review with the Agency of all Project quality and quantity documentation and mutually agree that all contractual requirements have been met and recommend Acceptance.
- Complete any quality, quantity documentation associated with plant establishment work completed after the final Project documentation has been submitted for Agency review and documentation Acceptance (within 14 calendar days after the plant establishment work has been completed).
- Prepare and submit electronically, all Employee Interview Reports (ODOT form 734-3478), for the plant establishment work for APM review and Acceptance (within 14 calendar days after the plant establishment work has been completed).

Consultant Deliverables and Schedule:

- All final Project quality, quantity, excluding documentation related to plant establishment work. The documents must be submitted electronically to the Agency within 60 calendar days after Second Notification.
- Submit and verify Contractor has submitted all supporting quality documentation, as noted on the Test Summary A, B and C Sheets, for all Contract bid items and Contract Change Orders (CCOs) in hard copy to Agency.
- All Project quality, quantity related to plant establishment work. The documents must be submitted electronically to Agency within 14 calendar days after plant establishment work.

E.2 PROJECT SCHEDULE

Schedule Assumptions

The Project is scheduled for a 10/19/2023 bid opening for the CC. It is anticipated that the CC will receive NTP no later than 12/14/2023. Agency shall issue the CC Notice of Award and NTP in accordance with the Specifications in Section 00130.

- All construction work, except for the Establishment Period as per section 01030 work is assumed to be completed by 10/31/2024.
- The plant establishment period is assumed to be a 1-year period.
- All work for this CA/CEI SOW is to be completed within 30 calendar days of Consultant issuing Third Notification to the CC.
- Construction Contract Completion Date as specified in the Specifications in 00180.50 of the construction contract is 10/31/2024.
- Third notification to the CC is assumed to be issued on or before 10/31/2025.

F. CONTINGENCY TASKS

The table below is a summary of contingency tasks that Agency, at its discretion, may authorize Consultant to produce. Details of the contingency tasks and associated deliverables are stated in the task section of this CA/CEI SOW. Consultant shall complete only the specific contingency task(s) identified and authorized via written (email acceptable) NTP issued by Agency's APM. If requested by Agency, Consultant shall submit a detailed cost estimate (within the NTE amount(s) in the Contingency Task Summary Table) for the agreed-to contingency Services within the scope of the contingency task.

If Agency chooses to authorize some or all of these tasks, Consultant shall complete the authorized tasks and deliverables per the schedule identified for each task. The NTP will include the contingency task name and number, due date for completion, and agreed-to NTE for the authorized contingency task.

Each contingency task is only billable (up to the NTE amount identified for the task) if specifically authorized per NTP. In the table below, the contingency NTE amount for a contingency task includes all labor, overhead, profit, and expenses for the task. The funds budgeted for contingency tasks may not be applied to non-contingency tasks without a fully executed amendment. The total amount for all contingency tasks authorized shall not exceed the maximum identified in the table below. Each authorized contingency task must be billed as a separate line item on Consultant's invoice.

Contingency Task Summary Table

CONTINGENCY TASK DESCRIPTION	(UNIT) NTE	MAX QUAN.	METHOD OF COMP.	CONTINGENCY NTE AMOUNT
CE-2.9 Design Modifications	\$7,393.12	1.0	T&M	\$7,393.12
CE-2.10 Claim Support	\$12,013.14	1.0	T&M	\$12,013.14
CE-3.5 Additional Construction Activity Monitoring	\$16,469.79	1.0	T&M	\$16,469.79
Total NTE For All Contingency Tasks:				\$35,876.05



Contract Review Sheet

PW-4417-21 (1)

A&E Standard Prof Svcs Agmnt #: PW-4417-21 Amendment #: 1

Contact: Henry, Alicia Department: Public Works Department

Phone #: 503-373-4320 Date Sent: Monday, October 3, 2022

Title: A&E Services for the Rambler Drive NE: Little Pudding River Bridge replacement project

Contractor's Name: Dowl LLC

Term - Date From: November 9, 2021 Expires: October 31, 2024

Contract Total: \$ 657,298.29 Amendment: \$ 16,151.40 New Total: \$ 673,449.69

Incoming Funds Federal Funds Reinstatement Retroactive Amendment greater than 25%

Source Selection Method: 30-0220 Formal Selection A&E 0 853

Description of Services or Grant Award

A&E Services for the Rambler Dr. NE: Little Pudding River Bridge replacement project. Services include Preliminary Engineering through Final Design (PS&E) of the bridge replacement project. This contract is funded by ODOT IGA 34397 (PW-3779-20).

Amendment 1 adds additional effort for three existing tasks: 1.1 Administration & Record Keeping; 1.2 Coordination; 1.1 Bridge TS&L. This Amendment adds one new task: 3.4.1 Hazardous Materials Corridor Study. Additional funds \$657,298.29 with an increase of \$16,151.40 for a total not to exceed amount of \$673,449.69.

Desired BOC Session Date: _____ BOC Planning Date: _____

Files submitted in CMS: _____ Printed packet & copies due in Finance: _____

BOC Session Presenter(s) _____

FOR FINANCE USE

Date Finance Received: 10/3/2022 Date Legal Received: _____

Comments: G

REQUIRED APPROVALS

DocuSigned by:

A3538E7AEC704F4...
10/3/2022
Finance - Contracts Date

DocuSigned by:

DA7EBDCC1E7B47D...
10/5/2022
Contract Specialist Date

DocuSigned by:

D0CFC5B04B9F483...
10/4/2022
Legal Counsel Date

DocuSigned by:

DC16351248DE4EC...
10/4/2022
Chief Administrative Officer Date

**AMENDMENT NO. 1 TO
CONTRACT NO. PW-4417-21**

1. This is Amendment No. 1 to Contract No. PW-4417-21 (as amended from time to time) between Marion County, hereafter called County, and DOWL, LLC, which the Parties agree is synonymous with the defined term “Contractor” or “Consultant” as referenced in the Contract.

2. The Contract is hereby amended as follows:

This Amendment adds additional effort for three existing tasks:

- 1.1 Administration & Record Keeping
- 1.2 Coordination
- 11.1 Bridge TS&L

This Amendment adds one new task:

- 3.4.1 Hazardous Materials Corridor Study

3. **Exhibit A** of the Contract (**Statement of Work**) is hereby amended to add additional effort to existing tasks and one new task as follows (new language is indicated by underlining and deleted language is indicated by brackets):

Task 1.1 Administration & Record Keeping

- Consultant shall provide additional effort as necessary for preparing 1 additional invoice and progress report.

Consultant Deliverables and Schedule

Consultant shall provide:

- Progress reports and invoices submitted electronically to APM no later than the 20th calendar day of the month following the reporting period.

Task 1.2 Coordination

- Consultant shall provide additional effort as necessary for coordination of the additional work described in Tasks 3.4.1 and 11.1 below.

Consultant Deliverables and Schedule

Consultant shall provide:

- On-going coordination and communication required to appropriately manage the Services under this contract (no tangible deliverables for this task).

Task 3.4.1 Hazardous Materials Corridor Assessment [(RESERVED)]

Consultant shall conduct a Hazardous Materials Corridor Study (“HMCS”) according to the following standards and guides:

- “Hazardous Waste Guide for Project Development”, by the American Association of State Highway and Transportation Officials (“AASHTO”) Special Committee on Environment, Archaeology and Historic Preservation.
- “ODOT Hazmat Program Procedures Guidebook,” Oregon Department of Transportation.
- “Minimal Assessment Memorandum” report template, Oregon Department of Transportation.
- And the requirements listed below.

Consultant shall conduct a site condition assessment to identify potential sources of contamination that could impact construction or result in County acquiring contaminated property. Consultant will use photographs and recorded conditions from prior site visits in 2022 and Google Earth images to complete the site condition assessment.

Consultant shall review online DEQ files using DEQ's Facility Profiler web site at <https://hdcgcx1.deq.state.or.us/Html5viewer291/?viewer=FacilityProfilerLite> to determine whether contamination from adjacent facilities is likely to impact project construction, using the minimum search radii listed below.

<u>Environmental Database</u>	<u>Search Radius</u>
<u>State-Equivalent NPL Database (ECSIS)</u>	<u>0.5 mile</u>
<u>State Leaking (L)UST Database</u>	<u>0.25 mile</u>

Consultant will review the Oregon State Fire Marshal's Hazardous Substances Incidences database at http://www.sfm.state.or.us/CR2K_IncDB/Incident_Search.html.

For facilities considered to be at a high risk for impacting project construction, Consultant will submit a records request to DEQ for those facilities, requesting that files be provided electronically for review.

Consultant shall review pertinent records that may be made available by the County as they relate to the environmental condition of the project corridor.

From evaluation of these resources, Consultant shall identify areas within the Project corridor that may require characterization for either disposal or reuse as clean fill.

Consultant shall prepare a summary of findings in a Minimal Assessment Memorandum (MAM) using ODOT's template available under "Guidance Materials" at <https://www.oregon.gov/odot/GeoEnvironmental/Pages/Haz-Mat.aspx>. The MAM shall include a site figure, DEQ files specifically reviewed for the HMCS, and photographs documenting project corridor observations. The MAM will include conclusions that identify specific sources of contamination that could impact project construction and recommendations for further investigation, if needed. Additionally, the MAM will identify the recommended laboratory analytical methods for the proposed soil sampling at the offsite stormwater facility.

Task 3.4.1 Consultant Deliverables and Schedule:

Consultant shall provide:

- Draft MAM to the APM within six weeks following NTP
- Final MAM within two weeks following receipt of comments.

Task 11.1 Bridge Type, Size and Location (TS&L)

- Consultant shall provide additional effort for an alternatives analysis to consider replacing damaged timber piles with driven steel piles. Consultant shall provide estimated quantities, construction costs, and construction time associated with replacing damaged timber piles.

Consultant Deliverables and Schedule

- Draft email narrative of findings within 4 weeks following NTP.

- Consultant shall include the pile replacement alternatives analysis information in the final Bridge TS&L and Final DAP deliverable detailed in Task 13.

4. Under **Exhibit B - Compensation**, subsection **A - Method of Compensation for Non-Contingency Tasks**, modify the last sentence in this subsection as follows: **The dollar amount for T&M non-contingency Services is: [\$516,840.66] \$532,992.06.**

5. Under **Exhibit B - Compensation**, subsection **L. Breakdown of Costs (BOC)**, modify the last sentence as follows:

The final BOC, dated 9/21/2021 for the original Contract and 9/13/2022 for Amendment 1 is not physically attached, but is incorporated into this Contract by this reference with the same force and affect as though fully set forth herein. A copy of the final BOC has been provided to the Consultant prior to execution of this Contract.

6. Except as expressly revised in this Amendment, or as previously amended, all other terms and conditions of the original Contract and any previous amendments are still in full force and effect.

7. Amendment Information Table:

Project Title: Rambler Dr SE: Little Pudding River Bridge	County Project Number: 104448	
Project Location: 3 Miles East of Brooks, OR	Associated RFP Number: C25102-PW853-21	
Federal Aid Number: C047(102)	DBE Goal:8.5% (see Exhibit E)	
A. Prior total Not-to-Exceed ("NTE") amount for this Contract (including any previous amendments and contingency amounts).		\$ 657,298.29
B. Net amount for this Amendment		\$ 16,151.40
C. Total Not-to-Exceed ("NTE") amount for this Contract. This total includes: a) all allowable costs and expenses, profit, and fixed-fee amount, if any; and b) \$89,884.64 for contingency tasks, each of which must be separately authorized by County.		\$ 673,449.69

CONSULTANT CERTIFICATIONS

A. Any individual signing on behalf of Consultant hereby certifies under penalty of perjury:

- (1) Consultant has provided its correct TIN to Agency;
- (2) Consultant is not subject to backup withholding because (a) Consultant is exempt from backup withholding, (b) Consultant has not been notified by the IRS that Consultant is subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified Consultant that Consultant is no longer subject to backup withholding; and
- (3) s/he is authorized to act on behalf of Consultant, s/he has authority and knowledge regarding Consultant's payment of taxes, and to the best of her/his knowledge, Consultant is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a State tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321, and 323; and local taxes administered by the Department of Revenue under ORS 305.620.

B. Any individual signing on behalf of Consultant hereby certifies they are authorized to sign this Amendment and that:

- (1) **Consultant has read this Amendment, understands it, and agrees to be bound by its terms and conditions.**
- (2) **Consultant understands and agrees that various documents are not physically attached, but are incorporated by reference and have the same force and effect as if fully set forth herein.**

- (3) Consultant understands and has provided to all Associates the COI Disclosure Form available at: <https://www.oregon.gov/ODOT/Business/Procurement/Pages/PSK.aspx>. Consultant and (to the best of the undersigned's information, knowledge and belief) Consultant's Associates are in compliance with the disclosure requirements of the COI Disclosure Form and have no conflicts of interest to disclose. If disclosures regarding this Amendment or the related Project are required per the COI Disclosure Form, Consultant has made such disclosures to City on a properly prepared and submitted form and, if determined necessary by Agency or ODOT, a mitigation plan has been approved by Agency and ODOT.
- (4) (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, the undersigned shall complete and submit [Standard Form-LLL, "Disclosure Form to Report Lobbying."](#) in accordance with its instructions.
- (c) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- (d) Consultant shall require that the language of this certification be included in all subcontracts in excess of \$100,000 at all tiers and that all such subcontractors shall certify and disclose accordingly.
- (5) Consultant is an independent contractor as defined in ORS 670.600 and as described in [IRS Publication 1779](#).
- (6) In the event that Consultant is a general partnership or joint venture, Consultant signature(s) on this Amendment constitutes certifications to the above statements pertaining to the partnership or joint venture, as well as certifications of the above statements as to any general partner or joint venturer signing this Amendment.

This Amendment shall not become effective and no Payment shall be made for Services that are performed before all necessary governmental approvals have been obtained, the Amendment is fully executed, and Notice-To-Proceed has been issued by Agency.

Counterparts: The Amendment may be executed in several counterparts, 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 the Amendment so executed shall constitute an original.

CONSULTANT SIGNATURE(S):


Signature:  Larry Fox Date: 10/5/2022
C87196BD4D95432...

Name: Larry Fox Title: Vice President

Signature: _____ Date: _____

Name: _____ Title: _____

MARION COUNTY SIGNATURES:

Authorized Signature:  Brian Nicholas 10/3/2022
9793BA7ACD6D443

Department Director or designee Date

Authorized Signature:  Jan Fritz 10/4/2022
DC16351248DE4EC...

Chief Administrative Officer Date

Reviewed by Signature:  Jane E Vetto 10/4/2022
DDCF5504B0F483...

Marion County Legal Counsel Date

Reviewed by Signature:  10/3/2022
A3638E7AEC704F4...

Marion County Contracts & Procurement Date

ENGINEERING AND RELATED SERVICES CONTRACT

Contract Number: PW-4417-21

Project Title: Rambler Dr SE: Little Pudding River Bridge	Agency Project Number: 104448
Project Location: 3 Miles East of Brooks, OR	Associated RFP Number: C25102-PW853-21
Federal Aid Number: C047(102)	DBE Goal: 8.5% (see Exhibit E)
Total Not-to-Exceed ("NTE") amount for this Contract. This total includes: a) all allowable costs and expenses, profit, and fixed-fee amount, if any; and b) \$140,457.63 for contingency tasks, each of which must be separately authorized by Agency.	\$ 657,298.29

This Contract is between Marion County, hereafter called "Agency" and DOWL, LLC, an Alaska Limited Liability Company, hereafter called "Consultant." Agency and Consultant together are also referred to as "Parties" and individually referred to as "Party." The primary contacts for this Contract are identified in Exhibit J, Contact Information and Key Persons.

This Contract includes Federal Highway Administration ("FHWA") funding coordinated through the Oregon Department of Transportation ("ODOT"). See Section 18 - Compliance with Applicable Law.

For purposes of this Contract:

- a) "business days" means calendar days, excluding Saturdays, Sundays and all State of Oregon recognized holidays;
- b) "calendar days" means any day appearing on the calendar, whether a weekday, weekend day, national holiday, State of Oregon holiday or other day;
- c) "Engineering" Services means architectural, engineering, photogrammetric mapping, transportation planning or land surveying services that must be procured using qualifications based selection procedures [see ORS 279C.100 and ORS 279C.110]; and
- d) "Related Services" has the meaning provided in ORS 279C.100.

TERMS AND CONDITIONS

1. Contract Effective Date and Term. This Contract is effective on the date it has been signed by the parties and all required approvals have been obtained. No work or compensation under the Contract is authorized until notice to proceed has been issued in writing (email acceptable) by the Agency. Unless otherwise amended or terminated, this Contract shall expire October 31, 2024.

2. Statement of Work. Consultant shall perform all Services and deliver all deliverables as described in Exhibit A, Statement of Work (the "Services"). The required schedule for performance under the Contract is specified in the Statement of Work.

3. Compensation. The maximum NTE amount, which includes the total of all allowable and reimbursable costs and expenses (and contingency tasks, if any) payable to Consultant under this Contract, is set forth in the table above and detailed further in Exhibit B, Compensation. Agency reserves the right, in its sole discretion, to amend this Contract to increase this amount for additional Services within the scope of the procurement. If this Contract was awarded as a Direct Appointment/Small Purchase, amendments to increase the maximum amount payable are subject to limitations and additional requirements as set forth in applicable Federal, State and local laws. The payment methodology and basis for payment to Consultant is described in Exhibit B, Compensation. Consultant and any subconsultants are subject to the requirements and limitations of 48 CFR Part 31 - Contract Cost Principles and Procedures.

4. Contract Exhibits. This Contract includes the following exhibits, each of which is incorporated into this Contract as though fully set forth herein:

- Exhibit A - Statement of Work
- Exhibit B - Compensation

- Exhibit C - Insurance
- Exhibit D - Title VI Non-Discrimination Provisions
- Exhibit E – Disadvantaged Business Enterprise (“DBE”) Provisions
- Exhibit E.1 - Disadvantaged Business Enterprise (DBE) Provisions, No-Goal (RESERVED)
- Exhibit F - Special Terms & Conditions (RESERVED)
- Exhibit G - RESERVED
- Exhibit H - RESERVED
- Exhibit I - Errors & Omissions (“E&O”) Claims Process
- Exhibit J - Contact Information and Key Persons

5. Order of Precedence. Unless a different order is required by law, this Contract shall be interpreted in the following order of precedence: this Contract (including all amendments, if any) less all Exhibits, attachments and other documents/information incorporated into this Contract, then the Statement of Work and Payment Schedule, then all other Exhibits, then any other attachments or documents/information incorporated into this Contract by reference.

6. Independent Contractor; Conflict of Interest; Responsibility for Taxes and Withholding; Consultant Oversight.

- a. Consultant, by its signature on the Contract, certifies that it is an independent contractor as defined in ORS 670.600 and as described in IRS Publication 1779, which is available at the following link: <https://www.irs.gov/pub/irs-pdf/p1779.pdf>. Consultant shall perform all required Services as an independent contractor. Although Agency reserves the right (i) to determine the delivery schedule (as mutually acceptable to Agency and Consultant) for the Services to be performed and (ii) to evaluate the quality of the completed performance, Agency cannot and will not control the means or manner of Consultant's performance. Consultant is responsible for determining the appropriate means and manner of performing the Services. Consultant is not an "officer", "employee", or "agent" of Agency, as those terms are used in ORS 30.265.
- b. Consultant, by its signature on the Contract, certifies that: (i) Consultant and, to the best of its information, knowledge and belief, its Associates have made any disclosures required under the COI Disclosure Form (available at: <https://www.oregon.gov/ODOT/Business/Procurement/Pages/LPA.aspx>) or any applicable law; and (ii) if a conflict of interest is discovered during the term of the Contract, Consultant shall timely submit a COI Disclosure Form to Agency disclosing the conflict(s).
- c. Consultant shall be responsible for all Federal or State of Oregon (“State”) taxes applicable to compensation or payments paid to Consultant under the Contract and, unless Consultant is subject to backup withholding, Agency will not withhold from such compensation or payments any amount(s) to cover Consultant's Federal or State tax obligations. Throughout the duration of the Contract, Consultant shall submit an updated W-9 form (<https://www.irs.gov/pub/irs-pdf/fw9.pdf>) to Agency whenever Consultant’s backup withholding status or any other information changes. Consultant is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Consultant under the Contract, except as a self-employed individual.
- d. Consultant shall not be responsible for or have control over the means, manner, methods or techniques required of or used by other consultants or contractors under contract with Agency, unless otherwise expressly agreed to in writing by the Parties. The Parties agree, however, that these Section 6.d. provisions do not in any way revise or adjust Consultant’s professional responsibility to report to Agency any information that comes to Consultant’s attention (during performance of this Contract) pertaining to a project, or to performance by other consultants or contractors on a project, that would adversely affect Agency or a particular project.

7. Subcontracts and Assignment; Successors and Assigns

- a. Consultant shall obtain Agency's written consent prior to entering into any subcontracts for any of the Services required by the Contract, or in any manner assigning, selling or transferring any of its rights or interest under the Contract or delegate any of its duties or performance under the Contract. In addition to any other provisions Agency may require, Consultant shall include, in any permitted subcontract under the Contract, contractual provisions that shall require any subcontractor (which may also be referred to as

“subconsultant”) to comply with Sections 9, 10, 11, 12, 13, 16, 17, 18, 19, 23, 27 and 29 of these Contract provisions, the limitations of **Exhibit B** - Compensation, Exhibit D - Title VI Nondiscrimination Provisions, and the requirements and sanctions of ORS Chapter 656, Workers’ Compensation, in the performance of the subcontractor’s Services on the project that is the subject of the Contract, as if the subcontractor were the Consultant. Agency’s consent to any subcontract shall not relieve Consultant of any of its duties or obligations under the Contract, including with respect to any Services, whether performed or to be performed by Consultant or a subcontractor.

- b. The provisions of the Contract shall be binding upon and shall inure to the benefit of the Parties hereto, and their respective successors and permitted assigns, if any.
- c. Any purported assignment, delegation or disposition in violation of subsection “a.” above is void.

8. Third Party Beneficiaries. The State of Oregon, the Oregon Transportation Commission (OTC) and ODOT, are intended third-party beneficiaries of the Contract with express independent authority to enforce the terms and conditions of the Contract. Otherwise, there are no third-party beneficiaries of the Contract.

9. Representations and Warranties. Consultant represents and warrants to Agency that (i) Consultant has the power and authority to enter into and perform the Contract, (ii) the Contract, when executed and delivered is a valid and binding obligation of Consultant, enforceable in accordance with its terms, (iii) the Services under the Contract will be performed in accordance with the professional standard of care set forth in Section 10 below; (iv) Consultant is duly licensed to perform the Services, and if there is no licensing requirement for the profession or Services, is duly qualified and professionally competent to perform the Services; and (v) Consultant is an experienced firm having the skill, legal capacity, professional ability and resources necessary to perform all the Services required under the Contract. The warranties set forth in this Section are in addition to, and not in lieu of, any other warranties provided.

10. Professional Standard of Care; Responsibility of Consultant; Design Within Funding Limit

a. Professional Standard of Care.

Consultant shall perform all Services under the Contract in accordance with the degree of skill and care ordinarily used by competent practitioners of the same professional discipline when performing similar services under similar circumstances, taking into consideration the contemporary state of the practice and the project conditions.

b. Responsibility of Consultant.

- (i) Consultant shall be responsible for the professional quality, technical accuracy, and coordination of all designs, drawings, specifications, and other Services furnished by Consultant under the Contract. Consultant shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications and other Services.
- (ii) Agency’s review, approval or acceptance of, or payment for, the Services required under the Contract shall not be construed to operate as a waiver of any rights under the Contract or of any cause of action arising out of the performance of the Contract, and Consultant shall be and remain liable to Agency in accordance with applicable law for all damages to Agency caused by Consultant’s negligent performance of any of the Services furnished under the Contract or negligent failure to perform any of the Services under the Contract.
- (iii) The rights and remedies of Agency provided for under the Contract are in addition to any other rights and remedies provided by law.
- (iv) If Consultant is comprised of more than one legal entity (for example, a joint-venture or partnership), each such entity shall be jointly and severally liable under the Contract.

c. Design Within Funding Limit.

When the Services under the Contract include preparation of design plans for the project:

- (i) Consultant shall accomplish the design Services required under the Contract so as to permit construction of the project within Agency’s budget for construction. **Agency’s budget for construction of the project is 4,596,000.00** which includes contingencies and construction engineering. Consultant shall promptly advise Agency’s Contract Administrator if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable project within these limitations. Upon receipt of such information, the Contract Administrator will review Consultant’s revised estimate of construction cost. Agency may, if it determines that the estimated construction contract price set forth in this Section is so low that award of

a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth in this Section, or Agency may adjust such estimated construction contract price.

- (ii) Prior to releasing the bid for the construction contract, Agency will prepare an estimate of constructing the design submitted. If Agency's estimator(s) determines Consultant's design exceeds Agency's budget for the construction contract as set forth in Section (i) above {and as may be revised per Section (i) above}, then Consultant shall perform such redesign and other Services as are necessary to permit contract award within the funding limitation. These additional Services shall be performed at no increase in the price of the Contract. However, Consultant shall not be required to perform such additional Services at no cost to Agency if Consultant's design exceeds Agency's budget {as set forth in Section (i) above} as a result of conditions beyond Consultant's reasonable control.

11. Ownership of Work Product

a. Definitions. The following terms have the meanings set forth below:

- (i) "Consultant Intellectual Property" means any intellectual property owned by Consultant and developed independently from the Contract.
- (ii) "Third Party Intellectual Property" means any intellectual property owned by parties other than Agency or Consultant.
- (iii) "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item, and all intellectual property rights therein, that Consultant is required to deliver to Agency pursuant to the Contract.

b. Work Product. All Work Product created by Consultant pursuant to the Contract, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire," shall be the exclusive property of Agency. Agency and Consultant agree that Work Product that constitutes original works of authorship (the "Original Work Product") is "work made for hire" of which Agency is the author within the meaning of the United States Copyright Act. If for any reason Original Work Product created pursuant to the Contract is not "work made for hire," Consultant hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all Original Work Product created pursuant to the Contract, whether arising from copyright, patent, trademark, trade secret, or any other State or Federal intellectual property law or doctrine. Upon Agency's reasonable request, Consultant shall execute such further documents and instruments necessary to fully vest such rights in Original Work Product in Agency. Consultant forever waives any and all rights relating to Original Work Product created pursuant to the Contract, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. However, see Sections 11.c and 11.d immediately below, for provisions applicable to Consultant Intellectual Property, Third Party Intellectual Property, Consultant Intellectual Property derivative works and Third Party Intellectual Property derivative works.

c. Consultant and Third Party Intellectual Property. In the event that any Work Product is Consultant Intellectual Property or Third Party Intellectual Property (Consultant Intellectual Property or Third Party Intellectual Property that is applicable to the Services being performed by Consultant under the Contract or included in Work Product deliverable to Agency under the Contract), or in the event any Consultant Intellectual Property or Third Party Intellectual Property is needed by Agency to reasonably enjoy and use any Work Product, Consultant hereby agrees that it will grant to, or obtain for, the Agency an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display Consultant Intellectual Property and or Third Party Intellectual Property, including the right of Agency to authorize contractors, consultants and others to do the same on Agency's behalf. This obligation of the Consultant does not apply to a situation involving a third party who enters a license agreement directly with the Agency. At the request of Consultant, Agency shall take reasonable steps to protect the confidentiality and proprietary interests of Consultant in any Consultant Intellectual Property licensed under this Section, within the limits of the Oregon Public Records Law (ORS 192.410 through 192.505) and the Oregon Uniform Trade Secrets Act (ORS 646.461 to 646.475).

d. Consultant and Third Party Intellectual Property-Derivative Work. In the event that Work Product created by Consultant under the Contract is a derivative work based on Consultant Intellectual Property or Third Party Intellectual Property, or is a compilation that includes Consultant Intellectual Property or Third Party Intellectual Property, Consultant hereby agrees to grant to, or obtain for, Agency an irrevocable, non-

exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of Consultant Intellectual Property or Third Party Intellectual Property employed in the Work Product, including the right of Agency to authorize others to do the same on Agency's behalf.

- e. **Consultant Use of Work Product.** Notwithstanding anything to the contrary in this Section 11, Consultant may refer to the Work Product in its brochures or other literature that Consultant utilizes for advertising purposes and, unless specified otherwise in Exhibit A - Statement of Work, Agency hereby grants to Consultant a non-exclusive, non-transferable, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display Agency-owned Work Product on other unrelated projects, except for any "Confidential Information" protected from disclosure under the provisions of Section 12 below, pertaining to Confidentiality and Non-Disclosure.

12. Confidentiality and Non-Disclosure. Consultant and its subcontractors, and their respective employees and agents, shall keep confidential all information, in whatever form, produced, prepared, observed or received to the extent that such information is designated as confidential by the Agency, by law, or by this Contract. In the event Consultant is required to disclose Confidential Information pursuant to a subpoena or other legal process, Consultant shall immediately notify Agency of such subpoena or other legal process, provide Agency with copies of any subpoena, other legal process and any other written materials supporting the subpoena or other legal process, and otherwise cooperate with Agency in the event Agency decides to oppose the disclosure of the Confidential Information. In the event Agency decides not to oppose such subpoena or other legal process or Agency's decision to oppose the subpoena or legal process has not been successful, Consultant shall be excused from the confidentiality provisions of this Section, to the extent necessary to meet the requirements of the subpoena or other legal process controlling the required disclosure.

13. Indemnity

- a. **Claims for Other Than Professional Liability.** *Consultant shall indemnify, defend, save, and hold harmless the Agency, State of Oregon, the OTC and ODOT, and their respective officers, members, agents and employees from any and all claims, suits, actions, losses, liabilities, damages, costs and expenses, including attorney fees, of whatsoever nature, resulting from or arising out of the acts or omissions of Consultant or its subcontractors, or their respective agents or employees, under the Contract.*
- b. **Claims for Professional Liability.** *Consultant shall indemnify, defend, save, and hold harmless the Agency, State of Oregon, the OTC and ODOT, and their respective officers, members, agents and employees from any and all claims, suits, actions, losses, liabilities, damages, costs and expenses, including attorney fees, of whatsoever nature, resulting from or arising out of the professionally negligent acts, errors or omissions of Consultant or its subcontractors, or their respective agents or employees, in the performance of Consultant's professional services under the Contract.*
- c. **Indemnity for Infringement Claims.** *Without limiting the generality of section 13(a) or 13(b), Consultant expressly agrees to indemnify, defend, save and hold harmless the Agency, State of Oregon, the OTC and ODOT, and their respective officers, members and their agencies, subdivisions, officers, directors, agents, and employees from any and all claims, suits, actions, losses, liabilities, damages, costs and expenses, including attorney fees, arising out of or relating to any claims that Consultant's services, the Work Product or any other tangible or intangible items delivered to the Agency by Consultant that may be the subject of protection under any state or federal intellectual property law or doctrine, or the Agency's use thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any third party; provided, Agency shall provide Consultant with prompt written notice of any infringement claim. Provided, however, Consultant shall not be obligated to indemnify, defend, save and hold harmless the Agency (or other entities identified above) under this section 13(c), based solely on the following: Consultant's compliance with Agency specifications or requirements, including, but not limited to the required use of tangible or intangible items provided by Agency.*
- d. **Defense Qualification.** *Neither Consultant nor any attorney engaged by Consultant shall defend or purport to defend a claim in the name of the Agency, the State of Oregon, the OTC or ODOT without first receiving from the applicable entity, authority to act as legal counsel, nor shall Consultant settle any claim on behalf of the foregoing entities without the approval of these entities. The Agency, the State of*

Oregon, the OTC or ODOT may, at their election and expense, assume their own defense and settlement.

- e. Agency's Acts or Omissions.** *This section 13 does not include indemnification by Consultant of the Agency, the State of Oregon, the OTC and ODOT, and their respective officers, members, agents and employees, for the acts or omissions of these entities and their respective officers, members, agents and employees, whether within the scope of the Contract or otherwise.*

14. Insurance. Consultant shall carry insurance as required on **Exhibit C**.

15. Termination

- a. Termination by Mutual Consent.** The Contract may be terminated at any time, in whole or in part, by mutual written consent of the Parties.
- b. Agency's Right to Terminate for Convenience.** Agency may, at its sole discretion, terminate the Contract, in whole or in part, upon 30 calendar days prior written notice to Consultant.
- c. Agency's Right to Terminate for Cause.** Agency may terminate the Contract, in whole or in part, immediately upon written notice to Consultant or at such later date as Agency may establish in such notice, upon the occurrence of any of the following events:
- (i) Agency fails to receive appropriations, limitations or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to continue to make payments for Consultant's Services. Payments under this Contract and continuation of this Contract beyond the current biennium are subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available from current funding sources. The Agency may terminate this Contract, and Consultant waives any and all claims for damages, effective immediately upon receipt of written notice, or any date specified therein, if for any reason the Agency's funding from local, state and/or federal sources is not appropriated or is withdrawn, limited or impaired;
 - (ii) Federal, State or local laws, regulations or guidelines are modified or interpreted in such a way that either the Services under the Contract are prohibited or Agency is prohibited from paying for such Services from the planned funding source;
 - (iii) Consultant no longer holds any license or certificate that is required to perform the Services; or
 - (iv) Consultant commits any material breach or default of any covenant, warranty, obligation or agreement under the Contract, fails to perform the Services under the Contract within the time specified or any extension thereof, or so fails to perform the Services as to endanger Consultant's performance under the Contract in accordance with its terms, and such breach, default or failure is not cured within 14 calendar days after Agency's notice to Consultant, or such longer period as Agency may specify in such notice.
- d. Consultant's Right to Terminate for Cause.**
- (i) Consultant may terminate the Contract by giving written notice to Agency if Agency fails to pay Consultant pursuant to the terms of the Contract and if Agency fails to cure within 14 calendar days after receipt of Consultant's written notice, or such longer period of cure as Consultant may specify in such notice.
 - (ii) Consultant may terminate the Contract, for reasons other than nonpayment, if Agency commits any material breach or default of any covenant, warranty, obligation or agreement under the Contract, fails to perform under the Contract within the times specified, or so fails to perform as to endanger Consultant's performance under the Contract, and such breach, default or failure is not cured within 14 calendar days after Consultant's notice to Agency, or such longer period as Consultant may specify in such notice.
- e. Remedies.**
- (i) In the event of termination pursuant to Sections 15(a), 15(b), 15(c)(i), 15(c)(ii) or 15(d), Consultant's sole remedy (except as otherwise required by applicable State or Federal law) shall be a claim for payment of the satisfactory Services actually rendered up to the time of termination, less previous amounts paid and any claim(s) which State has against Consultant, except in the event of a termination under Section 15(c)(i) where no payment will be due and payable for Services performed or costs incurred after the last day of the current biennium. If previous amounts paid to Consultant exceed the amount due to Consultant under this subsection, Consultant shall pay all excess to Agency upon demand.

- (ii) In the event of termination pursuant to Section 15(c)(iii) or 15(c)(iv), Agency shall have any remedy available to it in law or equity. If it is determined for any reason that Consultant was not in default under Section 15(c)(iii) or 15(c)(iv), the rights and obligations of the Parties shall be the same as if the Contract was terminated pursuant to Section 15(b).
- f. **Consultant's Tender Upon Termination/Retained Remedies of Agency.** Upon receiving a notice of termination of the Contract, Consultant shall immediately cease all activities under the Contract, unless Agency expressly directs otherwise in such notice of termination. Upon termination of the Contract, Consultant shall deliver to Agency all documents, information, works-in-progress and other property that are or would be deliverables had the Contract been completed. Upon Agency's request, Consultant shall surrender to anyone Agency designates, all documents, information, research, works-in-progress, Work Product and other property, that are deliverables or would be deliverables had the Contract been completed, that are in Consultant's possession or control and may be needed by Agency to complete the Services.

16. Records Maintenance; Access. Consultant, and its subconsultants, shall maintain all fiscal records relating to the Contract in accordance with generally accepted accounting principles. In addition, Consultant shall maintain all other records pertinent to the Contract and the project and shall do so in such a manner as to clearly document Consultant's performance. The Agency, ODOT, the Oregon Secretary of State's Office (OSS), FHWA and the Comptroller General of the United States (CGUS) and their respective, duly authorized representatives shall have access, and Consultant shall permit the aforementioned entities and individuals access, to such fiscal records and other books, documents, papers, plans and writings of Consultant that are pertinent to the Contract to perform examinations and audits and make excerpts and transcripts. Consultant shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of 6 years, or such longer period as may be required by applicable law, following final payment and expiration or termination of the Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to the Contract, whichever date is later. Any cost data submitted by Consultant pursuant to this Contract may be shared with ODOT, FHWA, OSS and CGUS, as necessary, for audit purposes. Agency, ODOT and FHWA shall have the right to review or examine the work in progress for any Services performed under the Contract.

17. Performance Evaluations. Agency will conduct performance evaluation(s) on the Consultant and its subconsultants during the term of the Contract, which will be compiled and maintained by Agency, and become a written record of Consultant's performance. Generally, the performance evaluations will include criteria related to, but not limited to, quality and technical performance, adherence to contract scope and budget, schedule performance, and business relations (including communications and negotiations performance). Agency will provide a copy of the performance evaluation results to Consultant within 14 calendar days following completion. Consultant may respond, in writing, or may request a meeting to address any or all findings contained in the completed performance evaluation within 30 calendar days following receipt. Agency may adjust evaluation score(s) upon Agency's finding of good cause. Agency may provide copies of any performance evaluation documentation to ODOT, FHWA, and other parties unless lawfully exempt from disclosure. Agency may use performance evaluation findings and conclusions in any way deemed necessary, including, but not limited to, corrective action, requiring submittal of performance improvement plan by Consultant and withholding of retainage. Agency and ODOT may use Consultant performance under previous contracts as a selection criterion for future contracts.

18. Compliance with Applicable Law. Consultant shall comply with all Federal, State and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Contract, in effect at the time the Contract is executed and as may be amended, revised, enacted or adopted thereafter. Changes in these legal requirements after the execution of the Contract may or may not be the basis for modifications to Consultant's schedule, scope and fee, depending on a reasonable assessment of the nature of the change, the extent to which the change was anticipated by Consultant or the Parties, and other circumstances then existing. Without limiting the generality of the foregoing, Consultant expressly agrees to comply with: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659a.142; (iv) the Clean Air Act (42 U.S.C. 7401-7671q); (v) the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387); (vi) Executive Order 11738; (vii) Environmental Protection Agency regulations (40 CFR part 15); (viii) and all applicable standards, orders,

regulations and administrative rules established pursuant to the foregoing laws. Agency's performance under the Contract is conditioned upon Consultant's compliance with, and Consultant shall comply with, the obligations applicable to public contracts and intended for contractors under ORS 279C.520 and 279C.530, which are incorporated by reference herein. All rights and remedies available to Agency under applicable federal, state and local laws are also incorporated by reference herein and are cumulative with all rights and remedies under the Contract. If Consultant discovers a conflict among Federal, State and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Contract, Consultant shall in writing request Agency to resolve the conflict (in collaboration with ODOT and FHWA as applicable). Consultant shall specify if the conflict(s) create a problem for the design or other Services required under the Contract. If Agency concludes there is a conflict among the applicable laws, Federal laws shall govern among the others; State laws shall govern over the others except Federal. The resolution of the conflict of the applicable laws by Agency shall be final and not subject to further review or challenge.

19. Permits and Licenses

- a. **Permits and licenses to conduct business.** Unless otherwise specified in **Exhibit A**, Statement of Work, Consultant shall obtain, hold, maintain and fully pay for during the term of the Contract all permits and licenses required by law for Consultant to conduct its business and perform the Services under the Contract.
- b. **Permits and licenses required for the project.** Unless otherwise specified in **Exhibit A**, Statement of Work, Consultant shall obtain, hold and maintain during the term of the Contract all permits and licenses required for the project (for example, permits from regulatory authorities and use permits or licenses from owners of real and personal property), but Agency shall pay for such permits and licenses. Consultant shall review the project site, if applicable, and the nature of the Services that Consultant shall perform under the Contract. Consultant shall advise Agency throughout the course of the project as to the necessity of obtaining all project permits and licenses, the status of the issuance of any such permits and licenses, and any issues or impediments related to the issuance or continuation of any such permits and licenses.

20. Foreign Contractor. If Consultant is not domiciled in or registered to do business in the State of Oregon, Consultant shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to the Contract.

21. Force Majeure. Neither Agency nor Consultant shall be held responsible for delay or default in the performance of its obligations due to a cause beyond its reasonable control, including, but not limited to, fire, riot, acts of God, terrorist acts or other acts of political sabotage, or war where such cause was beyond the reasonable control of Agency or Consultant, respectively. Consultant shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the Contract.

22. Survival. All rights and obligations shall cease upon termination or expiration of the Contract, except for the rights and obligations set forth in Sections 5, 9, 10, 11, 12, 13, 15(e), 15(f), 16, 22, 23, 26, 27 and 29 and all other rights and obligations which by their context are intended to survive.

23. Time is of the Essence. Consultant agrees that time is of the essence in Consultant's performance of its obligations under the Contract.

24. Notice. Except as otherwise expressly provided in the Contract, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by e-mail, by personal delivery, facsimile, or mailing the same, postage prepaid, to Consultant or Agency at the e-mail address, the delivery address or facsimile number set forth in the Contract, or to such other addresses or numbers as either Party may hereafter indicate in writing to the other. Any notice or day-to-day communication sent by e-mail shall be deemed received when it is sent. **The recipient of any notice sent by e-mail shall reply by e-mail to confirm receipt of such notice.** Any communication or notice made by personal delivery shall be deemed to be received when actually delivered. Any communication or notice properly addressed and mailed shall be deemed received 5

calendar days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received on the date of the notice of successful transmission generated by the transmitting machine. To be effective, such facsimile transmission must be confirmed by telephone notice to Agency's Contract Administrator or Consultant's representative, as applicable.

25. Severability. The Parties agree that if any term or provision of the Contract is declared by a court of competent jurisdiction to be 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 Contract did not contain the particular term or provision held to be invalid.

26. Dispute Resolution and Errors & Omissions Claims Process. In the event of a dispute between the Parties regarding any aspect of the Contract or performance under the Contract, the Parties agree to attempt in good faith to investigate and resolve any such dispute through direct communications and negotiations.

- a. **Errors & Omissions Related.** In the event those good faith efforts do not resolve disputes related to potential Errors and Omissions, the Parties agree to make good faith efforts to resolve the matter pursuant to **Exhibit I, Errors & Omissions Claims Process.**
- b. **Other Disputes.** In the event good faith efforts do not resolve disputes unrelated to Errors & Omissions, the Parties agree to make a good faith effort to resolve any such dispute through fact finding and non-binding mediation prior to resorting to litigation. The mediator shall be selected by mutual agreement of the Parties. If the Parties fail to agree on a mediator, each Party shall select a mediator and those two persons shall agree on a third-party, who will be the sole mediator. The cost of the mediator shall be split equally between the Parties.
- c. **Notification to ODOT.** Agency shall immediately notify ODOT of any disputes that seek resolution with the Errors & Omissions Claims Process or mediation.

27. Governing Law; Venue; Consent to Jurisdiction. The Contract shall be governed by, and construed and enforced in accordance with, the laws of the State of Oregon, without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Agency (or any agency or department of the State of Oregon) and Consultant that arises from or relates to the Contract shall be brought and conducted solely and exclusively within the Circuit Court located in the County in which the Project is located; provided, however, if a Claim must be brought in a Federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the Agency or State of Oregon of any form or defense or immunity, whether based on sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution, or otherwise. **CONSULTANT, BY EXECUTION OF THE CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.**

28. Amendments. Agency may amend the Contract to the extent permitted by applicable statutes, administrative rules and ordinances and as mutually agreed upon by Agency and Consultant. Agency may agree to appropriate increases in the maximum compensation payable under the Contract, should any Agency-approved increase occur in the scope, character, schedule or complexity of Services as outlined in the Statement of Work. Consultant shall not commence any Services authorized under an amendment, and the amendment is not effective, unless it is in writing, signed by the Parties and all approvals required by applicable law have been obtained.

29. False Claims

- a. Consultant understands and acknowledges it is subject to the Oregon False Claims Act (ORS 180.750 to 180.785) and to any liabilities or penalties associated with the making of a false claim under that Act. By its execution of the Contract, Consultant certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or cause to be made that pertains to the Contract or the Project for which the Services are being performed, including but not limited to Consultant's statement of proposal and any invoices, reports, or other deliverables.
- b. Consultant shall immediately disclose (in writing) to Agency whenever, in connection with the award, performance or closeout of the Contract, or any subcontract thereunder, Consultant has credible evidence that a principal, employee, agent, or subcontractor of Consultant has committed—

- (i) A violation of the Oregon False Claims Act; or
 - (ii) A violation of State or Federal criminal or civil law involving fraud, conflict of interest, bribery, gratuity or similar misconduct.
- c. Consultant must include subsections (a) and (b) of this section in each subcontract Consultant may award in connection with the performance of the Contract. In doing so, Consultant may not modify the terms of those subsections, except to identify the subcontractors or sub grantee that will be subject to those provisions.

30. Certified Small Businesses. Respecting certification as a disadvantaged business enterprise, minority-owned business, woman-owned business, business that a service-disabled veteran owns or an emerging small business under ORS 200.055, as and when applicable, the Consultant shall maintain the certifications, and require in its subcontracts that subcontractors maintain the certifications required by Section 2, Chapter 325, Oregon Laws 2015, as amended by Section 26, Chapter 565, Oregon Laws 2015 as a material condition of the Contract. If the Consultant or subcontractor was awarded the Contract or subcontract, as applicable, in the course of Agency carrying out an affirmative action goal, policy or program under ORS 279A.100, and fails to maintain the required certification, Agency may terminate the Contract, require the Consultant to terminate the subcontractor, or exercise any of remedies reserved for breach of the Contract.

31. Merger Clause; Waiver; Interpretation. The Contract, including everything incorporated by reference, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding the Contract. No waiver, consent, modification or change of terms of the Contract shall bind either Party, unless such waiver, consent, modification or change of terms is in writing and signed by the Parties, and all necessary State of Oregon governmental approvals have been obtained. Such a waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. Either Party's failure to enforce any provision of the Contract shall not constitute a waiver by that Party of that or any other provision. The characterization of provisions of the Contract as material provisions or the failure to comply with certain provisions as a material breach of the Contract shall in no way be construed to mean that any other provisions of the Contract are not material or that failure to comply with any other provisions is not a material breach of the Contract.

CONSULTANT CERTIFICATIONS

A. Any individual (the undersigned) signing on behalf of Consultant hereby certifies under penalty of perjury:

- (1) Consultant has provided its correct TIN to Agency;
- (2) Consultant is not subject to backup withholding because (a) Consultant is exempt from backup withholding, (b) Consultant has not been notified by the IRS that Consultant is subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified Consultant that Consultant is no longer subject to backup withholding; and
- (3) The undersigned is authorized to act on behalf of Consultant, s/he has authority and knowledge regarding Consultant's payment of taxes, and to the best of the undersigned's knowledge, Consultant is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a State tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321, and 323; and local taxes administered by the Department of Revenue under ORS 305.620.

B. Any individual (the undersigned) signing on behalf of Consultant hereby certifies the undersigned is authorized to sign this Contract and that:

- (1) Consultant has read this Contract, understands it, and agrees to be bound by its terms and conditions.
- (2) Consultant understands and agrees that various documents are not physically attached, but are incorporated by reference and have the same force and effect as if fully set forth herein.
- (3) Consultant understands and has provided to all Associates the COI Disclosure Form available at: <https://www.oregon.gov/ODOT/Business/Procurement/Pages/LPA.aspx>. Consultant and (to the best of the undersigned's information, knowledge and belief) Consultant's Associates are in compliance with the disclosure requirements of the COI Disclosure Form and have no conflicts of interest to disclose. If disclosures regarding this Contract or the related Project are required per the COI Disclosure Form, Consultant has made such disclosures to Agency on a properly prepared and submitted form and, if determined necessary by Agency or ODOT, a mitigation plan has been approved by Agency and ODOT.
- (4)
 - a) No Federal appropriated funds have been paid or will be paid, by or on behalf of Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, the undersigned shall complete and submit [Standard Form-LLL, "Disclosure Form to Report Lobbying,"](#) in accordance with its instructions.
 - c) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
 - d) Consultant shall require that the language of this certification be included in all subcontracts in excess of \$100,000 at all tiers and that all such subcontractors shall certify and disclose accordingly.
- (5) Consultant is an independent contractor as defined in ORS 670.600 and as described in [IRS Publication 1779](#).
- (6) In the event that Consultant is a general partnership or joint venture, Consultant signature(s) on this Contract constitutes certifications to the above statements pertaining to the partnership or joint venture, as well as certifications of the above statements as to any general partner or joint venturer signing this Contract.

No Payment shall be made for Services that are performed before all necessary governmental approvals have been obtained, the Contract is fully executed, and Notice-To-Proceed has been issued by Agency.

Counterparts: The Contract may be executed in several counterparts, 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 the Contract so executed shall constitute an original.

CONSULTANT SIGNATURE(S)


Signature: _____ Date: 11/9/2021


Name: Larry Fox Title: Chief Operating Officer


Signature: _____ Date: _____

Name: _____ Title: _____

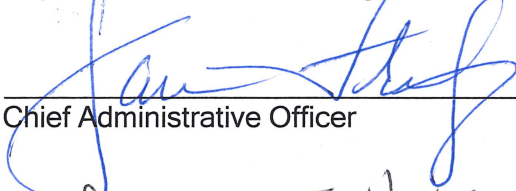
**MARION COUNTY SIGNATURES:
BOARD OF COMMISSIONERS:**


 _____ Date: 11-3-2021
Chair

 _____ Date: 11-3-2021
Commissioner

 _____ Date: 11/3/2021
Commissioner

Authorized Signature:  _____ Date: 10/25/2021
Department Director or designee

Authorized Signature:  _____ Date: 10/27/21
Chief Administrative Officer

Reviewed by Signature:  _____ Date: 10/25/21
Marion County Legal Counsel

Reviewed by Signature:  _____ Date: 10/28/21
Marion County Contracts & Procurement

EXHIBIT A - STATEMENT OF WORK

A. PROJECT DESCRIPTION and OVERVIEW of SERVICES

The Little Pudding River Bridge (#05419A) is a 1575-foot-long, 2-lane timber bridge built in 1963. Although the Agency puts significant maintenance effort into this structure each year, the bridge is showing all of the timber deterioration issues common for a bridge that has seen heavy use for over 57 years. The Agency has replaced 14 of the original timber piling with steel H-pile. 22 piles and 4 pile caps were identified as needing replacement in the 2016 bridge inspection report. The timber decking system has wide-spread decay and the deck membrane has failed, as evidenced by staining and saturation of the underlying stringers. Softening of the timber decking has led to repeated failure of the asphalt concrete wearing surface. The existing bridge rails are very short (only about 20 inches tall), non-crash-tested timber railing and the felloe guards protrude toward the roadway about 16 inches in front of the face of rail, creating a launching hazard on this Basic Rule roadway. Approach guard rails and rail transitions are completely non-standard. Guardrails are not connected to the bridge, there are no stiffness transitions or safety end pieces, and the trailing ends of the bridge rails have no guardrail treatment even though they are within the clear zone of opposing traffic.

The project addresses the deficiencies noted above, including (1) replacing the rotting timber decking system and installing a new deck membrane, ACWS and deck joints to protect the timber girders and pile caps, (2) installing new thrie-beam bridge rails and compatible felloe guards to improve roadway safety, and (3) installing new guardrail and guardrail transitions at the bridge approaches.

General Expectation. Consultant commits to provide, oversee and direct Services to obtain the greatest long-term value for the government, and to promote prudent expenditure of public funds within the constraints of the project, program, context, budget and cost-effective sustainability principles. Consultant shall: (i) avoid expenditures for aesthetic effect which are disproportionate to the project as a whole; (ii) use recycled/recyclable products to the maximum extent economically feasible in the performance of this Contract, and (iii) apprise Agency throughout the project concerning any issues or decisions with potential economic impact to the project.

Project Phasing

This Project is divided into two phases:

- Phase 1 - Preliminary Engineering through Final Design (PS&E)
- Phase 2 - Construction Contract Administration, Construction Engineering and Inspection (CA/CEI)

This Statement of Work addresses the work required for Phase 1 of the Project. Each subsequent phase is optional, at Agency's discretion, and may be added via amendment(s) to this Contract.

Agency Responsibilities

- Coordination and communication of internal County staff;
- Provide access to available Project information, recommendations and goals;
- Review of Consultant progress to verify adherence to this Scope of Work (SOW) and delivery schedule;
- Notify Consultant of any known delays above and beyond the control of Consultant;
- Provide appropriate and timely review of Project deliverables supplied by Consultant to verify they are consistent with Project objectives and the requirements of the SOW;
- Coordinate with ODOT for approval of NEPA documentation activities.

Acronyms and Definitions

APE	Area of Potential Effect	NEPA	National Environmental Policy Act
CFR	Code of Federal Regulations	NTE	Not to Exceed
Agency	Marion County	NTP	Notice to Proceed
APM	Agency's Project Manager	OCR	ODOT Office of Civil Rights
DBE	Disadvantaged Business Enterprises	ODOT	Oregon Department of Transportation
DEQ	Oregon Department of Environmental Quality	ORS	Oregon Revised Statutes

DOE	Determination of Eligibility		PM	Consultant's Project Manager
DSL	Oregon Division of State Lands		PS&E	Plans, Specifications and Estimates
DTM	Digital Terrain Model		SHPO	State Historic Preservation Office
EEO	Equal Employment Opportunity		SUL	ODOT's State Utility Liaison
ESA	Endangered Species Act		QA	Quality Assurance
FAHP	Federal-Aid Highway Program		QC	Quality Control
FEMA	Federal Emergency Management Agency		ROE	Right of Entry
FHWA	Federal Highway Administration		ROS	Record of Survey
FOE	Finding of Effect		REC	ODOT's Regional Environmental Coordinator
GPS	Global Positioning System		ROW	Right of Way
IGA	Intergovernmental Agreement		SOW	Statement of Work
MUTCD	Manual on Uniform Traffic Control Devices		USACE	US Army Corps of Engineers

B. STANDARDS and GENERAL REQUIREMENTS

1. Standards

Preliminary Engineering and Design Phase Services – The current edition of the following standards apply to this Contract:

- ODOT Bridge Design Manual
- ODOT Bridge Section Load Rating Procedures (ODOT LRFR manual)
- AASHTO LRFD Bridge Design Specifications
- AASHTO Geometric Design of Highways and Streets
- AASHTO Roadside Design Guide
- Manual on Uniform Traffic Control Devices (MUTCD)
- ODOT Geotechnical Design Manual
- ODOT Hydraulics Manual
- National Environmental Policy Act (NEPA), 23 CFR 771
- Sections 401 and 404 of the Clean Water Act, 33 USC 1251
- Oregon Removal – Fill Law, ORS 196.800 through 196.990
- U.S. Army Corps of Engineers Wetland Delineation Manual
- Endangered Species Act (ESA), 16 USC 1531
- Oregon Fish Passage Law (OAR 635-412-0005(9)(d))
- ORS Chapters 209 and 672 Marion County Survey Standards
- ODOT Global Navigation Satellite System (“GNSS”) Guidelines

2. Software and Format Requirements

Software standards and formats include but are not limited to the following:

- Each draft and final text-based or spreadsheet-based deliverable shall be provided in MS Office file formats (i.e., MS Word, Excel, etc.) and must be fully compatible with version used by Agency.
- Consultant shall submit draft and final deliverables in electronic format via e-mail (and hard copy if requested).
- Consultant shall also submit any graphic files accompanying reports separately in .jpg or .tif formats unless specified differently by Agency.
- Consultant shall submit final design plans in AutoCAD Civil 3D .dwg format. The design plans must also be submitted in .pdf format

Consultant's software shall produce deliverables that are fully compatible, readable and useable by Agency software, requiring no modification or translation of Consultant's deliverables. No loss of data integrity or accuracy shall result from any transfer of data. Compressed data shall be in a "self-expanding executable" format. Additional format requirements may be listed elsewhere in the Statement of Work or in the Contract.

3. **Professional Licenses, Registrations and Qualifications**

- Consultant and its subconsultants must be duly licensed where required by law to perform the Services, and must be under the "responsible charge" (as that term is defined under ORS Chapter 672) of a person so licensed, as required by the applicable Oregon Revised Statutes and Oregon Administrative Rules, and other applicable laws (or must be otherwise exempt from any licensing requirements applicable to the Services being performed).
- Agency may require Consultant's Personnel to demonstrate a competency in the particular area/discipline to which they are assigned. This may include, but is not limited to, submittal of license number, resume, and work samples from previously completed projects.

4. **General Requirements**

- **Endorsement of Data.** Consultant shall place their official Oregon Registered Engineer seal and signature on all engineering design drawings and specifications furnished to Agency, as well as any other materials where professional standards require such seal and signature.
- **Safety Equipment.** Consultant shall provide and use all safety equipment including (but not limited to) hard hats, safety vests and clothing if required by State and Federal regulations and Agency policies and procedures for the Services under the Contract.

C. **REVIEW, COMMENT and SCHEDULE OVERVIEW**

- Consultant shall coordinate with Agency staff as necessary and shall revise draft deliverables to incorporate draft review comments.
- Consultant shall incorporate comments within 10 business days from receipt by Agency and return the revised deliverables to Agency staff, unless a different timeframe is specified for specific tasks or otherwise agreed to in writing by Agency.

D. **PROJECT COOPERATION**

Consultant shall only be responsible for those obligations and deliverables identified as being assigned to Consultant (or its subconsultants) in this Contract and the Statement of Work. All work assigned to other entities, other than subconsultants, is not subject to this Contract, but shall be the subject of separate Intergovernmental Agreements or contracts which will contain the obligations of those entities. Any tasks or deliverables assigned to a subconsultant shall be construed as being the responsibility of Consultant. Any Consultant tasks or deliverables which are contingent upon receiving information, resources, assistance, or cooperation in any way from another entity (other than subconsultants) as described in this Statement of Work shall be subject to the following guidelines:

- a. At the first indication of non-cooperation, Consultant shall provide written notice to Agency's Contract Administrator of the specific acts or inaction indicating non-cooperation and of any deliverables that may be delayed due to such lack of cooperation by other entities referenced in the Statement of Work.
- b. Agency's Contract Administrator shall contact the non-cooperative entity/s to discuss the matter and attempt to correct the problem and expedite items determined to be delaying Consultant/Project.

If Consultant has followed the notification process described in section "a", and delinquency or delay of any deliverable is found to be a result of the failure of other referenced entities to provide information, resources, assistance, or cooperation, as described in the Statement of Work, Consultant will not be found in breach or default with respect to delinquencies beyond any reasonable control of Consultant; nor shall Consultant be assessed or liable for any damages arising as a result of such delinquencies. Neither shall Agency be responsible or liable for any damages to Consultant as the result of such non-cooperation by other entities. Agency's Contract Administrator will negotiate with Consultant in the best interest of the government, and may revise the delivery schedule to allow for delinquencies beyond any reasonable control of Consultant. Revised delivery dates beyond the expiration date require an amendment to the Contract.

E. **TASKS, DELIVERABLES and SCHEDULE**

Consultant shall complete all tasks and provide all deliverables (collectively, the "Services") included in this SOW and in accordance with the performance and delivery schedules listed below.

TASK 1 - PROJECT MANAGEMENT

Consultant shall provide management and coordination of Services under this SOW for delivery of Tasks and Deliverables according to the agreed upon delivery schedule, assumed to be 18 months in duration for budgeting purposes.

1.1 Administration & Record Keeping

Consultant shall:

- Prepare a Project design schedule using the Critical Path Method. The Project schedule must include, but is not limited to: all major authorized tasks as agreed upon by the Parties, Project design team meetings, and milestones (type and date) specified in this SOW and required to complete all Services under this Contract. Consultant shall update the Project schedule during the course of the Project if Project schedule, milestone or deliverable due dates are modified. For budgeting purposes, it is assumed that up to 2 Project schedule updates will be necessary;
- Prepare invoices and progress reports according to the requirements set forth in Exhibit B (Compensation), Subsection D (Invoices) of the Contract. Each progress report must:
 - Include a summary of previous period's activities and the planned activities for the upcoming period;
 - Identify percentage completed of each Task/Deliverable;
 - Reconcile the budget with the actual amount billed to date;
 - Identify unresolved issues and concerns that may affect the SOW, schedule or budget for Services.

For budgeting purposes, it is assumed that up to 18 progress reports will be necessary

- Develop and maintain a Project file to include survey and engineering computations, assumptions, meeting agendas and minutes, working drawings, quality control and review documentation, correspondence, and memoranda. (See Contract Terms & Conditions #16 - Records Maintenance; Access)

1.1 Consultant Deliverables and Schedule:

Consultant shall provide:

- Project Design Schedule submitted within 14 calendar days of NTP. Submit an electronic file (MS Project and .pdf) format to the APM.
- Updated Project Design Schedule, as necessary, via timeline agreed to by APM, an electronic file (MS Project and .pdf) format to the APM.
- Progress reports and invoices submitted electronically to APM no later than the 20th calendar day of the month following the reporting period.

1.2 Coordination

Consultant shall:

- Coordinate with the APM as the main point of contact for coordination and management of Consultant Services under the Contract;
- Contact other Agency staff, ODOT staff, and regulatory agency staff, if necessary, throughout the Contract, to gather any additional information needed for the Project, Project site, regulations and guidance;
- Provide overall management, direction and coordination of staff (including sub-consultants, if any) to include any necessary internal Consultant staff meetings;

1.2 Consultant Deliverables and Schedule:

Consultant shall provide:

- On-going coordination and communication as needed to appropriately manage the Services under this Contract (no tangible deliverables for this task).

1.3 Project Meetings

1.3.1 Project Kickoff Meeting

Consultant shall organize, conduct, prepare for and attend a Project kickoff meeting. The Project kickoff meeting will be held at Marion County Public Works or virtually with Agency, Consultant's PM and other necessary Consultant staff in attendance. Consultant shall prepare the meeting agenda with input from the Agency. The purpose of the Project kickoff meeting is to review Project issues such as SOW; work products and deliverables; schedules; budgets; right of way; utility coordination/design; design criteria; guidance documents and standards, and quality control. Consultant shall schedule Project kickoff meeting within 10 business days of Notice to Proceed (NTP). Consultant shall prepare draft meeting minutes for review by Agency. For budgeting purposes, it is assumed that up to 5 Consultant staff shall attend the 2 hour Project kickoff meeting.

1.3.2 Project Development Team Meetings

Consultant shall organize, conduct, prepare for and attend up to 9 Project Development Team (PDT) Meetings. The meetings will be held virtually with Agency. Consultant shall prepare the meeting agenda with input from the Agency. Consultant shall prepare draft and final meeting minutes to be distributed to Agency and all other meeting participants. For budgeting purposes, it is assumed that up to 5 Consultant staff shall attend each one-hour PDT meeting.

PDT meetings will be used to review project deliverables with the Agency at DAP, Advance PS&E, and Final PS&E milestones. Remaining PDT meetings will be scheduled, with APM approval, to discuss topics and issues that come up during the project.

For budgeting purposes, it is assumed that all 9 of the meetings will be virtual.

1.3.3 Concept Review Meeting

Consultant shall organize, conduct, prepare for and attend 1 Concept Review Meeting virtually. Consultant shall prepare the meeting agenda with input from the Agency. Consultant shall prepare draft and final meeting minutes to be distributed to Agency and all other meeting participants. For budgeting purposes, it is assumed that up to 5 Consultant staff shall attend the two (2) hour meeting.

1.3 Consultant Deliverables and Schedule

For each meeting, Consultant shall provide:

- Meeting agenda submitted electronically to APM and all other meeting participants 2 business days prior to meeting.
- Draft meeting minutes submitted electronically to APM and all other meeting participants within 2 business days of meeting.
- Final meeting minutes submitted electronically to APM and all other meeting participants within 7 business days of meeting.

1.4 Quality Assurance / Quality Control (QA/QC)

Consultant shall follow approved Project Quality Plan on file with ODOT. Consultant will review all Consultant developed submittals for consistency and verify that review comments are addressed and incorporated as applicable prior to submitting to the Agency in accordance with the Project Quality Plan.

1.4 Consultant Deliverables and Schedule:

Consultant shall provide:

- QA/QC documentation upon request by the Agency within 14 calendar days of the request.

TASK 2 - SURVEY

Consultant shall survey this Project for the area shown in Figure 1 and up to two (2) off-site stormwater treatment locations, each up to 0.5 acres, within the boundary shown in Figure 2 unless otherwise noted in specific tasks. Deliverables are to be scheduled as per Task 1 Project Management.

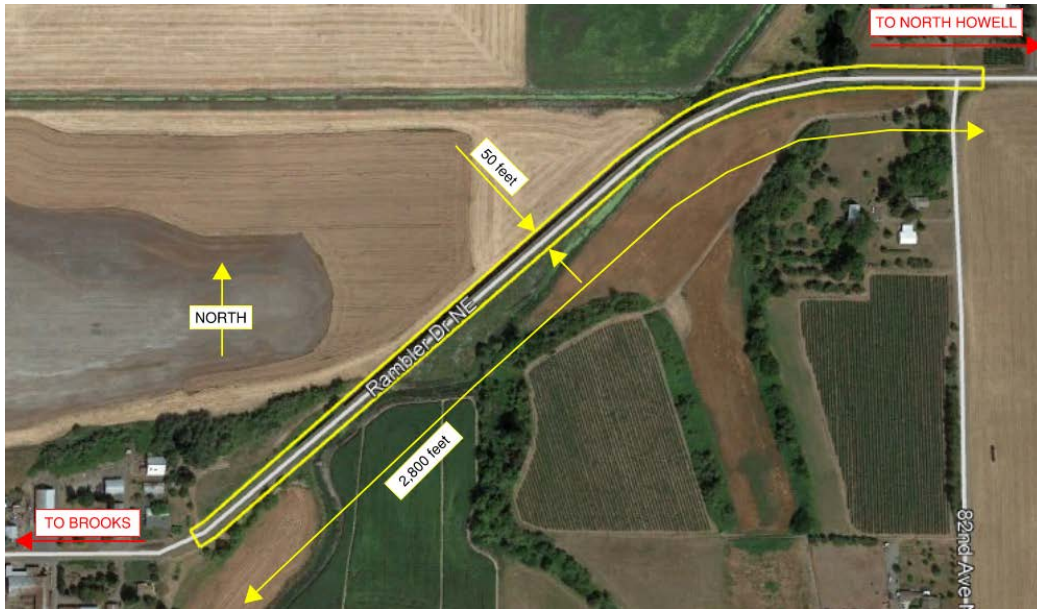


Figure 1 - Project survey limits at bridge site



Figure 2 - Boundary limit for off-site stormwater facilities

Consultant shall adhere to the standards stipulated by the Oregon Revised Statute ("ORS") 672. Consultant's Professional Land Surveyor, registered in the State of Oregon, shall review and stamp as "Approved" all survey

related deliverables and shall be responsible for all land surveying services including conformance to all state statutes pertaining to survey and land boundary laws under this SOW. These include, but are not limited to, the following state statutes: ORS Chapters 92, 93, 209 and 672.

2.1 Research

Consultant shall obtain the research data for the areas described in Task 2 of this SOW.

Consultant shall perform data research as necessary to prepare for and support Project activities, and to produce Project maps and reports as called for in subsequent tasks. The typical records required for research are, but not limited to; vesting deeds, land sales contracts, County assessor plats and road records, subdivision plats, General Land Office plats, Agency R/W drawings, as applicable, railroad maps, county surveys, road dedications and vacations.

2.1 Consultant Deliverables and Schedule:

Consultant shall incorporate information from this task into the deliverables listed in Tasks 2.2, 2.4, 2.5 and 2.7 as required for delivery of documents in subsequent tasks.

2.2 Horizontal and Vertical Control Network

The purpose of this task is to provide the means by which the Project can be located relative to horizontal and vertical datum, map projection, and coordinate systems. Consultant shall establish a horizontal and vertical control network using the datum associated with the Project area or as approved by the Agency. The Consultant shall use the Oregon Coordinate Reference System (ORCS) Salem Zone coordinate system and the NAVD88 vertical datum unless directed otherwise.

Existing Horizontal/Vertical Control Stations

Consultant shall research and obtain data about horizontal and vertical control points as required for the Project area including triangulation stations, GPS stations, benchmarks, and prior Project control surveys from Agency, Federal, State and other governmental agencies.

Consultant shall establish horizontal control using Terrestrial (Theodolite and EDM), GPS (Static or Rapid Static) or a combination of both. Consultant shall set and adjust control points in conformance with local standards of practice.

Consultant shall use 1/2" Rebar with red plastic caps marked "Control", or other Agency approved control point, for the GPS and network points. Consultant shall establish a minimum of 3 GPS control points through the length of the survey. A minimum of at least 3 inter-visible control points is required through the Project area.

Consultant shall establish vertical control using differential leveling. Consultant shall get Agency approval before using other methods such as trigonometric leveling and elevations derived from GPS and identify with Agency the accuracies of determined methods prior to proceeding.

2.2 Consultant Deliverables and Schedule:

Consultant shall:

- Place control points in the ground at the Project location.
- Incorporate the information listed below into the deliverables listed in Tasks 2.4 and 2.5 as required for delivery of documents in subsequent tasks.
 - An adjustment report for one or more of the following, Least Squares adjustment for networks, an approved traverse adjustment method for traverses or a GPS adjustment report when using GPS.
 - An ASCII file containing the coordinates for every network point set and found.
 - If the levels were electronically processed then one copy each of the following: original raw level file as collected in the field, ASCII file showing level closure data, ASCII file with elevations on all network points or an ASCII file showing the level rod readings.

- Original field notes for the control network and one scanned copy of the original field notes in “.pdf” format.
- An AutoCAD design file (*.dwg) containing all the set and tied control points to show elevations.

2.3 Monument Recovery

The purpose of this task is to address the requirements of ORS 209.140, ORS 209.150 and 209.155, and other survey related statutes for construction Projects.

Consultant shall survey for but not limited to: Government corners, geodetic control stations, benchmarks, R/W monuments, property boundary markers, and roadway alignment markers.

Identify, Search and Recover Monuments

Consultant shall recover existing monuments to preserve the locations of any monuments of record that are endangered by any activity related to the Project and to resolve roadways and property lines. Consultant shall provide a record (field notes) of monuments searched for, the date of the search and the results of the search.

Field Survey of Recovered Monuments

Consultant shall locate, measure and document the location of survey markers and monuments of record for property boundaries or R/W needed within the areas.

2.3 Consultant Deliverables and Schedule:

Consultant shall incorporate the information gathered in this task including field notes into the deliverables listed in Tasks 2.4 and 2.5 as required for delivery of documents in subsequent tasks.

2.4 Topographic Data, Detailed Base Map and Digital Terrain Model (DTM)

The purpose of this task is to collect the existing topographic features and create a detailed base map and DTM for the Project.

Existing Utility Records

Consultant shall research and obtain available facility maps and as-built construction plan data pertaining to utilities in or near the Project area from the Agency, One-Call Service, State or other governmental agencies and utility companies.

Topographic Data Collection

Consultant shall collect topographic data between the boundaries described in Section A of this SOW. Consultant shall collect and tie topographic data of man-made or natural features using a variety of Agency approved methods. These methods include but are not limited to: collecting the data using terrestrial (Theodolite and EDM), GPS (RTK), 3D Laser Scanning, or station and offset.

Consultant shall contact Oregon Utility Notification Center to request a pre-survey utility locates. Consultant shall keep the locate request number and ticket information within the Project file.

Consultant shall record in the field notes the utility ownership when describing the line data points. Consultant shall record all visible utility identifications in the field notes, such as numbers shown on power or telephone poles, vault tags, telephone pedestals (aka risers), cabinets, meters, fences or screened enclosures for gas regulators, and sanitary sewer pump stations. This data is needed for the Agency or Consultant to communicate where the facility may be in conflict with the Project.

Consultant shall measure and record all utility facility structures (e.g. concrete pads, top slab of vaults, pump station housing, barrier screens or fenced enclosures). Consultant shall make a request to the utility owner to pull the cover whenever a manhole is found locked or bolted.

Consultant shall tie environmental and archaeological features that have been identified within the Project area. These features include, but are not limited to, wetlands, high water mark, T&E species, hazmat sites, archaeology sites and sensitive plants.

Detailed Basemap

Consultant shall take applicable topographic data collected in this subtask and create a detailed basemap file. A detailed basemap has all features drafted to Agency provided criteria.

Digital Terrain Model (DTM)

Consultant shall create a 3 dimensional digital terrain surface using all relevant topographical data collected in this subtask.

Consultant shall collect the topographical data to create points and break lines in adequate quantity and in proper placement, to accurately represent the surface of the ground. Consultant shall collect confidence points in the field and generate a confidence point report. The topographical data and confidence points must meet industry standards. Consultant shall generate 0.2 foot minor contours and 1 foot major contours throughout the DTM for a QC analysis of the surface.

2.4 Consultant Deliverables and Schedule:

Consultant shall provide the following deliverables electronically (.PDF) to the APM within 30 days of NTP:

- 1 copy of field notes
- Copy of the AutoCAD Files (*.dwg) Detailed Base Map with DTM
- All files for the network control points in (ASCII) format
- Files of listing kits
- Files of survey research
- Files of tax maps
- Confidence Point Report

2.5 R/W - Boundary Resolution

The purpose of this task is to identify the location of the existing Centerline(s), R/W lines and property line(s) as necessary, to perpetuate the location of the monuments found, to document the control used for this Project area, and establish property lines for area calculations when new R/W is acquired. This task addresses the requirements of ORS 209.150 and 209.155 and other survey related statutes.

Existing Vesting Deeds and Property Ownerships

Consultant shall obtain a "Trio listing kit" (typically provided by a Title Company). Consultant shall identify property ownership within and adjacent to the Project site by investigating property deeds and county tax records. Consultant shall itemize and report property ownership and owner contact information to Agency. Consultant shall submit each deed in its own electronic file. Consultant shall include all vesting deeds referenced in the Property Vesting Deeds if needed to resolve the property boundary.

Existing R/W Records

Consultant shall research and obtain copies of surveys, subdivision plats, and land partition plats filed in the county surveyor's office related to the properties potentially impacted by the Project. This information is used to find monuments that might be impacted from the Project and establish property lines for area calculations when new R/W is acquired.

Consultant shall research and obtain copies of county assessor maps, General Land Office plats, and county road records related to the properties potentially impacted by the Project.

Consultant shall research and obtain available data about Government Public Lands Survey Corners and their references in the Project area as defined in the SOW.

Resolve R/W and Property Boundaries

Consultant shall resolve the location of the R/W within the present limits as described in this SOW.

Consultant shall resolve identified R/W centerlines alignments, R/W lines and property boundaries abutting the roadway and along the proposed route of construction, using accepted concepts and rationale methods of survey professional judgment. Consultant shall evaluate the available evidence for relevance, adequacy, and reliability; use professional judgment in determining the type and quantity of evidence available, and the influence given each factor; and determine a best-fit with the evidence and probable location of R/W alignments and property boundaries for the area as described.

2.5. Consultant Deliverables and Schedule:

Consultant shall provide the following deliverables electronically (.PDF) to the APM within 45 days of NTP:

- Itemized property ownership and owner contact information to Agency. Consultant shall submit each deed in its own electronic file.
- A detailed narrative of available evidence, desirable evidence not available, rationale for decisions made, and a summary of the conclusions in the establishment of the R/W centerline, R/W lines (including all jogs) and property boundary lines.

2.6 Record of Survey / Control, Recovery, Retracement (CONTINGENCY TASK)

Control, Recovery, Retracement Record of Survey

The destruction of found monuments necessitates a record of survey (ORS 209.150,155).

If the Project will impact property or existing survey monuments, Consultant shall create a Record of Survey (ROS) which meets County and ORS requirements. The survey(s) must be prepared for 18-inch by 24-inch sheet plots. The “**Control**” survey must consist of Geodetic and Terrestrial points set for the Project. The “**Recovery**” is the documentation of the monuments recovered for the Project. The “**Retracement**” is a record of resolved R/W centerlines, R/W lines or property boundaries. These surveys may be combined, or separate surveys as directed by Agency.

Consultant shall submit a draft ROS to Agency for review. Consultant shall address comments received from Agency and submit the final ROS for filing to the appropriate County in the format required.

2.6 Consultant Deliverables and Schedule:

Consultant shall provide:

- Draft ROS to APM within 45 days of NTP.
- Final ROS to the appropriate County for filing within 2 weeks of receipt of comments from the Agency.
- Copy of Final ROS to APM upon submittal to County for filing.

2.7 R/W Engineering (Mapping & Descriptions) (RESERVED)

TASK 3 - ENVIRONMENTAL SERVICES

Consultant shall complete necessary field and literature investigations to provide the Agency and ODOT environmental documentation and permits required for completion of this Project. Consultant shall complete the following environmental investigations, documentation, and permits for this Project, unless marked as a CONTINGENCY TASK, which Consultant shall complete only following receipt of NTP from Agency:

- Archaeological Resources Baseline Report
- Phase I Archaeological Investigation (Contingency)
- Historic Resources Baseline Report
- Determination of Eligibility (DOE)/Finding of Effect (FOE) (Contingency)
- Asbestos Survey

- Asbestos Abatement Specification (Contingency)
- ESA No Effect Memorandum
- Federal-Aid Highway Program (FAHP) Environmental Species Act (ESA) document
- Wetland/Waters of the U.S./State Determination Memo

The following required environmental tasks shall be completed by the Agency:

- Schedule and conduct two community open house meetings
- Prepare public outreach documentation

For all of Task 3, the Project Area is the same as the survey limits shown on Figure 1 and up to two off-site stormwater treatment locations as described in Task 2 of this SOW unless otherwise noted and described in specific Task 3 subtasks.

Consultant is responsible for obtaining all Rights-of Entry (“ROE”). Consultant shall not conduct any fieldwork outside of Agency right-of-way or property until all ROEs for private property have been obtained and are in field staff’s possession.

3.1 NEPA Categorical Exclusion (“CE”) and Programmatic CE (“PCE”) and Supporting Documentation (RESERVED)

3.2 Archaeological Resources

All archaeological sub tasks must be completed by registered professional archaeologists who meet the Secretary of the Interior’s professional standards for Archaeology ([36 CFR 61, Appendix A](#)) and who have been “qualified” through the [ODOT Cultural Resources Consultant Qualification Training Program](#).

3.2.1 Literature Review/Field Reconnaissance/Baseline Report

The purpose of this task is for the Consultant to conduct archival and background research in combination with field reconnaissance to determine the presence or absence of high probability landforms or archaeological sites within the APE and to make recommendations for further archaeological review. For Task 3.2, the APE consists of the Project Area as defined above.

Consultant shall conduct a Literature Review for the APE, and include a description of the APE, detailed historic context and ethno-historic information, methodology, recommendations for future work, detailed bibliography, maps, and photos. Consultant shall provide the ODOT Archaeologist with a minimum of five days advance notice prior to Field Reconnaissance.

Consultant shall examine the following data bases or documents:

- the SHPO database in Salem, OR; appropriate Tribal Historic Preservation Office (“THPO”) database if APE is within a recognized reservation boundary;
- General Land Office (“GLO”) maps;
- Sanborn Fire Insurance Maps;
- Other records archives (i.e. historical societies; tribal archives) for known/potential prehistoric and historic archaeological resources within a one mile radius of the APE.

Field Reconnaissance must include a pedestrian survey. Consultant shall conduct pedestrian surveys within the APE and must include areas where ground will be disturbed by Project construction including temporary access roads, as well as staging areas, material sources, disposal sites, detours, etc.

Pedestrian survey methods must be consistent with the latest updated [SHPO guidelines](#). The recommended maximum spacing of transects will be 20 meters apart and may vary depending on terrain features or ground visibility. Consultant shall determine transect spacing based on professional judgment to ensure that all probable site locations are discovered. All cultural resources observable on the surface and in exposed subsurface profiles must be identified and recorded. Field Reconnaissance

must enable Consultant to identify areas of high and low probability for archaeological resources and to determine the appropriate level of survey or subsurface exploratory probing.

Consultant shall prepare a Baseline Report that must contain the following:

- A completed Oregon SHPO Archaeological Report Cover Page
- A purpose statement and full Project description including:
 1. ODOT Key Number and Federal Aid Number
 2. Location and legal description
 3. General environmental description
 4. Historic context
 5. Proposed construction activities
 6. Defined APE and APE map
 7. Total acreage of impact
- Results of SHPO/THPO database search including:
 1. Brief summary of previous archaeological research completed within one mile of APE
 2. Brief summary of recorded archaeological features within one mile of APE; include eligibility discussion if available.
- Results of GLO and Sanborn map review including:
 1. Brief summary of features (trails, buildings, etc.) depicted on maps and within APE; include eligibility discussion if available.
- Description of pedestrian survey methods including date of survey, types of transects used, and names and duties of personnel conducting the survey
- Findings of pedestrian survey including ground conditions (percent visibility) and difficulties encountered, if any
- Identification of areas of high and low probability for archaeological resources within APE
- Recommendations for appropriate level of additional survey or subsurface exploratory probing, if any
- Site and isolate forms (hard copies) for newly discovered archaeological sites and isolates. Consultant shall also complete the SHPO online site form.
- List of references cited
- Location map at 1:24,000 scale; aerial image (Google map acceptable) showing APE; and representative digital images of current conditions within APE

3.2.1 Consultant Deliverables and Schedule:

Consultant shall prepare and submit:

- One electronic copy (in WORD format) of the Draft Baseline Report to ODOT and APM for review per Task 1 Project Design Schedule.
- One electronic copy (in Word and PDF format) of the Final Baseline Report to ODOT and APM 2 weeks following receipt of draft review comments.

3.2.2 Phase I Archaeological Investigation with Technical Report (CONTINGENCY TASK)

The purpose of this task is for Consultant to establish the presence or absence of archaeological sites in, or eligible for the National Register of Historic Places (“NRHP”), which may be in the APE for the Project. Investigations under this task must comply with Guidelines for Conducting Field Archaeology in Oregon, The Phase I investigation must comply with the latest updated SHPO guidelines and the latest updated SHPO guidelines for Reporting on Archaeological Investigations. These investigations must include pedestrian survey or subsurface exploratory probing. Subsurface probing must be conducted in areas where ground visibility is low and in areas of high probability for archaeological resources, unless documented proof of previous fill is available i.e. as-builts/geomorphological work.

Consultant shall conduct record searches and literature review for the APE provided by Agency and a one-mile radius, prior to any fieldwork. Consultant shall, at a minimum, examine the following databases and documents:

- the SHPO database in Salem, OR;
- appropriate Tribal Historic Preservation Office (“THPO”) database if APE is within a recognized reservation boundary;
- General Land Office maps;
- historic topographic maps;
- Sanborn Fire Insurance Maps;
- Other records archives (i.e. historical societies; tribal archives) for known/potential prehistoric and historic archaeological resources within a one mile radius of the APE.

Consultant shall conduct pedestrian field surveys within the APE and must include areas where ground will be disturbed by Project construction including temporary access roads, as well as staging areas, material sources, disposal sites, detours, etc. Consultant shall provide the ODOT Archaeologist with a minimum of five days advance notice prior to conducting a pedestrian survey. Pedestrian survey methods must be consistent with the latest updated SHPO guidelines. The recommended maximum spacing of transects will be 20 meters apart and no more than 30 meters apart; and may be as close as 10 meters apart vary depending on terrain features or ground visibility. Consultant shall determine transect spacing based on professional judgment to ensure that all probable sites are discovered. All cultural resources observable on the surface and in exposed subsurface profiles during the inventory must be identified and recorded.

Consultant shall obtain all required excavation permits and conduct subsurface exploratory probing in the APE. Copies of the draft excavation permits must be provided to the ODOT Archaeologist prior to submittal to SHPO. Consultant shall provide the ODOT Archaeologist with a minimum of five days advance notice of exploratory probing. Subsurface Exploratory Probing field methodology must be consistent with the latest updated SHPO guidelines.

Probing must be based on an established research design. Up to 15 probes will be excavated under this task. Probes must be at least 30cm in diameter and dug to sterile (at least two levels void of cultural material) or to 50cm and two sterile levels where possible, or as appropriate based on varying field conditions. Materials must be screened with a 1/8-inch mesh screen (1/4-inch as needed, see SHPO guidelines).

Auguring may be used, to establish soil stratigraphy or depth of archeological deposits and may be incorporated into the research design, if approved by ODOT Archaeologist. Materials must be screened with a 1/8-inch mesh screen.

Consultant shall prepare Phase I Archaeological Investigation Report. The Report must include:

- A purpose statement and full Project description including:
 1. ODOT Key Number and Federal Aid Number
 2. Location and legal description
 3. General environmental description
 4. Historic context
 5. Proposed construction activities
 6. Defined APE and APE map
 7. Total acreage of impact
 8. Anticipated direct, indirect and cumulative impacts
- Results of SHPO/THPO data base searches including:
 1. Brief summary of previous archaeological research completed within one mile of APE with eligibility description if available.

2. Brief summary of recorded archaeological features within one mile of APE with an eligibility description if available.
- Results of GLO and Sanborn map review including:
 1. Brief summary of features (trails, buildings, etc.) depicted on maps and within APE
 - Discussion of ethno-historic information and historic context of APE and surrounding environment
 - Description of pedestrian survey methods including date(s) of survey, types of transects used, and names and duties of personnel conducting the survey
 - Results of pedestrian survey including ground conditions (percent visibility) and difficulties encountered, if any; descriptions of any archaeological artifacts encountered and other pertinent information
 - Description of subsurface exploratory probing methodology including date(s) of probing, and names and duties of personnel completing probes
 - Results of subsurface exploratory probing, including descriptions of soil conditions and any archaeological artifacts encountered and other pertinent information. Negative findings must be reported also
 - Summary of Tribal consultation(s), to be provided by Agency
 - A summary with recommendations that must include a discussion of the site(s) identified and whether or not they meet NRHP criteria and maintain integrity
 - List of references cited
 - Location map at 1:24,000 scale; aerial image (Google map acceptable) showing APE; and representative digital images of current conditions within APE
 - Site forms and isolate forms (hard copies) for newly discovered archaeological sites and isolates. Consultant shall also complete the SHPO Online Site Form
 - Site update forms for previously identified archaeological sites
 - A modified [Determination of Eligibility \(DOE\)](#), a maximum of 2-3 pages long, must be included in the Appendix for historic sites with no subsurface component. This Appendix must include a short discussion on Boundaries (vertical and horizontal), Integrity as well as Statement of Significance and discussion of the NRHP Criteria. Consultant shall provide enough information to write a detailed DOE.
 - Maps, photos and an artifact catalogue

Establishing eligibility without testing for prehistoric sites may be difficult; however, this is possible with historic sites if sufficient historic documentation is provided. Please refer to SHPO guidelines.

Consultant shall provide final Phase I Technical Report and site forms in PDF format; digital images of each photo and illustration; raw GPS files (*.ssf and *.cor), and edited GIS files (*.shp, *.shx, and *.dbf).

3.2.2 Consultant Deliverables and Schedule:

Consultant shall prepare and submit:

- One electronic copy (in WORD format) of the Draft Phase I Technical Report with site forms or isolate forms to ODOT and APM for review per Task 1 Project Design Schedule.
- One electronic copy (in PDF format) of the Final Phase I Technical Report with site forms or isolate forms to ODOT and APM 2 weeks following receipt of draft review comments.

3.2.3 Phase II Archaeological Field Investigation (RESERVED)

3.3 Historic Resources

All historic sub tasks must be completed by professional historians who meet the Secretary of the Interior's professional standards for architectural history or history ([36 CFR 61, Appendix A](#)) and who have been "qualified" through the [ODOT Cultural Resources Consultant Qualification Training Program](#).

3.3.1 Historic Resources Baseline Report

The purpose of the ODOT Historic Resource Baseline Report is to identify and characterize the historic resource issues using APE to determine what may be impacted by a transportation project. The Historic Resource Baseline Report is a scoping report that is not intended to be a comprehensive technical report. As part of developing the Historic Resource Baseline Report, Consultant shall review the SHPO Statewide Inventory and conduct an on-site reconnaissance of the Project area. For Task 3.3, the APE consists of the Project Area plus adjacent properties that may be affected by project activities.

The Historic Resources Baseline Report must include, but is not limited to:

- Project description and a description of the APE;
- Photographs of resources that are 45 years old or older;
- Descriptions of historic resources that are 45 years old or older, including a discussion of each potential NRHP eligibility (A-D); and
- Map that identifies the location of each potential historic resource within the APE

It is anticipated that 1 resource will be identified in the baseline report.

3.3.1 Consultant Deliverables and Schedule

Consultant shall prepare and submit:

- One electronic copy (in WORD format) of the Draft Historic Resources Baseline Report to ODOT and APM for review per Task 1 Project Design Schedule.
- One electronic copy (in WORD and PDF format) of the Final Historic Resources Baseline Report to ODOT and APM 2 weeks following receipt of draft review comments.

3.3.2 Section 106 Determination of Eligibility (DOE) (CONTINGENCY TASK)

A DOE is a finding that a property meets the eligibility criteria (A-D) for inclusion in the NRHP. A DOE shall include a brief physical description, history, context, significance, map (the historic boundary included) and photographs of resources that possess integrity of one or all of the following: location, design, setting, materials, workmanship, feeling, and association. If requested by ODOT and Agency staff, then Consultant shall prepare draft and final DOE Reports for each historic resource that is considered potentially eligible for the NRHP. For authorized DOE Report(s), Consultant shall also prepare a Project Submittal Letter in ODOT-approved format.

Consultant shall prepare each DOE using the most recent ODOT form.

The DOE must include but is not limited to:

- Physical description of the resource and contributing and non-contributing features, including the history and context of the resource, the design, setting, materials, workmanship, feeling, and association;
- Map showing the location and orientation of the resource and its historic boundary; and
- Photographs of the resource, including historic photographs and current photographs.

DOE will be prepared for up to 2 resources. ODOT Cultural/Historic Resource Specialist will transmit the final DOE(s) to SHPO and will obtain the necessary concurrence documentation from SHPO.

3.3.2 Consultant Deliverables and Schedule

Consultant shall prepare and submit:

- Draft DOE(s) (in electronic WORD format) for each resource that is potentially eligible for the NRHP to APM and ODOT for review per Task 1 Project Design Schedule.
- Final DOE(s) (in electronic PDF format) for each resource that is potentially eligible for the NRHP to APM and ODOT 2 weeks following receipt of draft review comments.

3.3.3 Section 106 Finding of Effect (“FOE”) (CONTINGENCY TASK)

Following coordination with ODOT and Agency staff, Consultant shall prepare a FOE Report for each resource that is listed or has been determined eligible for the NRHP following the format provided by the ODOT (including coordination of public outreach). The FOE Report shall include a narrative assessment of the potential effects of the Project to the historic resource’s qualities that make it significant or eligible or listed. Consultant shall include in the FOE Report a discussion of the alternatives to avoid or minimize adverse effects. When requested by ODOT and Agency, Consultant shall coordinate with the Agency Project Designer or Project Team Leader to discuss available options to avoid or minimize adverse effects to listed or eligible historic resources. Consultant shall coordinate with ODOT to ensure that FHWA concurs with the proposed FOE on the resources prior to transmittal to SHPO. A Project Submittal Letter must be submitted with an FOE Report.

Consultant shall coordinate with ODOT and Agency to obtain FHWA concurrence with the proposed FOE on the resource(s), prior to submittal to SHPO.

Consultant shall prepare FOE using the most current ODOT form.

The FOE(s) must:

- Assess the Project’s effects on the historic resource including: physical destruction or damage; alteration or rehabilitation; removal; change of setting; introduction of visual, atmospheric or audible elements; neglect of a property; or transfer or sale of ownership; and
- Discuss alternatives to avoid or minimize adverse effects to the resource.

FOE(s) will be prepared for up to 2 resources. ODOT Historic Resource Specialist will transmit the final FOE(s) to SHPO and will obtain the necessary concurrence documentation from SHPO.

3.3.3 Consultant Deliverables and Schedule

Consultant shall prepare and submit:

- Draft FOE(s) (in electronic WORD format) for each effected resource that is listed or eligible for the NRHP to ODOT and APM for review per Task 1 Project Design Schedule.
- Final FOE(s) (in electronic WORD and PDF format) for each effected resource that is listed or eligible for the NRHP to ODOT and APM 2 weeks following receipt of draft review comments.

3.4 Hazardous Materials

This work is intended to identify potential sources of environmental contamination (hazardous waste, hazardous substances, toxic substances and other hazardous materials regulated under federal and State statutes and regulations/administrative rules) that could impact the Project

3.4.1 Hazardous Materials Corridor Assessment (RESERVED)

3.4.2 Surface and Subsurface Soil Samples (CONTINGENCY TASK)

Consultant shall collect surface soil samples within the limits of the project corridor for laboratory analysis. The results of those analyses will be compared with Oregon Department of Environmental Quality (DEQ) guidelines to determine if surface soil excavated for project construction can be handled and disposed as clean fill.

Consultant shall prepare a Shoulder Material Investigation Work Plan and Health and Safety Plan (HASP) describing how samples shall be collected. The Work Plan shall describe sample collection methods, sampling equipment, equipment decontamination, and handling and shipment of samples. The HASP shall be completed in accordance with 29 CFR 1910.120, OAR 437-02-100 et seq., and all other state and Federal worker health and safety regulations applicable for this Task. The HASP should reflect the sampling and characterization activities described in the Work Plan. The HASP should cover the activities

of all Consultant, sub-consultant, and Agency employees. The HASP should include a traffic control plan, if needed.

The Consultant shall obtain all required permits from the Agency (District 3) prior to initiating fieldwork activities. The District 3 contact person is:

Nick Bielenberg, Permits Specialist
Nick.Bielenberg@odot.state.or.us
Salem, OR 97301
503 986-2876

Consultant shall submit the draft Work Plan/HASP to the Agency for review and comment. No field work activities under this Task shall proceed until after the Consultant has received written authorization (e-mail) from the Agency.

Consultant shall collect surface soil samples from up to 14 locations. Samples will be collected from 2 locations for each approach guardrail (total of 4) and from 10 locations in the area of the off-site stormwater facilities. Consultant shall provide flagging and traffic control as needed to complete sample collection. The off-site stormwater facilities are planned to be up to ½ acre in size, a grid pattern will be created and 10 random locations within the grid pattern will be sampled. At each approach guardrail location, samples will be collected at 10 feet and 20 feet from edge of pavement, as specific site conditions allow. Soil samples shall be obtained from 0 to 0.5 feet, 0.5 to 1.0 feet, and 1 to 1.5 feet below ground surface. Consultant shall mark the proposed sample locations in white paint and obtain utility locates for all locations. Consultant shall provide flagging and traffic control as needed to complete sample collection. Sample locations must be backfilled with excavation spoils; there must be no investigation derived waste (IDW). Equipment decontamination water can be disposed on-site.

Consultant shall ship the discrete samples to a laboratory that is ORELAP accredited. The laboratory must be capable of composite the samples according to ODOT's October 2016 Sampling and Analysis Plan - Statewide Highway Shoulder Soil Evaluation, using Incremental Sampling Method (ISM) sample processing methods. The laboratory must be capable of generating analytical results where the detection limits for each analysis must be below the Clean Fill criteria set forth in Oregon Department of Environmental Quality's Clean Fill Determination Internal Management Directive document.

Samples shall be analyzed for contaminants of concern that include the following:

- Method 8270 SIM PAHs, and total metals according to Methods 6020 and 7471A.
- Total metals analyses will include arsenic, cadmium, chromium, copper, lead, and zinc.

Consultant shall submit discrete samples using the State chain of custody form, indicating the laboratory must bill Agency directly and requesting a turn-around time of 10 business days. Consultant shall be responsible for shipping samples under chain-of-custody procedures, such that the samples arrive at the laboratory undamaged. Agency will pay all shipping costs directly to the laboratory.

Consultant shall prepare a 5 to 7 page technical memorandum with attachments summarizing the results of this Task. The technical memorandum must include the following:

- Field observations, photographs, description of sampling methods, laboratory reports, and tables summarizing the analytical results.
- Tabulation of the laboratory results compared to DEQ's clean fill screening levels.

3.4.2 Consultant Deliverables and Schedule:

Consultant shall prepare and submit:

- Draft Shoulder Material Investigation Work Plan/HASP to the APM in electronic (MS Word format) in accordance with the approved schedule prepared in Task 1.
- Final Shoulder Material Investigation Work Plan/HASP to the APM in electronic (MS Word and PDF format) within 2 weeks of receiving Agency comments.
- Draft Technical Memorandum to the APM in electronic (PDF format) within 4 weeks following completion of sampling and testing of soils.
- Final Technical Memorandum to the APM in electronic (PDF format) within 2 weeks of receiving Agency comments.

3.4.3 Evaluation of GeoTechnical Boring Locations (RESERVED)

3.4.4 Geotechnical Drilling Support (RESERVED)

3.4.5 Shoulder Material Investigation (RESERVED)

3.4.6 Construction Material Survey Report

Consultant shall prepare a Construction Material Survey Report (CMSR) which summarizes results for an asbestos and lead (Pb) survey of the bridge structure. The asbestos survey must be performed by an asbestos inspector accredited under the Asbestos Hazards Emergency Response Act (AHERA) to perform building inspections. The asbestos survey must include:

- Compiling a homogeneous materials list.
- Collecting bulk samples of suspected asbestos-containing building or construction materials, and
- Sample analysis by polarized light microscopy (PLM) or DEQ accepted equivalent.

Consultant shall collect bulk samples in general accordance with AHERA protocols. Collection of bulk samples requires the removal of small quantities of building or construction materials. A total of ten (10) pavement core samples will be collected to evaluate the waterproof membrane for asbestos. Consultant shall apply a temporary patch that may not match the original finish.

The Pb survey must include:

- Collection of paint chip samples - one composite sample will be collected for each paint or structure type.
- Paint chip samples will be submitted to Pace National Laboratory for analysis by method 6010.

Consultant shall prepare a construction material survey report that includes field observations, analytical results, diagrams indicating sample locations, and estimates of the quantity of asbestos and lead containing materials and their locations.

3.4.6 Consultant Deliverables and Schedule:

Consultant shall prepare and submit:

- Draft Construction Material Survey Report to the APM in electronic (MS Word) format) in accordance with the approved schedule prepared in Task 1.
- Final Construction Material Survey Report to the APM in electronic (MS Word and PDF) format) within 2 weeks of receiving Agency comments.

3.4.7 Asbestos Abatement Specification (CONTINGENCY TASK)

Consultant shall prepare a Special Provision specification for abatement of asbestos-containing materials. The specification must be a performance-based document for use by Agency in demolition plans for the bridge rehabilitation and must conform with OAR 340-248, OAR 437 Division 3 and all other applicable State and Federal rules and regulations pertaining to asbestos inspection and

abatement. The specifications will not include instructions to bidders, contracts, or bonding requirements.

3.4.7 Consultant Deliverables and Schedule:

Consultant shall prepare and submit:

- Draft Asbestos Abatement Specification to the APM in electronic (MS Word) format within 10 days of receiving authorization to proceed from Agency.
- Final Asbestos Abatement Specification to the APM in electronic (MS Word) format within 1 week of receiving Agency comments.

3.5 Biological Resources Compliance and Permitting

Consultant shall complete the appropriate biological resources tasks presented below based on the Design Acceptance Plans. General biological work shall be executed by a qualified biologist who meets the following minimum qualifications: 3 full years of environmental analysis or resource Project management experience and a Bachelor's degree that included 30 quarter or 20 semester hours in biology, environmental science, natural science, or closely related field. An individual who makes determinations of effect under the ESA and prepares ESA documentation must also be an ESA qualified biologist as per ODOT Technical Services Bulletin GE14-03(B) or most current (http://www.oregon.gov/ODOT/Engineering/Doc_TechnicalGuidance/GE14-03b.pdf).

3.5.1 Endangered Species Act (ESA) No Effect Memorandum

When ODOT determines or approves Consultant's determination that a proposed action will not affect state or federal ESA listed or proposed species or critical habitat, a No Effects (NE) Memorandum is prepared to document compliance with the state and federal ESAs. The NE Memo must be completed by an ESA qualified biologist as described above.

Consultant shall:

- Use a qualified ESA biologist(s) to conduct one (1) field survey of the area of APE at the appropriate time for each ESA listed plant, fish and wildlife species with the potential to be present in the APE and their potential suitable habitats following standard/appropriate field survey techniques
- Conduct Oregon Department of Agriculture, Oregon Department of Fish and Wildlife (ODFW), National Marine Fisheries Service (NMFS), and U.S. Fish and Wildlife Service (USFWS) database searches to acquire ESA information for the Project area.
- Contact ODOT or Oregon Biodiversity Information Center (ORBIC) to obtain data regarding listed threatened and endangered species as well as those proposed for listing under the federal and state ESA that may occur within the APE. Consultant shall determine if Federally-listed species and their habitat will be affected by the Project.
- Make ESA effects determinations following the analysis of gathered ESA information. If a determination is No Effect for at least one listed or proposed species, obtain ODOT concurrence on the No Effects determination.
- Coordinate with Agency design staff, ODOT and APM to develop appropriate measures (i.e., construction special provisions) to avoid impacting listed species proposed for coverage in the NE Memo if avoidance measures are necessary to obtain the No Effect determination.
- Prepare draft NE Memo for the Project area using the most recent ODOT provided form; provide to APM for review and comment.
- Prepare final NE Memo for ODOT acceptance.
- Notify APM immediately if Consultant determines that an ESA determination of No Effect is no longer appropriate.

3.5.1 Consultant Deliverables and Schedule:

Consultant shall prepare and submit:

- One electronic .pdf copy of the Draft No Effect Memo to REC and APM for review per Task 1 Project Schedule.
- One electronic .pdf copy of the Final No Effect Memo to REC and APM within two (2) weeks following receipt of draft review comments.
- One electronic .pdf copy of the Draft construction special provisions relevant to NE determination to REC and APM for review per Task 1 Project Schedule.
- Final construction special provisions relevant to NE determination to REC and APM within two (2) weeks following receipt of draft review comments.

3.5.2 Federal-Aid Highway Program (FAHP) ESA Programmatic Documentation

Consultant shall coordinate and document compliance with the federal ESA for NMFS trust species and USFWS trust using the FAHP Programmatic. The FAHP ESA Programmatic is appropriate for most Projects with Federal-Aid funding. ESA documentation must be completed by a qualified biologist (as per Section B.3 of this SOW). All documentation for the Project design phase must follow procedures contained in the most recent version of the ODOT FAHP Programmatic User's Guide available on the ODOT Biology ESA website: (<http://www.oregon.gov/ODOT/GeoEnvironmental/Pages/ESA.aspx>).

FAHP ESA programmatic documentation must be completed by an ESA qualified biologist as described above. The project will not require mitigation or offsetting measures to meet FAHP criteria, with the exception of the off-site stormwater treatment.

Consultant shall:

- Facilitate early coordination with NMFS or USFWS according to Section 2.3 of the FAHP Programmatic User's Guide.
- Coordinate with the REC, APM and ODOT biologist to complete the FAHP Project Stakeholder list as shown in Table 4 of the FAHP Programmatic User's Guide.
- Utilizing the latest template available on the FAHP Programmatic website, prepare and submit the Project Initiation Form to the APM and ODOT Region Environmental Coordinator (REC) for the Project.
- Contact the Agency biologist via phone or email for site-specific information on ESA species including but not limited to background reports and ORBIC special status species lists.
- Contact via phone or email ODFW, NMFS or USFWS for additional site-specific information on ESA species.
- Review all ESA information provided or obtained.
- Facilitate and attend one (1) site visit with the Agency, ODOT and USFWS or NMFS to discuss Project impacts, applicable FAHP Programmatic standards, and possible modifications to the Project to meet FAHP Programmatic standards; Consultant shall prepare site visit meeting notes that include topics discussed and recommendations.
- Coordinate with NMFS to determine if NMFS has any fish passage concerns on the Project and obtain verification from NMFS on the average active channel width in instances where the active channel width is not readily determinable; facilitate communication between ODFW and NMFS to document agreement on fish passage requirements for the Project.
- Prepare and submit all required FAHP Programmatic forms to the REC for the Project, utilizing the latest templates available on the ODOT ESA website. In addition to the Stakeholder List and Initiation Form detailed above, the following forms are required as part of the FAHP Project Notification documents:
 - Notification Form
 - Additional Info
 - Additional Stormwater
 - Change Form

3.5.2 Consultant Deliverables and Schedule:

Consultant shall prepare and submit:

- Draft Site Visit Meeting Notes within one (1) week of the meeting to APM, and REC
- Final Site Visit Meeting Notes within one (1) week of receiving comments to APM, and REC
- Draft FAHP Programmatic Project Initiation Form within eight (8) weeks of Kickoff Meeting to APM, and REC
- Final FAHP Programmatic Project Initiation Form within one (1) week of receiving comments to APM, and REC
- Draft FAHP Programmatic Project Notification documents per Task 1 Project Design Schedule to APM, and REC
- Final FAHP Programmatic Project Notification documents two (2) weeks of receiving comment to APM, and REC

3.5.3 Scope to Determine if Project Must Address the Oregon Fish Passage Law (CONTINGENCY TASK)

If the Project area is within current or historic Native Migratory Fish (“NMF”) habitat and if a fish passage trigger identified in the law (OAR 635-412-0005(9) (d)) will occur, then the Project must address fish passage. Consultant shall determine whether the proposed Project must address the Oregon Fish Passage Law.

Consultant shall:

- Determine if proposed Project is within current or historic NMF habitat -
 - Consultant shall make use of existing information resources on NMF fish distribution and location of identified fish passage barriers (e.g., ODOT, Agency and ODFW GIS mapping, presence/absence databases and models).
 - Consultant shall contact ODOT biologist and ODFW district biologist for site specific and watershed information on the distribution of NMF and the presence of identified fish passage barriers to determine if NMF as defined in (OAR 635-412-0005(32)) are present or were historically present within the Project Area or upstream or downstream of the Project area.
- Determine and document if proposed Project will trigger the Oregon fish passage law -
 - Consultant shall review information provided by ODOT and Agency and or previous tasks, including baseline and background reports, Project purpose and need, and available design information.
 - Consultant shall evaluate the Project for all work below ordinary high water within a road crossing of a stream and, if applicable, in-channel work to determine if the fish passage law applies to the Project. Common triggers for fish passage law include culvert and bridge construction, removal, replacement or major repair, or in-channel work for scour protection or grade control.
 - Based on the above, Consultant shall determine if the Project will trigger the Oregon fish passage law and Consultant shall include all findings (including fish presence, historic fish presence, and fish passage triggers, as appropriate) in a Fish Passage Scoping Memo.

3.5.3 Consultant Deliverables and Schedule

Consultant shall prepare and submit:

- Draft Fish Passage Scoping Memo to ODOT and APM for review per Task 1 Project Design Schedule
- Final Fish Passage Scoping Memo to ODOT and APM within 2 weeks of receiving comments.

3.5.4 Fish Passage Scoping Field Visit (RESERVED)

3.5.5 Determine Appropriate Approach to Meet Fish Passage Requirements (RESERVED)

3.5.6 Fish Passage Exemption Application (RESERVED)

3.5.7 Fish Passage Waiver (RESERVED)

3.5.8 Fish Passage Plan (CONTINGENCY TASK)

Consultant shall prepare 1 Fish Passage Plan. Meeting fish passage criteria is required at the Project site when:

- There are current or were historic NMF present at the Project site.
- Oregon's fish passage law will be triggered (OARs 635-412-0005 to 625-412-0040).
- There is habitat for NMF upstream of the Project site and providing passage at the Project location would provide a significant or cost-effective benefit to NMF.
- The Project will not trigger the need for fish passage mitigation or a fish passage waiver.
- The Project will meet stream simulation or hydraulic fish passage criteria.

Consultant shall:

- Determine and document "Larger-Scale Crossing Design," "Hydraulic Design," or "Stream Simulation Design" fish passage criteria in the Fish Passage Plan.
- Prepare 1 draft fish passage plan in ODFW's form format and submit to Agency for review.
- Revise the draft plan and submit the final fish passage plan to Agency for approval of changes.
- Submit approved final fish passage plan to ODFW for review and concurrence.
- If ODFW requests changes to the plan, revise plan, get Agency's approval to changes, and resubmit plan to ODFW.
- Provide ODFW concurrence documentation to Agency.
- Incorporate fish passage requirements and ODFW concurrence documentation into permit documents and Project PS&E as applicable.

3.5.8 Consultant Deliverables and Schedule

Consultant shall prepare and submit:

- Draft Fish Passage Plan (1 electronic MS Word copy) to APM for review per Task 1 Project Design Schedule
- Final Fish Passage Plan (1 electronic PDF copy) to APM within 2 weeks of receiving comments.
- Agency approved Final Fish Passage Plan to ODFW at least 1 month prior to triggering even if the plan is straight forward; approved Final Fish Passage Plan to ODFW at least 3 months prior to the triggering action if it is a non-stream Fish Passage Plan or if the plan requires design exceptions.
- ODFW concurrence documentation to APM within 1 week of receiving concurrence from ODFW and include with permits as applicable.

3.5.9 Bird Protection (RESERVED)

3.6 Wetland and Water Resources

Consultant shall research and prepare documentation necessary to satisfy the requirements of Section 404 of the Clean Water Act and Oregon's Removal Fill Law (ORS 196.795-196.990).

3.6.1 Wetland/Waters of the U.S./State Fieldwork

Consultant shall complete a wetland field determination and ordinary high water mark "(OHWM)" demarcation for the Project Study Area ("PSA"). The PSA is the same area as the Project Area as previously defined in Task 3.

Consultant shall use available data (including but not limited to: soil surveys, aerial photos, National/Local Wetland Inventory maps (“NWI/LWI”)) as well as data gathered in the field to document the presence or absence of wetlands within the PSA.

Consultant shall:

- Determine wetland boundaries within the PSA in accordance with the criteria and methods described in the *1987 Corps of Engineers Wetland Delineation Manual (Environmental Laboratory Technical Report Y-87-1)* and appropriate Regional Supplements.
- Place flags in the field to show wetland and upland sample plot locations, and the wetland boundaries. Label and number the flags to identify their function.
- Prepare sketch maps of approximate wetland boundaries with numbering of flags or stakes.
- Ensure that field methods used and data collected meet the U.S. Army Corps of Engineers (“USACE”) and DSL technical requirements for wetland delineations and ordinary high water demarcations. Collect and record wetland delineation data on approved wetland determination data sheets for possible inclusion with a wetland delineation report.
- Place flags in the field to show the OHWM elevation of all jurisdictional surface waters. Assess the OHWM elevation using ODOT accepted field indicators. The two (2) year flood event elevation (calculated) may be used in the absence of field indicators.
- Prepare sketch map of approximate OHWM boundaries concurrently with the wetland and OHWM field work with sequential numbering of flags or stakes to be provided prior to site survey for Project base mapping.
- Consultant shall notify ODOT and Agency if wetlands are present and will be impacted.

If wetland(s) or waters(s) are impacted, field data collected during this task will be used for, and submitted with, the deliverables for Tasks 3.6.2 as applicable.

Upon completion of the wetland and waters determination field work, Consultant shall assess bullets 1 through 2 below and determine which numbered bullet is the most appropriate for the Project based on the results of the wetland and waters field work. Consultant shall contact ODOT and Agency for concurrence on which of the four numbered bullets below to proceed with. Upon email concurrence from ODOT and Agency, Consultant shall complete the deliverables described for the agreed upon numbered bullet below.

- 1) If **both wetlands and waters are not present**, or, they are present and it has been determined by the design team and concurred with by ODOT and Agency that **both the wetland(s) and water(s) will not be impacted by the Project**, Consultant shall prepare one (1) Wetland Determination Technical Memo. The memo must include:
 - Description of the PSA;
 - Summary of existing available information, noting the standard information that is not available (i.e., if no County soil survey coverage exists for the area, then it must be stated);
 - Field reconnaissance methods;
 - Results of field reconnaissance;
 - Data Sheets;
 - Color photographic record depicting on-the-ground conditions; and
 - Sketch mapping depicting locations of wetlands or waterways within the study area.
- 2) If wetlands are present and it has been determined by the design team and concurred with by ODOT and Agency that **the wetlands or waters will be impacted by the Project**, Consultant shall request that CONTINGENCY TASK 3.6.2 be released. No Determination Memorandum is required; Task 3.6.2 will address wetlands and waters boundaries. An amendment to this contract will be needed if a permit is required for wetlands or waters impacts.

3.6.1 Consultant Deliverables and Schedule:

Consultant shall prepare and submit:

- Sketch map of approximate wetland and waters boundaries to ODOT and APM (if present).
- Notification to ODOT and APM (via email) if wetlands are present and will be impacted.
- Electronic copy (Word) of the draft Wetland Determination Technical Memo to ODOT and APM for review
- Electronic copy (PDF) of the Final Wetland Determination Technical Memo to ODOT and APM two (2) weeks following receipt of draft review comments.

3.6.2 Wetland/Waters of the U.S./State Delineation Report (CONTINGENCY TASK)

Consultant shall prepare a Wetland/Waters of the U.S./Delineation Report (Wetland Delineation Report) in accordance with DSL and USACE requirements and standards. The Wetland Delineation Report must include all required information outlined in Oregon Administrative Rules (OAR) 141-090-035, as well as all wetland data sheets obtained in the field under Task 3.6.1. The wetland delineation report cannot be started until all on- and off-site project areas have been defined and work under Task 3.6.1 is complete.

Consultant shall prepare appropriate graphics required by USACE and DSL to accompany the Wetland Delineation Report. This shall include a site location map, tax lot map, National Wetland Inventory or Local Wetland Inventory map (if available), soil survey map, and aerial overlay map. Consultant's Wetland Delineation Report must also include wetland delineation boundary mapping (figures) as finalized by Consultant and as per the requirements of DSL, and a color photographic record depicting existing conditions.

Consultant shall also complete the appropriate DSL cover page for submitting the Wetland Delineation Report to for review and approval. Consultant shall attend one site visit with ODOT and Agency representatives if determined necessary by USACE or DSL, and shall respond to their comments.

Consultant shall submit the Wetland Delineation Report to DSL and USACE. Consultant shall be responsible for signing the wetland delineation report cover page. Agency will be responsible for payment of any associated fees. ODOT and Agency will review the draft Wetland Delineation Report and will provide comments to Consultant within two weeks of receipt of the draft. Consultant shall make appropriate modifications to the draft Wetland Delineation Report in response to the comments and shall prepare the final for submittal.

3.6.2 Consultant Deliverables and Schedule:

Consultant shall prepare and submit:

- Electronic copy (Word) of the Draft Wetland Delineation Report to ODOT and APM for review per the approved schedule developed in Task 1.
- Electronic copy (PDF) of the Final Wetland Delineation Report to ODOT and APM two weeks following receipt of draft review comments.
- Final Wetland Delineation Report to DSL and the USACE per the approved schedule developed in Task 1.

3.6.3 Wetland Functional Assessment Report (CONTINGENCY TASK)

Consultant shall prepare a Wetland Functional Assessment Report if wetland impacts are unavoidable. The report shall be submitted as a component of the Joint Permit Application to both USACE and DSL.

Consultant shall calculate wetland impact areas by wetland type, including permanent and temporary impacts, based on the wetland survey and Project design. If the impacted wetlands are classified under the Hydro geomorphic ("HGM") classification as tidal or riverine impounding wetlands, or are within the slopes/flats subclass, the assessment shall be conducted in accordance with the methodologies outlined in the appropriate guidebook for HGM-based assessments. All other wetlands will be assessed using the methodologies outlined in the Oregon Rapid Wetland Assessment Protocol

("ORWAP"). The Best Professional Judgment method ("BPJ") may be used if impacts to non-tidal wetlands do not exceed 0.2 acre.

Consultant shall prepare a standalone Functional Assessment Report that includes, at minimum, the following information:

- A description of the impacted wetlands, including the HGM and Cowardin classifications.
- A discussion of the proposed Assessment Unit for each wetland.
- A summary table depicting the results of the HGM or ORWAP assessment.
- A discussion of each assessed function, including rationale for the resulting scores.
- A wetland values assessment for each impacted wetland.
- A discussion of the anticipated functions and values impacts, and the appropriate means by which to mitigate for those impacts.
- A copy of all prepared data sheets for the HGM or ORWAP assessment.

ODOT and Agency will review the draft Wetland Functional Assessment Report and provide comments to Consultant within two weeks of receipt of the draft. Consultant shall make appropriate modifications to the draft report in response to the draft document comments.

3.6.3 Consultant Deliverables and Schedule

Consultant shall prepare and submit:

- Electronic copy (Word) of the draft Wetland Functional Assessment Report to ODOT and APM for review per the approved schedule developed in Task 1.
- Electronic copy (PDF) of the final Wetland Functional Assessment Report to ODOT and APM two weeks following receipt of draft review comments.

3.6.4 Stream Functional Assessment (CONTINGENCY TASK)

Consultant shall complete a Stream Functional Assessment if impacts to non-wetland waters are unavoidable. The assessment must be function-based per the current DSL requirements outlined in OAR 141-085-0765(3). This must include an assessment of the current hydrologic, geomorphic, biological, and chemical and nutrient functions and values provided by all on-site non-wetland waters that will be impacted. The assessment must be subjective and qualitative, and must include a discussion of the anticipated changes in stream function and value post-construction to determine if a net gain, net loss, or no net change in the assessed functions and values will occur as a result of the Project. The results of the assessment must be included in the Joint Permit Application document prepared under Task 3.7.1.

3.6.4 Consultant Deliverables and Schedule

Consultant shall prepare and submit:

- Electronic copy (Word) of the draft Stream Functional Assessment results with Task 3.7.1 to ODOT and APM for review per the schedule in Task 1.
- Electronic copy (PDF) of the final Stream Functional Assessment results to ODOT and APM 2 weeks following receipt of draft review comments.

3.7 Environmental Permits and Clearances

Consultant shall research and prepare state and federal permit applications required for the Project as described in the subtasks listed below.

3.7.1 USACE/DSL Joint Permit Application ("JPA") and DEQ Section 401 Certification (CONTINGENCY TASK)

Consultant shall prepare a complete JPA meeting all the applicable requirements of the most recent version of the Oregon Department of State Lands Removal-Fill Guide and USACE permit application standards. Consultant shall submit the JPA and Stormwater Management Plan to the Oregon Department of Environmental Quality (DEQ) to obtain Section 401 Water Quality Certification.

Agency will select the preferred design for the Project prior to the preparation of the JPA.

Consultant shall:

- Prepare JPA for a USACE Section 404 Nationwide Permit and a DSL to authorize work within the jurisdictional waters and any wetlands found in the Project area.
- Provide pre-submittal coordination with DEQ to inform them of the Project and verify requirements and documentation necessary to apply for Section 401 Water Quality Certification.
- Provide pre-submittal coordination with representatives of the USACE and DSL to confirm permitting requirements and application procedures. Conduct pre-submittal coordination by phone and email. No pre-submittal site visit will be required.
- Verify that features and impacts are correctly identified for the permit application.
- Prepare all JPA required drawings, maps, photographs, and site descriptions required by DSL or the USACE for inclusion in the JPA.
- Prepare narratives and descriptions on Project purpose and need and Project alternatives using Project development information provided by Agency as necessary to complete the JPA.
- Respond to questions or comments raised by the USACE and DSL following the submission of the JPA. This task may include correspondence and clarification of the JPA in the form of telephone calls, letters, or e-mails, to clarify regulatory Agency concerns and to facilitate the issuance of the USACE and DSL permits for this Project. No regulatory Agency site visit or in person meetings will be required.
- Submit the complete JPA package to the DSL and USACE on behalf of Agency.
- Submit to DEQ a copy of the complete Joint Permit Application, Stormwater Management Plan, and provide a transmittal letter to DEQ requesting Section 401 Water Quality Certification for the Project.

All required wetland and waters mitigation will be satisfied with Payment-to-Provide or purchase of mitigation bank credits. On-site or off-site compensatory wetland/waters mitigation coordination and planning will not be required.

Due to the varied nature of post-submittal coordination, it is expected that Consultant shall not expend more than 8 hours for office review and coordination time for post-submittal coordination with DSL, USACE, and DEQ. Consultant shall be responsible for obtaining Land Use Planning Signature on the JPA. Agency will be responsible for payment of any associated fees for DSL, USACE, and DEQ to review and approve the submittals.

3.7.1 Consultant Deliverables and Schedule

Consultant shall prepare and submit:

- Electronic copy of the Draft JPA Submittal Package to ODOT and APM for review per Task 1 Project Design Schedule.
- Electronic copy (PDF) of the Final JPA Submittal Package to ODOT and APM 2 weeks following receipt of draft review comments.
- Paper copy of the Final JPA Submittal Package to both the DSL and USACE 2 weeks following receipt of draft review comments.
- Paper copy of the Final JPA and Final Stormwater Management Plan to DEQ 2 weeks following receipt of draft review comments on the JPA.

TASK 4 - PUBLIC INVOLVEMENT SUPPORT

Consultant shall assist Agency with public involvement and outreach, as defined below, for the design phase of the Project through Final PS&E. Agency will have overall responsibility for the Project public involvement and outreach program.

4.1 Public Involvement Plan (RESERVED)

4.2 Public Involvement Meetings

Consultant shall attend up to 1 meeting, as listed below, to provide Project information and address specific questions and concerns related to the Project. Public outreach and coordination with emergency services in advance of construction will be necessary.

- Community open house
- Stakeholder meeting,

Agency shall document input received from the meetings and prepare written summaries.

Consultant shall prepare:

- up to one project fact sheet,
- up to one aerial graphic,
- project drawings

Agency will schedule, coordinate the location and advertise the meetings. For budgeting purposes, it is assumed that up to 2 Consultant staff shall attend each 2 hour public meeting.

4.2 Consultant Deliverables and Schedule:

Consultant shall:

- Provide electronic copy of each project information item prepared under Task 4.2 and a minimum of 10 hard copies of to be presented at each meeting.

4.3 Electronic Communication (RESERVED)

TASK 5 - UTILITIES

Consultant shall perform the coordination of all utility facilities within the Project limits in accordance with the Oregon Utility Relocation Manual (available at: <https://www.oregon.gov/ODOT/ROW/Pages/Utilities.aspx> under "Policies and Guidance").

If any utility is nonresponsive or uncooperative, Consultant shall notify Agency, and Agency will communicate with the utility to affect a solution.

5.1 Utility Location and Coordination

Consultant shall perform utility coordination and liaison activities with utility owners/operators for the Project. Consultant shall comply with the current version of the utility coordination policy requirements as described in the Oregon Utility Relocation Manual. This work includes reviewing utilities that may be in conflict with bridge project work and utility relocation coordination with the utility owners to resolve those potential conflicts. Additionally, Consultant shall obtain system mapping from utilities located within the Project limits. Consultant shall use this information to confirm the survey map as developed under Task 2, Surveying. Where potential conflicts exist, Consultant shall work with the utility owner to acquire their "pothole" information for verification of utility size and depth.

Consultant anticipates up to three franchise utilities might be impacted by this project.

5.1 Consultant Deliverables and Schedule:

Consultant shall provide:

- Existing utility information gathered in Task 5.1 to be included in the survey map / base map.
- Record of communications with each utility within the Project limits. Copies of communication record must be provided to APM within 3 days of request.

5.2 Utility Report (RESERVED)

5.3 Utility Coordination Meetings

To facilitate the development of each utility relocation plan, Consultant shall organize, conduct, prepare for and attend the following utility coordination meetings with utilities within the Project limits:

- Up to 2 individual meetings with potentially affected utilities.
- 1 on-site group utility meeting, to coordinate relocation plan, construction constraints, means and methods, work sequence and schedule limitations.

Consultant shall prepare a meeting agenda, and meeting minutes summarizing the discussions at the group meeting.

For budgeting purposes, it is assumed that up to 2 Consultant staff shall attend each 2-hour meeting, including travel time.

5.3 Consultant Deliverables and Schedule:

For each meeting Consultant shall provide to APM:

- Meeting Agenda and Meeting Minutes for each meeting; agenda due within 2 business days prior to meeting; meeting minutes due within 5 business days after meeting.

5.4 Utility Relocations

Consultant shall coordinate the efforts of the utility agencies in developing and executing a plan for relocating utilities to resolve conflicts with the Project design. As part of that effort, Consultant shall complete the following subtasks:

5.4.1 Utility Notices

For those utilities where no conflict is anticipated, Consultant shall provide a Project Notification [first notice per Oregon Administrative Rule (“OAR”) 734-055-045]. Consultant shall use the Project Notification letter template located at: <https://www.oregon.gov/ODOT/ROW/Pages/Utility-Forms.aspx> (under “Local Public Agency Resources” heading). The Project Notification letter must include plan sheets indicating location of existing utilities in relationship to proposed project.

For those Utilities where a conflict is anticipated, Consultant shall provide a Conflict Notice (first notice per OAR 734-055-045). Consultant shall use the Conflict Notice letter located at: <https://www.oregon.gov/ODOT/ROW/Pages/Utility-Forms.aspx> (under “Local Public Agency Resources” heading).

Consultant's coordination schedule must allow each utility a 30-day period to respond with a proposal from date of the notice. If additional facility conflicts become apparent, Consultant shall create and deliver multiple notices or revised notices to utility owner, and the utility owner's response time may be shortened to 7 calendar days.

5.4.1 Consultant Deliverables and Schedule:

Consultant shall provide:

- Project Notification letter(s) and Conflict Notice(s) with enclosures to Utilities; due within 10 business days after submittal of DAP plans to Agency.
- 1 *.pdf of Project Notification/ Utility Conflict letters with enclosures to APM and, State Utility Liaison (SUL).

5.4.2 (RESERVED)

5.4.3 Review Utility Relocation Plans and Relocation Time Requirement Letters

Consultant shall examine all received utility relocation plans for completeness and accuracy. If relocation plans do not resolve utility conflict, Consultant shall provide comments to utility for correction and re-submittal.

For those utilities that propose to attach to structures, Consultant shall provide guidance (e-mail acceptable) to the utility regarding Agency bridge accommodation policies and request protocol for bridge accommodation

Consultant shall obtain acceptance or rejection of the utilities request for bridge accommodation from APM.

Consultant shall negotiate with each utility a utility construction work schedule that conforms to the project construction schedule. Consultant shall deliver a Time Requirement Letter (second notice) to each utility owner accepting or modifying the required utility facility construction time.

5.4.3 Consultant Deliverables and Schedule:

Consultant shall provide:

- The final utility relocation plan(s) submitted to the APM within 10 days after acceptance.
- Time Requirement Letter(s) submitted to each utility, APM and SUL within 20 business days after submittal of Advance Plans to Agency.

5.5 Utility Reimbursement (RESERVED)

5.6 Utility Certification

Consultant shall complete and sign the Utility Certification (Form 734-5162) verifying that all utility work has been completed or that all necessary arrangements have been made for it to be undertaken and completed as required for proper coordination with the physical construction schedule.

If an exception is required, Consultant shall prepare, for the APM's signature, a Public Interest Finding as part of the Utility Certification including facts regarding the cause for the exception, an action plan and timetable in securing a utility agreement (a.k.a. Time Requirements letter).

5.6 Consultant Deliverables and Schedule:

Consultant shall provide:

- 1 .pdf copy of the Utility Certification sent to SUL for co-signature due 10 business days prior to PS&E.
- 1 .pdf copy of signed Utility Certification form to be incorporated into PS&E package.

5.7 Subsurface Utility Pothole Investigation (RESERVED)

TASK 6 - GEOTECHNICAL / PAVEMENT SERVICES (RESERVED)

TASK 7 - HYDRAULICS RELATED SERVICES

Consultant shall provide hydraulic related design services under this SOW for delivery of tasks and deliverables according to the agreed upon delivery schedule.

7.1 Hydraulic Site Investigation

The purpose of this subtask is to identify existing information and field conditions.

Consultant shall:

- Obtain the Flood Insurance Study ("FIS") report and if available the Flood Insurance Rate Map using the Federal Emergency Management Agency ("FEMA") web site.
- Review local floodplain ordinances to determine if there are any applicable to this water body.

- Determine if applicable stream gauge records exist, and obtain them, if possible.
- Locate and obtain existing topographic maps of the tributary drainage basin.
- Visit the bridge Project site to observe site conditions, physical properties, and collect data needed to perform a thorough hydraulic study.
- Evaluate the site and determine survey data requirements for hydraulic analysis, if required.
- Conduct a pebble count at two locations and collect 2 streambed sediment samples in the vicinity of the bridge for grain size analysis.
- Determine channel and floodplain hydraulic roughness values (document with photographs).
- Record observations with respect to the following:
 - Lateral channel stability.
 - Stream channel hydraulic roughness.
 - Aggradation or degradation of bed material.
 - Existing evidence of scour or erosion.
- Coordinate with Agency and review geotechnical report with regard to lateral stream stability and scour potential.
- Consultant shall research and obtain maps and data about rivers, creeks, and streams, springs or flowing water in or near the Project area from Agency, Federal, State and other governmental agencies. Consultant shall include items such as but not limited to: FEMA Flood maps, tide gage data and stream navigability per Division of State Lands designation.
- Coordinate with the Marion County Floodplain Administrator regarding the need for a hydraulic analysis to demonstrate that no-rise conditions are met by the project.
- Prepare a memorandum summarizing key information gathered, and provide written confirmation regarding the need for a hydraulic analysis to document that no-rise requirements are met by the project.

7.1 Consultant Deliverables and Schedule:

Consultant shall provide a Hydraulic Site Investigation Memorandum in PDF file format to APM, due prior to the Draft Design Acceptance Package.

7.2 Hydrologic Analysis (RESERVED)

7.3 Hydraulic Analysis (RESERVED)

7.4 Hydraulics Report (RESERVED)

7.5 Stormwater Management Design

The purpose of this subtask is to design stormwater systems for the conveyance and treatment of drainage in the Project. Stormwater quantity management is not anticipated to be required as the impervious footprint of the Project is expected to be unchanged as a result of the work. Stormwater quality treatment is anticipated to occur at an off-site facility.

Stormwater Conveyance

The purpose of this subtask is to provide design of stormwater conveyance facilities that collect and carry highway runoff in conformance with: 1) ODOT's Federal Aid Highway Program Programmatic Biological Opinion and 2) any Agency requirements that are stricter than the Federal standards.

Consultant shall:

- Determine the locations of flow entering and leaving the Project right-of-way (R/W).
- Review existing conditions downstream of locations where flow is leaving the Project R/W for deficiencies and document observations.
- Delineate on-site drainage basins, calculate peak flow rates for design, determine type and spacing of inlets, as well as the typical shape and dimensions for the conveyance system to check that proper freeboard design and gutter spread requirements are being met.

Stormwater Quality Design

The purpose of this subtask is to provide design of stormwater management facilities that provide water quality treatment of highway runoff per Agency standards or Federal Aid Highway Program Programmatic Biological Opinion, whichever standard is most strict.

Consultant shall:

- Define Contributing Impervious area.
- Identify potential off-site locations where stormwater facilities could be constructed within the existing R/W.
- Complete preliminary screening of up to two off-site locations and provided a recommendation concerning the most suitable location(s). Up to two off-site facilities may be required to provide the required off-setting treatment.
- Present the findings of the off-site treatment evaluation and screening in a concept review meeting specified in Task 1.3.3.
- Identify treatment Best Management Practice (“BMP”) types applicable for the site(s).
- Estimate facility size, type and space needs at each of the potential locations.
- Evaluate constraints to siting a stormwater facility (i.e.-drainage area, adjacent grades, roadway safety, presence of existing utilities, protected resource areas, etc.)
- Develop a stormwater management strategy that combines potential stormwater facilities into a comprehensive solution for meeting the needs of the Project.
- Compare alternative stormwater management strategies and recommend a preferred strategy.
- Provide design recommendations with supporting calculations for the final stormwater quality facility

7.5 Consultant Deliverables and Schedule:

- Consultant shall incorporate information from this task into deliverables for Task 7.6

7.6 Stormwater Design Report

The purpose of this subtask is to summarize the findings of the stormwater related services and document the design recommendations.

- Consultant shall prepare a draft version of the Project Stormwater Design Report per ODOT Hydraulics Manual guidelines containing preliminary stormwater facility design recommendations.
- Consultant shall prepare a final Stormwater Design Report to reflect Agency review comments on stormwater facility design recommendations, changes to stormwater facility design due to advancement of the overall Project design, and supporting documentation of the final stormwater facility design.

7.6 Consultant Deliverables and Schedule:

Consultant shall prepare and submit:

- Draft Stormwater Design Report by email in .pdf format, along with a MS Word file containing the report narrative due with the DAP.
- Final Stormwater Design Report, in .pdf format, due with the Final Plans.

7.7 Stormwater Operation and Maintenance (O&M) Manual (RESERVED)

7.8 Temporary Water Management Design

The purpose of this task is to prepare temporary water management design recommendations, special provisions, and plan for inclusion in the construction documents.

Consultant shall:

- Identify the construction activities requiring temporary water management
- Determine the timeframe for which each temporary water management effort will need to be in place (often the in-water work period)

- Summarize the requirements for temporary water management due to the chosen environmental permitting method
- Prepare a plan and special provisions for flow and sediment control of surface water and groundwater seepage during construction activities based on site conditions.

7.8 Consultant Deliverables and Schedule:

- Information from this task shall be incorporated into report deliverables for Task 7.6, and Technical Specifications and Plan Sheet deliverables for Advanced Plans Task 15.2.

7.9 Floodplain Impact Analysis

Projects requiring work in a mapped Special Flood Hazard Area (100-year floodplain) are usually required to demonstrate compliance with the local floodplain development requirements. When a project requires work in a mapped floodway and cannot achieve a No-Rise condition, then FEMA’s Letter of Map Revision process must be followed in order to remain in compliance with the National Flood Insurance Program. The purpose of this task is to evaluate and prepare documentation commensurate with the level of Project impacts on the 100-year water surface elevation.

Floodplain Development Permit Application

Grading work or a structure proposed as part of this Project will be located within a mapped Special Flood Hazard Area and is subject to Agency’s Floodplain Development requirements.

Consultant shall complete supporting information, prepare a No-Rise Analysis Memorandum, prepare a Floodplain Development Permit application, and submit to Agency.

Application and application Fees will be paid for and sent by Agency.

7.9 Consultant Deliverables and Schedule:

Consultant shall provide:

- No-Rise Analysis Memorandum in PDF file format due with Advanced Plans.
- Floodplain Development Permit Application for Agency in PDF file format, due with Advanced Plans.

TASK 8 - TRAFFIC ENGINEERING & MANAGEMENT

Consultant shall provide traffic analysis and design Services under this SOW for delivery of Tasks and Deliverables according to the agreed upon delivery schedule.

8.1 Traffic Analysis (RESERVED)

8.2 Traffic Signal Design (RESERVED)

8.3 Traffic Signal Interconnect (RESERVED)

8.4 Permanent Signing and Pavement Markings

Consultant shall prepare plans, specifications, and construction cost estimates for the permanent signing and pavement markings associated with the proposed improvements. The design must be completed in accordance with applicable MUTCD, ODOT, and Agency standards.

8.4 Consultant Deliverables and Schedule

Consultant shall provide:

- 30% Permanent Signing and Pavement Marking plans and cost estimate included in DAP (Task 13)
- Advance Permanent Signing and Pavement Marking plans, special provisions, and cost estimate included in Advance PS&E submittal (Task 15.2)

- Final Permanent Signing and Pavement Marking plans, special provisions, and cost estimate included in Final PS&E Package submittal (Task 15.3)

8.5 Permanent Pavement Markings (RESERVED)

8.6 Illumination Design (RESERVED)

8.7 Traffic Management Plan (RESERVED)

8.8 Traffic Control Plans (“TCPs”)

Consultant shall prepare and submit PS&E for temporary traffic control to accommodate the public during construction of the bridge repairs and the two off-site stormwater treatment facilities. Consultant shall develop plans and specifications to accommodate vehicle, bicycle and pedestrian traffic during construction. ODOT or Agency standard plans must be referenced where possible.

Consultant’s TCPs must indicate such elements as traffic control roadway closure details, work zone limits, transitions, traffic control devices, signage, detours, and work zone details for vehicles, bicycles and pedestrians. ODOT Standard Drawings will be used for traffic control plans for off-site stormwater treatment facilities.

Consultant shall prepare a Temporary Pedestrian Accessible Route Plan (“TPARP”) as part of the TCPs. The TPARP must include pedestrian accommodations that are equal to or better than the route that was there before construction.

TCPs must meet MUTCD, ODOT, and Agency requirements.

8.8 Consultant Deliverables and Schedule:

Consultant shall provide:

- 30% TCPs and cost estimate included in DAP (Task 13)
- Advance TCPs, special provisions, and cost estimate included in Advance PS&E submittal (Task 15.2)
- Final TCPs, special provisions, and cost estimate included in Final PS&E Package submittal (Task 15.3)

TASK 9 - RAILROAD COORDINATION AND SUPPORT (RESERVED)

TASK 10 - ROADWAY DESIGN

Consultant shall provide roadway design Services under this SOW for delivery of tasks and deliverables according to the agreed upon delivery schedule.

10.1 Design Criteria (RESERVED)

10.2 Concept Plans

Consultant shall develop a roadway concept plan, for each end of the bridge, to accommodate the installation of approach guardrails and bridge rail to guardrail transitions.

Consultant shall develop the plan to a concept level design sufficient to establish construction limits, quantities, major construction activities and needed right-of-way acquisition (if required). The plan must have horizontal and vertical alignment developed that meets minimum design standards. Geometric design elements that do not meet design standards must be identified as needing a design exception.

Consultant shall prepare a construction cost estimate for the plan that includes the major construction items and quantities that can be identified at this level of design detail.

10.2 Consultant Deliverables and Schedule:

Consultant shall provide:

- Roadway concept plans to APM electronically (PDF format) in accordance with the approved schedule developed in Task 1.
- Construction cost estimate for concept plans to APM electronically (Excel format) submitted with the concept plans

10.3 Roadway Design Exceptions (CONTINGENCY TASK)

Consultant shall prepare up to 2 Roadway Design Exception Request(s) using Agency’s forms. Consultant shall address review comments and incorporate feedback into the final design exception requests. Consultant APM will submit the final design exception requests to APM who will obtain necessary approvals.

10.3 Consultant Deliverables and Schedule:

Consultant shall provide:

- Draft design exceptions submitted as part of Task 15.1
- Final design exceptions submitted within 2 weeks of receipt of comments from Agency and LPA.

10.4 Preliminary Roadway Design (RESERVED)

10.5 Advance Roadway Design

Consultant shall incorporate all comments received from the Agency and ODOT during Concept plans review and prepare 90% advance roadway plans to be included in the construction bid package. Consultant shall reference ODOT standard drawings, details, and other related drawings.

Consultant shall prepare/update roadway technical special provisions and construction cost estimate as specified in Task 15.2.

10.5 Consultant Deliverables and Schedule:

Consultant shall provide:

- Advance roadway PS&E documents as part of Task 15.2

10.6 Final Roadway Design

Consultant shall incorporate all comments received from the Agency and ODOT during advance plans review and prepare final roadway plans to be included in the construction bid package.

Consultant shall finalize roadway technical special provisions and construction cost estimate as specified in Task 15.3.

10.6 Consultant Deliverables and Schedule:

Consultant shall provide final roadway PS&E documents, as indicated in the table below, submitted to the APM as part of Task 15.3

Drawing Title	Scale
Title Sheet	NTS
Index	NTS
Typical Sections	NTS
Details 2 of 2	Varies
Temporary protection and direction of traffic (including bicycle and pedestrian traffic) 3 of 3	1"=100'
Alignment Summary and Survey Control 2 of 2	1"=100'
General Construction and Erosion Control 2 of 2	1"=40'

TASK 11 BRIDGE REHABILITATION DESIGN

Consultant shall perform preliminary structural analysis and design. Consultant shall base the general design upon AASHTO LRFD Bridge Design Specifications. Consultant shall address other design requirements and costs conforming to AASHTO, ODOT, and Agency standards.

11.1 Bridge Type, Size and Location (TS&L)

Consultant shall perform an alternatives analysis to determine rehabilitation options for the new bridge. Consultant shall evaluate up to two decking, rail and pile repair or replacement alternatives to develop a recommended rehabilitation approach. Consultant shall prepare concept level (15%) construction cost estimates of each alternative to be used in the evaluation. Consultant shall develop a recommendation for the structure rehabilitation by using evaluation criteria such as cost, stage construction, speed of construction, and durability.

Consultant shall present the alternatives considered, along with concept level construction cost estimates, to the Agency at a concept review meeting specified in Task 1.3.3 prior to preparing the Bridge TS&L narrative. Plan sheets will not be prepared for the concept review meeting.

Consultant shall address the following in the Bridge TS&L narrative:

- Recommendation for the preferred rehabilitation approach
- Summary of existing conditions of the Bridge
- Outline of site-specific constraints, including but not limited to; topography, geology, hydraulic, environmental constraints and requirements, permits, R/W, utilities, and cost

Consultant shall prepare up to 3 bridge plan sheets.

Consultant shall prepare cost estimates for the alternatives considered.

Consultant shall incorporate comments received on draft Bridge TS&L into the DAP submittal.

11.1 Consultant Deliverables and Schedule:

Consultant shall provide:

- Draft Bridge TS&L for all alternatives considered including narrative, plan sheets and cost estimates to APM in accordance to the schedule of Task 1.
- Incorporate final Bridge TS&L for the recommended alternative including narrative, plan sheets and cost estimate into the DAP submittal delivered under Task 13.

11.2 Preliminary Bridge Rehabilitation Design (RESERVED)

11.3 Bridge Design Exceptions (CONTINGENCY TASK)

Consultant shall prepare up to 2 Bridge Design Exception or Design Deviation Request(s) using Agency's forms. Consultant shall address review comments and incorporate feedback into the final design exception or design deviation requests. Consultant APM will submit the final design exception or design deviation requests to APM who will obtain necessary approvals.

11.3 Consultant Deliverables and Schedule:

Consultant shall provide:

- Draft design exceptions or deviations submitted as part of Task 15.1
- Final design exceptions or deviations submitted within 2 weeks of receipt of comments from Agency and ODOT.

11.4 Advance Bridge Rehabilitation Design

Consultant shall incorporate all comments received from the Agency and ODOT during DAP plans review and prepare 90% advance bridge plans. Consultant shall reference ODOT standard drawings, details, and other related drawings.

Consultant shall prepare/update bridge technical special provisions and construction cost estimate as specified in Task 15.2.

Consultant shall complete Class I design check of the Advance PS&E according to the ODOT Bridge Design Manual (BDM).

11.4 Consultant Deliverables and Schedule:

Consultant shall provide:

- Advance bridge PS&E documents as part of Task 15.2
- Class I design check in quality assurance and calculation book as part of Task 15.2.

11.5 Final Bridge Rehabilitation Design

Consultant shall incorporate all comments received from the Agency and ODOT during advance plans review and prepare final bridge plans to be included in the construction bid package.

Consultant shall finalize bridge technical special provisions and construction cost estimate as specified in Task 15.3.

Consultant shall complete a Class I design check of the Final Plans, Special Provisions and estimate according to the BDM.

11.5 Consultant Deliverables and Schedule:

Consultant shall provide final bridge PS&E documents, as indicated in the table below, submitted to APM as part of Task 15.3

Drawing Title	Scale
Plan and Elevation	1" = 20'
General Notes	Varies
Foundation Plan	1" = 20'
Deck Plan	Varies
Deck Section	Varies
Rail Details	Varies
Diaphragm Beam Detail	Varies
Bent Plan and Elevation	1" = 20'
Bent Details	Varies
Pile Details	Varies

TASK 12 - PERMITS

12.1 Permit Research

Consultant shall evaluate permit requirements for the Project. Consultant's evaluation shall include permit requirements from applicable federal, state, and local public agencies with jurisdiction for the Project.

Based on Project information and available state and local zoning and land use information, Consultant shall determine the required federal, state, and local land use, building, environmental, and transportation permits and processes applicable to the Project. The proposed construction activities for the Project are anticipated to

occur within, but not limited to, the jurisdiction of the following permitting agencies): Marion County, USACE, DSL, DEQ, and NMFS.

Consultant shall prepare a technical memorandum detailing permits required, public agencies and the staff contacted, and the cited respective code sections that require them. Consultant's permitting technical memorandum must outline the procedure for obtaining these permits and approximate timeframes associated with them. Consultant's permitting technical memorandum must include specific conditions listed in those code sections which may apply to the Project. Consultant shall contact by phone or email applicable permitting agencies, APM, or planning staff members to verify the required permits, processes, standards, and criteria. Consultant shall perform 1 set of revisions, if needed, after receiving Agency comments on draft Permitting Technical Memorandum.

12.1 Consultant Deliverables and Schedule:

Consultant shall provide:

- Draft Permitting Technical Memorandum submitted electronically, due with DAP Task 13 per Task 1 Project Schedule.
- Final Permitting Technical Memorandum submitted electronically, due 10 business days after receiving Agency comments on draft Permitting Technical Memorandum.

12.2 Permit Acquisition (RESERVED)

TASK 13 - DESIGN ACCEPTANCE PACKAGE (DAP)

The objective of the DAP is to identify the size of the Project footprint, required design exceptions, right of way (R/W) impacts, and any required environmental permits prior to preparing the Advance and Final Plans. Consultant shall incorporate comments received on draft Bridge TS&L into the DAP submittal.

Consultant shall prepare a DAP that includes design plans (30%), a construction cost estimate and a design narrative that addresses the following:

- Description of the purpose, need, and design solution for the Project;
- Summary of existing conditions, (i.e., Project location, roadway classification, lanes, average daily traffic (ADT), posted speed, and other design standards pertinent to the Project);
- Summary of design exceptions that will be necessary;
- Summary of roadway alignment and typical section alternatives considered, including recommendations;
- Summary of structure type, size and location (TS&L) alternatives considered, including recommendations;
- Outline of Project constraints such as topography, environmental, permits, R/W, utilities and cost (NOTE: these may be executive summaries prepared by Consultant for other deliverables associated with this Project);
- Environmental impacts and mitigation measures;
- Environmental permitting requirements;
- Utility conflicts;
- Draft Hydraulics Report;
- Description of drainage features;
- Local permit needs;
- Construction staging, temporary detours, and temporary protection and direction of traffic during construction;
- Description of impact to freight mobility
- Design acceptance checklist
- Traffic Control Management including Temporary Pedestrian Access Route (TPAR)

Consultant shall prepare DAP plan sheets in 11x17 full size sheets according to the following table of sheets:

Note: The quantities of plan sheets listed below are estimates only. Consultant shall prepare all plan sheets necessary for a complete DAP package.

Name of Sheet	Scale	Estimated # of Sheets
Title sheet	NTS	1
Sheet Index, Standard Drawings and Drawing Legend	N/A	1
Alignment Summary and Survey Control	1" = 100'	1
Roadway Typical sections	1" = 10'	1
Details	Varies	2
Temporary protection and direction of traffic (including bicycle and pedestrian traffic)	Varies	3
General Construction	1" = 40'	2
Roadway profiles	1"=40' H 1"=10'V	2
Drainage/stormwater plan/profiles	1"=40' H 1"=10'V	2
Erosion control	1" = 40'	2
Drainage details	Varies	2
Bridge plans	Varies	3
Sign and striping plans	1" = 40'	3
Planting	Varies	1

Consultant shall summarize and reference in the DAP all of the reports and technical memoranda pertinent to the Project. Consultant shall prepare and submit design plans and a cost estimate as appendices to the DAP. Drawings submitted with the DAP must be marked as "Design Acceptance Plans for Review." Both the DAP and the design plans must bear the responsible engineer's seal. Consultant shall prepare the Title sheet in accordance with Agency and FHWA standards and provide an index to the drawing set.

Agency and ODOT Bridge Section will provide comments on the DAP. Consultant shall address Agency and ODOT comments. Consultant shall attend a DAP Plan Review Meeting to communicate and discuss resolution to review comments. Consultant shall provide written responses to address review comments received from Agency and ODOT after attending the DAP Plan Review Meeting. DAP Plan Review Meeting will be considered one of the PDT meetings as part of Task 1.3.2.

Consultant shall incorporate comments received on Draft DAP into Final DAP submittal.

13 Consultant Deliverables and Schedule:

Consultant shall provide:

- 1 electronic copy of Draft DAP in PDF format to APM within in accordance with the approved schedule developed in Task 1.
- 1 electronic copy of written responses to Draft DAP review comments to APM within 1 week of the DAP Plan Review Meeting.
- 1 electronic copy of Final DAP in PDF format to APM within in accordance with the approved schedule developed in Task 1.

TASK 14 - RIGHT OF WAY (RESERVED)

TASK 15 - PLANS, SPECIFICATIONS, AND ESTIMATE (PS&E)

Consultants shall prepare plan sheets according to the following table:

Name of Sheet	Scale	Estimated # of Sheets	60% PS&E Submittal	Advanced Submittal	Final Submittal
Title sheet	NTS	1		X	X
Sheet Index, Standard Drawings and Drawing Legend	NTS	1		X	X
Alignment Summary and Survey Control	1" = 100'	1		X	X
Typical sections	1" = 10'	1		X	X
Details	Varies	2		X	X
Temporary protection and direction of traffic and Temporary Pedestrian Accessible Route (TPAR)	Varies	3		X	X
Roadway plan/profile	1"=40'H, 1"=10'V	2		X	X
Drainage plan/profiles	1"=40'H, 1"=10'V	2		X	X
Drainage details	Varies	2		X	X
Pipe data sheet	NTS	1		X	X
Temporary water management sheets	1" = 40'	2		X	X
Bridge plans	Varies	10		X	X
Sign and striping plans	1" = 40'	2		X	X
Planting	Varies	1		X	X

15.1 Preliminary PS&E (60%) (RESERVED)

15.2 Advance PS&E (90%)

This task includes preparation of advance plans, Special Provisions, construction cost estimate, risk assessment, and quality control reviews, as well as incorporating comments from previous reviews.

Advance Plans:

Consultant shall prepare drawings, per Table 15 above and reference Agency standard drawings and details, and other related drawings.

Advance Special Provisions:

Consultant shall update Project Special Provisions based on changes and clarifications to the Project design, as determined at Preliminary plans and in accordance with 2021 *Oregon Standard Specifications for Construction as amended* and ODOT *Specification and Writing Style Manual*. Consultant shall prepare the Special Provisions to the 90% level (the "Advance Special Provisions") in MS Word utilizing "Track Changes".

The Advance Special Provisions must incorporate ODOT's boilerplate Special Provisions, as approved by the Agency, corresponding with the Project Bid Date. If a bid date has not been identified, Consultant shall use the

most current boilerplate Special Provisions. Boilerplates, by bid date, can be found at the following website: <https://www.oregon.gov/odot/Business/Pages/Special-Provisions.aspx>

Consultant shall obtain concurrence from the Agency or ODOT for any unique special provisions or changes made to the boilerplate special provisions, beyond fill-in-the-blank changes. Consultant shall document the changes made to the Special Provisions and Agency concurrence.

Consultant shall submit the ODOT Civil Rights Request for Goals Worksheet to ODOT's Office of Civil Rights within 3 months of advertisement and incorporate the appropriate Disadvantaged Business Enterprise ("DBE") goals and On the Job Training (OJT) hours into the Project Special Provisions;

Advance Cost Estimate:

Consultant shall update the construction cost estimate quantities and unit costs utilizing ODOT's standard bid items to support the Advance Plans (the "Advance Cost Estimate"). Consultant shall prepare the estimate to include mobilization, contingencies, and construction engineering. The estimate must be based on unit prices utilizing Agency, ODOT, and Consultant historic bid information and anticipating a 2024 bid letting. Consultant shall prepare the final cost estimate using excel or Agency required software.

Construction Schedule:

Consultant shall prepare a construction schedule, using the Critical Path Method (MS Project and PDF format) that outlines a reasonable Project construction sequence and time frames. The schedule must include anticipated material lead times, Project milestones and anticipated construction phasing and staging.

Advance PS&E Revisions/Corrections:

The APM will submit a single electronic file of Advance PS&E Comment Log review comments to Consultant.

Consultant shall address comments received and communicate with the APM the proposed resolution to the comments. Consultant shall provide written response to address review comments received from the APM and ODOT on the Advance PS&E.

15.2 Consultant Deliverables and Schedule:

Consultant shall submit the following to the APM within 16 weeks of the APM's written approval (e-mail acceptable) of the Consultant's written responses to DAP review comments (Task 13):

- Advance Plans (PDF)
- Advance Special Provisions in electronic format (MS Word, utilizing "Track Changes")
- Advance Construction Cost Estimate in electronic format (Excel and PDF)
- Construction schedule in electronic format (MS Project format and PDF)
- Comment response log for plans and specifications (In an Excel document)
- Civil Rights request for goals worksheet

Consultant shall submit Advance PS&E Review Comment Log with initial responses to the APM within 2 weeks of receipt of comments.

15.3 Final PS&E Package (100%)

This task includes preparation of the Final PS&E package for bidding purposes. The final plans, Special Provisions, and construction cost estimate must incorporate all revisions agreed to and documented on the Advance PS&E Comment Log (Task 15.2).

Consultant shall coordinate with the APM to ensure all deliverables listed on the most current version of the Certified Local Public Agency PS&E Submittal Completeness Checklist will be satisfied. Refer to the latest version of the CLPA PS&E checklist (Form #734-5182) at:

<https://www.oregon.gov/odot/LocalGov/Pages/Forms-Apps.aspx>

Agency will review final plan sheets and note any final revisions needed prior to preparation and submittal of Professional of Record (POR)-signed Final Plans within 2 weeks of receipt of documents from Consultant. Consultant shall incorporate final revisions into POR-signed Final Plans.

Upon request from Agency, Consultant shall resolve comments from the Agency.

15.3 Consultant Deliverables and Schedule:

Consultant shall submit the following, 4 weeks prior to the PS&E Due Date to the Agency:

Description	File Format
Un-signed Final Design Plans (11 x 17)	PDF
Project Special Provisions	Word & PDF
POR Certification with all Special Provisions sections stamped	PDF
Signed Special Provision Integrity Certification	PDF
Special Provision Summary Form	Excel
Email from Civil Rights noting Applicable DBE goals and OJT hours	PDF
Cost Estimate (Agency Format)	PDF, Excel
CPM Construction Schedule (11 x 17 in color)	PDF, MS Project
Project Mobility Considerations Checklist	PDF
NEPA Approval Documentation (delivered under Task 3)	PDF
Utilities Certification (delivered under Task 5)	PDF

Consultant shall submit the following to APM, no later than 1 week prior to the PS&E Due Date:

- POR-signed Final Plans in PDF format
- POR-signed Final Plans printed on 11 x 17 paper, 2 copies
- POR-signed Final Plans in PDF format
- Final Special Provisions in electronic format (MS Word and PDF format)
- Final Construction Cost Estimate in electronic format (Excel and PDF)
- Final Construction Schedule in electronic format (MS Project format and PDF)

15.4 Letter of Public Interest Findings (LPIF) and Exemption Orders (EO) (CONTINGENCY TASK)

Consultant shall prepare up to 2 Public Interest Finding Letter(s) /Exemption Order(s). Consultant shall perform due diligence to determine if the items to be specified in the Public Interest Finding Letter or Exemption Order meet the requirements of the 'Buy America' clause. Consultant shall follow latest Guidance and templates located at:

<https://www.oregon.gov/odot/LocalGov/Pages/lag-manual.aspx> or provided by Agency.

APM will route the draft letter for Agency review and provide the Consultant with review comments.

Consultant shall prepare the final Public Interest Finding Letter or Exemption Order and submit to APM.

15.4 Consultant Deliverables and Schedule:

Consultant shall provide:

- Electronic copies (Word format) of up to 2 draft LPIFs/EOs with the DAP Plans.
- Electronic copies of up to 2 final LPIFs/EOs (one pdf file with the engineer's signature and stamp, one original copy for signatures) with the Advance Plan submittal (Task 15.2).

TASK 16 ADVERTISE AND AWARD ASSISTANCE

This task includes the preparation of addenda, as needed, and responding to questions during the Advertisement or Ad phase of the project. Consultant shall respond to questions from Agency and prospective bidders about the plans and specifications during the advertisement for bids and award process.

Consultant is the Agency's point of contact for Project information during the solicitation (Advertisement) phase of the Project. Consultant is also the subject matter expert for constructability issues.

The PM may not discuss possible or probable changes to the Project unless the changes have been formalized by issuance of an Addendum. Consultant shall alert the APM if the potential response to a Bidder's question conflicts with the Bid Documents, and then an Addendum will be issued by Agency if determined appropriate in Agency's discretion.

Consultant shall prepare all required Contract addenda. Consultant shall submit the addenda to APM for review, acceptance and distribution to prospective bidders.

16.1 Questions During Advertisement

Consultant's Project Manager, or Consultant's designee(s) approved by Agency, shall assist Agency with questions regarding the bid documents and bid process. Consultant shall respond to all questions in writing within 4 calendar days to APM.

Consultant shall, during the bidding process, assist the Agency with the communications with prospective bidders and suppliers in a manner that assures that no prospective bidder or supplier is provided with information not in the bidding documents and that could provide a bidding advantage or disadvantage. Consultant shall prepare a written log to document conversations and questions asked by prospective bidders or suppliers and the answers provided to the Agency. Consultant shall maintain the written log in the Project file and provide upon request of the APM.

16.1 Consultant Deliverables and Schedule

Consultant shall provide:

- Written log of conversations, questions and answers. Provided to APM upon request and no later than 5 calendar days prior to bid closing date.

16.2 Addenda to the Bid Documents (CONTINGENCY TASK)

This task identifies specific deliverables that the Agency at its discretion may elect to authorize Consultant to produce. Consultant shall only complete this Task 16.2 and the identified deliverables if written (email acceptable) NTP is issued by the Agency.

Consultant shall prepare up to 2 bid addenda to provide interpretation of construction documents.

If Agency chooses to authorize this work, Consultant shall submit Addendum documents within 5 calendar days from NTP unless a different timeframe is agreed to and stated in the NTP (prior to expiration of contract).

Consultant shall prepare and deliver to Agency the addenda text in a Microsoft Word file. Consultant shall prepare and deliver to Agency stamped drawings in a PDF file format. Consultant shall coordinate reviews of addenda by APM prior to submittal. Consultant shall not be responsible for distributing addenda to bidders. Agency will issue and distribute all addenda.

16.2 Consultant Deliverables and Schedule:

Consultant shall provide:

- Bid document addenda; stamped PDF drawings; or special provision revisions

16.3 Pre-Bid Meeting (RESERVED)

16.4 Bid Analysis Assistance (RESERVED)

F. CONTINGENCY TASKS

The table below is a summary of contingency tasks that Agency, at its discretion, may authorize Consultant to perform. Details of the contingency tasks and associated deliverables are stated in the Task section of the Statement of Work. Consultant shall complete only the specific contingency task(s) identified and authorized via written (e-mail acceptable) Notice-to-Proceed (“NTP”) issued by Agency’s Project Manager. If requested by Agency, Consultant shall submit a detailed cost estimate for the agreed-to contingency Services (up to the NTE amount(s) in the Contingency Task Summary Table) within the scope of the contingency task.

If Agency chooses to authorize some or all of these tasks, Consultant shall complete the authorized tasks and deliverables per the schedule identified for each task. The NTP will include the contingency task name and number, agreed-to due date for completion and NTE amount for the authorized contingency task.

Each contingency task is only billable (up to the NTE amount identified for the task) if specifically authorized per NTP. In the table below, the “NTE for Each” amount for a contingency task includes all labor, overhead, profit, and expenses for the task. The funds budgeted for contingency tasks may not be applied to non-contingency tasks without an amendment to the Contract. The total amount for all contingency tasks authorized shall not exceed the maximum identified in the table below. Each authorized contingency task must be billed as a separate line item on Consultant’s invoice.

Contingency Task Summary Table

Contingency Task Description	NTE for Each	Max Quantity	Method of Comp.	Total NTE Amount
2.6 Record of Survey / Control, Recovery, Retracement	\$4,619.41	1	T&M	\$4,619.41
3.2.2 Phase 1 Archaeological Investigation with Technical Report	\$8,040.89	1	T&M	\$8,040.89
3.3.2 Section 106 Determination of Eligibility (DOE)	\$20,315.64	1	T&M	\$20,315.64
3.3.3 Section 106 Finding of Effect (FOE)	\$14,772.63	1	T&M	\$14,772.63
3.4.2 Surface and Subsurface Soil Samples	\$26,671.24	1	T&M	\$26,671.24
3.4.7 Asbestos Abatement Specification	\$1,726.69	1	T&M	\$1,726.69
3.5.3 Scope to Determine if Project Must Address the Oregon Fish Passage Law	\$3,586.11	1	T&M	\$3,586.11
3.5.8 Fish Passage Plan	\$5,133.29	1	T&M	\$5,133.29
3.6.2 Wetland/Waters of the U.S./State Delineation Report	\$8,807.05	1	T&M	\$8,807.05
3.6.3 Wetland Functional Assessment Report	\$7,796.04	1	T&M	\$7,796.04
3.6.4 Stream Functional Assessment	\$7,822.05	1	T&M	\$7,822.05
3.7.1 USACE/DSL Joint Permit Application (JPA) & DEQ Section 401 Certification	\$16,840.60	1	T&M	\$16,840.60
10.3 Roadway Design Exceptions	\$1,634.93	1	T&M	\$1,634.93
11.3 Bridge Design Exceptions	\$4,099.28	1	T&M	\$4,099.28
15.4 Letter of Public Interest Finding (LPIF) & Exemption Orders	\$5,009.70	1	T&M	\$5,009.70
16.2 Addenda to the Bid Documents	\$3,582.08	1	T&M	\$3,582.08
Total for contingency tasks:				\$140,457.63

EXHIBIT B - COMPENSATION

Definitions:

FCCM - Facilities Capital Cost of Money

NBR - Negotiated Billing Rates. NBRs are fully loaded billing rates inclusive of direct salary, indirect expenses and profit.

NTE - Not to Exceed Amount

T&M - Time and Materials

A. METHOD of COMPENSATION for NON-CONTINGENCY TASKS

Payment will be made for completion of, or acceptable monthly progress on, tasks and deliverables in conformance with Contract requirements and all applicable standards. Consultant shall complete all Services and provide all deliverables as defined in the Contract. If the applicable compensation is exhausted, but Services and deliverables are not complete, Consultant shall complete the Services and provide the deliverables to Agency's satisfaction without additional compensation.

The amount payable under the Contract may be adjusted by Agency or renegotiated to:

- Reduce the NTE, Fixed-Price or Fixed-Fee amount associated with Tasks/Deliverables that were not authorized by Agency or not performed by Consultant;
- Reduce the NTE, Fixed-Price or Fixed-Fee amount commensurate with deductive amendments to reduce the risk associated with the Project or to reduce the scope of work required under the Contract;
- Increase the NTE, Fixed-Price or Fixed-Fee amount for additional Tasks/Deliverables added to the scope of work via amendment to the Contract.

{The method(s) of compensation for contingency tasks, if any, is specified in Exhibit A, Contingency Task Summary Table.}

Time and Materials with Not-To-Exceed (T&M)

Agency will pay Consultant for completion of Services required under the Contract on the basis of T&M, up to the NTE amount established in the Contract. Billable items include:

- **Loaded Costs**- the NBR (which is inclusive of profit and overhead costs); or the actual direct salary rate paid to the specific employee(s) (up to the maximum rate approved in the Contract for the employee's classification) productively engaged in work to complete the Services required under the Contract, plus profit and the approved overhead.
- **ODCs** (without mark-up) - Approved travel costs (up to the rates allowed in Section B of this Exhibit) and other approved direct-non labor expenses that are not included in overhead.
- **Subcontractor Costs** (without mark-up, unless Agency notifies Consultant otherwise in writing) - the hourly labor rates and ODCs (as described above) that have been billed to Consultant and recognized by Consultant as valid, undisputed and payable.

The dollar amount for T&M non-contingency Services is: \$ 516,840.66

B. PAYMENT OPTIONS Payments will occur only after Agency has determined that Consultant has completed, and Agency has accepted, the required Services (including defined deliverables) for which payment is sought via a properly submitted and correct invoice.

Progress Payments for Acceptable Progress. Agency will pay Consultant monthly progress payments for actual costs, up to the Contract NTE amount, for Consultant's acceptable (and verifiable) progress on tasks and deliverables included in the invoice.

C. TRAVEL

The Fixed Price amount(s) in this Contract includes all travel, lodging, per diem, and mileage expenses. Agency will not reimburse Consultant separately for travel, lodging, per diem, or mileage expenses.

Travel costs are allowable only if they are authorized under the Contract and if the travel is essential to the normal discharge of Agency's responsibilities and is related to official Agency business. **All travel shall be conducted in the most efficient and cost-effective manner that results in the best value for the State.** Personal expenses shall not be authorized at any time. The following guidelines shall apply to the Contract:

- The travel, lodging, and per diem rates referenced in this Section C are the maximums that Consultant's estimate (or reimbursement, if applicable) may be based on. Travel rates other than those referenced in this Section C may be negotiated in the Contract, however, under no circumstance shall travel, lodging and per diem rates exceed the maximums set forth by the State Controller at <https://www.oregon.gov/das/Financial/Acctng/Documents/40.10.00.pdf> .
- Mileage - For compensation based on Cost-Plus-Fixed-Fee or Time and Materials (or Fixed Price or Price Per Unit when travel reimbursement is approved and mileage is compensated separately), all mileage approved by Agency will be reimbursed according to the rates set forth by the State Controller at <https://www.oregon.gov/das/Financial/Acctng/Documents/40.10.00.pdf> that are in effect on the date when the travel occurs.
- For compensation based on Cost-Plus-Fixed-Fee or Time and Materials, Consultant shall submit receipts for travel-related expenses billed to Agency, such as but not limited to, lodging, rental vehicles, and air fare. If lodging is shared by two or more travelers, the lodging receipt must indicate the names of any travelers on official State business who shared the room.

D. INVOICES

Consultant shall submit invoices in the format required by Agency (and with supporting documentation to substantiate charges on the invoice, including a detailed line-item breakdown of labor and ODCs by task/subtask) no more frequently than once per month. The address for invoice submittal is set forth in Exhibit J. In addition to all other applicable invoice requirements in this section D, each invoice must include the following information:

- The project name (per the STIP)
- Invoice number
- Invoice date
- Billing period
- The Agency's Contract number
- The Agency's Project number
- The ODOT key number
- The federal-aid number
- The County project manager's name
- Remit address
- Overhead and FCCM rates
- Consultant project manager's name
- Task numbers from contract
- Percent complete of each task/deliverable
- Total amount due for the billing period

Progress Reports: Each monthly invoice must include a progress report. The monthly progress report must cover the period invoiced and, at minimum, must:

- Describe the previous month's Project activities and the planned activities for the next month;
- For each task/deliverable identify the percentage completed during the month and the cumulative percentage completed;
- Reconcile progress of each task/deliverable with the schedule identified for each.
- Identify issues/concerns that may affect the Project Statement of Work, schedule or budget.

“Paid Summary Report”

Consultant shall complete and submit to APM [Paid Summary Report\(s\)](#) [form 734-2882] per the instructions on the form. Consultant must report payment information for all subcontractors and suppliers used under the Contract throughout the period of performance. **This reporting is required for all Contracts that include subs, regardless of funding or whether or not a DBE goal or Certified Small Business Aspirational Target is assigned.**

T&M Compensation:

- Consultant shall prepare invoices based on the actual hourly rates, up to the maximums for each respective classification approved in the Contract, of the employees (or subconsultants) that performed the Services.
- Consultant shall provide documentation in each invoice to itemize all reimbursable actual labor costs and ODCs for which Consultant seeks reimbursement, including a breakdown by task of the number of labor hours for each employee, employee names and classifications. Include receipts for any items purchased or equipment rentals for the Project that exceed \$100. Include copies of all invoices, similarly detailed, from authorized subconsultants.
- Agency will reimburse Consultant for approved travel expenses incurred in accordance with **Exhibit B**, Section C of the Contract, if Agency has agreed to reimburse Consultant for travel expenses. For travel expense claims include receipts for lodging; rental cars, airfare.

E. PAYMENT TERMS

Payment will be made to Consultant no later than 45 calendar days from receipt of invoice completed in conformance with all contractual requirements. Agency will endeavor to notify Consultant within 10 business days of receipt of invoice regarding any necessary revisions or corrections to the invoice. If revisions are necessary, payment will be made no later than 45 calendar days from receipt of the revised invoice. Any interest for overdue payment will be in conformance with Oregon law.

F. CORRECTIVE WORK

Consultant shall complete all Services, including Deliverables, as required in the Contract to Agency's satisfaction. If Agency, using reasonable discretion, determines that the Services or associated deliverables, or both, are unacceptable, Agency shall notify Consultant in writing of the deficiency. Within 7 calendar days (unless a different timeframe is agreed to by the Parties) of receipt of the deficiency notification Consultant shall respond to Agency outlining how the deficiency shall be corrected. Consultant shall correct any deficiencies in the Services and Deliverables to Agency's satisfaction without further compensation. Agency will not unreasonably withhold payment.

G. WITHHOLDING/RETAINAGE

Agency reserves the right to initiate, at any time during the Contract, withholding of payment equal to 5% of the amount of each invoice submitted to Agency under the Contract. Agency will make final payment of any balance due to Consultant promptly upon verification of completion and acceptance of all Services by Agency and will pay interest as required on retainage.

H. PAYMENT REDUCTION

Agency, or its duly authorized agents, may audit Consultant's fiscal records, including certified payroll and overhead records at any time. If Agency finds previously undisclosed inaccurate or improper costs have been invoiced and paid, Agency will notify Consultant and seek clarification. Agency, in its sole discretion, may reduce the payment for Services by withholding the inaccurate or improper amounts from any future payment to Consultant, withhold the inaccurate or improper amounts from final payment to Consultant, or may use any other means to seek recovery of already paid but improperly calculated amounts.

I. SPECIFIC LIMITATIONS and UNALLOWABLE CHARGES

Specific Limitations

For cost reimbursement compensation such as CPFF or T&M, Consultant shall invoice Agency only for actual productive time Consultant personnel spend on Services by any level of Consultant's staff (up to the established not-to-exceed amount). Consultant's general supervisors or personnel who are responsible for

more than one Agency project shall charge only for actual productive time spent directly on the Project identified in the Contract.

Agency will pay Consultant only up to the hourly rates set forth in the Contract that are commensurate with the type of Services performed regardless of the classification, title, or level of experience of the individual performing those Services. However, under no circumstances shall Consultant invoice Agency based on higher direct salary rates than the actual amount paid to its employees.

Discriminatory Pricing. Direct and indirect costs as applied to work performed under Agency contracts and subcontracts may not be discriminatory against the Agency. It is discriminatory against the Agency if employee (or owner/sole proprietor) compensation (in whatever form or name) is in excess of that being paid for similar non-Agency work under comparable circumstances.

Discriminatory Wage Rates. Pursuant to ORS 279C.520, Consultant shall comply with the prohibitions set forth in ORS 652.220. Failure to comply is a breach that entitles the Agency to terminate the Contract for cause.

Employee Discussions Regarding Compensation. Consultant shall not prohibit any of its employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or another person and may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits or other compensation with another employee or another person {see ORS 279C.520(1)}.

Unallowable Charges

Agency will not pay for direct or indirect costs that are unallowable under the provisions of [48 CFR Part 31](#).

Costs or direct charges for, but not limited to, the following are not reimbursable:

- Costs for negotiation of the Contract or Contract amendments, including but not limited to proposal preparation, BOC preparation, preparation for negotiations, and negotiation of level of effort/budget.
- Costs related to disputes or E&O Claims, including but not limited to discussions, meetings and preparation of any dispute or claim related documentation.
- Mark-up on subcontractors or ODCs.
- Transfer of knowledge and information related to Key Person replacements.
- Correcting or making adjustments to incorrect or improper invoices.
- Direct compensation for items included in firm's indirect costs (unless properly credited back to indirect cost).
- Premium costs incurred as a result of working overtime or holidays. (Premium time should normally be charged to overhead. In accordance with ORS 279C.520, employees shall be paid at not less than time and one-half for all overtime worked and for work on legal holidays, except for individuals who are excluded from receiving overtime under personal services contracts pursuant to ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209.)

J. INDIRECT COSTS; SALARY and BILLING RATE SCHEDULES

1. Approved cost data on file with ODOT - If Consultant or its subconsultants have current, approved overhead, salary, or NBR rate schedules on file at ODOT, Consultant and its subconsultants will submit those approved rate schedules and any required certifications (or Agency may obtain rate schedules from ODOT) as required in subsections 2 and 3 below for use under the Contract.

2. Overhead Schedule - If Consultant or subconsultants calculate overhead as part of their normal business practice, the overhead schedules shall be prepared and submitted in accordance with ODOT's Billing Rate Policy (as may be revised from time to time by ODOT) available at:

<https://www.oregon.gov/ODOT/Business/Procurement/DocsPSK/brPolicy.pdf>. Consultant Certification of compliance with Federal Cost Principles is required per FHWA directive 4470.1a: <https://www.fhwa.dot.gov/legsregs/directives/orders/44701a.htm>. A signed [Certification of Final Indirect Costs form](#) must be submitted with the overhead schedule.

In order to assess the adequacy of an audited overhead rate for use in fair and reasonable price negotiation, Agency and/or ODOT may evaluate a firm's financial capability, internal control structure, and overhead schedule. This includes a determination as to the applicability of historical overhead rates to the anticipated future contract period, performing financial ratio analysis, evaluating overhead account trends and utilization rates for reasonableness.

3. Salary and Billing Rate Schedules

Consultant shall, and shall cause all of its subconsultants to submit electronically to Agency the applicable rate schedules described below.

Direct Salary Rate Schedule - includes the name, classification and actual direct salary rate as approved for each employee that may be used under the Contract. This schedule is required for firms that calculate an overhead rate. This schedule will not be included in the Contract but will be retained by Agency.

Negotiated Billing Rate Schedule - may be required for Consultants or subconsultants that do not have a cognizant or acceptable independent audit for overhead rates (or do not calculate overhead as part of their normal accounting practice) and Agency determines it is in the public's best interest to negotiate specific billing rates. Instead of calculating a billing rate using a formula that applies overhead, profit, and FCCM to the direct salary rate, this schedule lists negotiated rates that are fully inclusive of profit, overhead and any cost of living or merit raises. The billing rates invoiced under the Contract must not exceed the rates per classifications listed in the schedule and may be no greater than the lowest rates charged to other public or private clients.

ODC Schedule - is an optional schedule used to list actual costs of reimbursable items that are not included in the firm's overhead rate (or that are properly applied as a credit in overhead calculation).

Approved rate schedules for Consultant and its approved subconsultants/subcontractors are not physically attached but are on file electronically with Agency. The approved rate schedules are incorporated herein by reference and shall apply for cost estimating and invoicing purposes with the same force and effect as though fully set forth herein. Consultant may obtain copies of currently approved rate schedules on file with Agency by emailing a request to Agency's Contract Administrator for this Contract.

K. RATE REVISIONS

The hourly rates (including escalations, if any) approved for use under this Contract shall remain in effect throughout the duration of the Contract unless revisions are approved by Agency. Any approved revisions to the hourly rates allowable under the Contract shall not cause an increase in the Contract NTE amount (exceptions may be approved by Agency on a case by case basis).

L. BREAKDOWN OF COSTS (BOC)

Prior to execution of the Contract or any amendments that add Services, Consultant shall prepare and submit a BOC based on the approved overhead and actual direct salary rates (and approved NBRs as applicable) for each classification to be used under the Contract. Consultant shall include names of proposed staffing in the BOC.

The BOC must include a detailed breakdown of the costs for each element of the work regardless of compensation method. The BOC must identify:

- a) the proposed staff assignments (classifications and names) and hours per task and sub-task;
- b) an itemization with documentation (estimates from vendors shall be provided upon request) to support rental equipment, flaggers, travel and other ODCs; and
- c) the estimate for Services as provided by each subconsultant that shows the assigned staff and hours per task and sub-task and itemized ODCs. Agency may ask for qualifications of any staff assigned to work on a project if they were not included in Statement of Proposal originally submitted for solicitation.
- d) the certification status of any disadvantaged business enterprise, minority-owned business, woman-owned business, service-disabled veteran-owned business or emerging small business subcontractors included in the BOC.
- e) **Contingency Tasks.** Amounts for any contingency tasks must be shown as a separate line-item for each task. The amount for a contingency task must include all labor, overhead, profit, and expenses for the task.

Expenses for contingency tasks must not be included in an overall amount for ODCs applied to the budget for the non-contingency tasks. Enter the agreed to unit and extended amounts for contingency tasks in the Contingency Task Summary table.

Notes:

- Vendors for flagging services, testing services or other items that are not personal services are treated as ODCs. The breakdown of costs for ODCs is entered on Expense sheets for prime and subs, with the total expense for each subtask entered on BOC sheet.
- No mark-up is permitted on subconsultants or ODCs.

The final BOC, dated 09/21/2021, is not physically attached, but is incorporated into this Contract by this reference with the same force and affect as though fully set forth herein. A copy of the final BOC has been provided to the Consultant prior to execution of this Contract.

EXHIBIT C - INSURANCE

All insurance required by this Contract shall be maintained with insurers with an A.M. Best Financial Strength Rating of no less than A-. Insurers must be legally authorized to transact the business of insurance and issue coverage in the State of Oregon. Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions and self-insurance. Prior to beginning work and during the term of this Contract, including any extensions or warranty period, Consultant shall maintain in force at its own expense each insurance set forth below:

1. **Workers' Compensation** insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers (Consultants with one or more employees, unless exempt under ORS 656.027).
2. **Required by Agency** **Not required by Agency.**
 - **Professional Liability** insurance with a per claim, incident or occurrence limit, or the equivalent, of not less than **\$1,000,000**, or **\$2,000,000**.
 - Any annual aggregate limits must not be less than **\$1,000,000** **\$2,000,000** **\$4,000,000** **\$10,000,000**.

This insurance must cover damages caused by negligent acts, errors or omissions of Consultant and Consultant's subcontractors, agents, officers or employees related to the professional Services to be provided under the Contract. If this insurance is provided on a "claims made" basis, Consultant shall continue the same coverage for **2 years**, **3 years**, or **6 years** after completion of the Services or acquire "tail" coverage or an Extended Reporting Period endorsement for the foregoing extended period beyond Contract expiration or termination. Evidence of any required extended period coverage will be a condition of final payment under the Contract.
3. **Required by Agency** **Not required by Agency.**

Commercial General Liability insurance must be issued on an occurrence basis with per occurrence limit, or the equivalent, of not less than \$1,000,000 covering "bodily injury" and "property damage." Any annual aggregate limits shall not be less than \$2,000,000.
4. **Required by Agency** **Not required by Agency.**

Automobile Liability insurance covering Consultant's business-related automobile use, with a combined single limit, or the equivalent, of not less than \$1,000,000 each occurrence for "bodily injury" and "property damage," including coverage for all owned, non-owned, rented or hired vehicles.
5. **Notice of change or cancellation.** There shall be no cancellation, material change (one that would adversely impact the protection of Agency provided through the insurance coverages required in this **Exhibit C**), reduction of limits or intent not to renew the insurance coverage(s) without 30 calendar days prior written notice from Consultant or its insurer(s) to Agency. **All policies and certificates of insurance, including Workers' Compensation, must include a notice of cancellation or nonrenewal clause as required under ORS 742.700 to 742.710.**
6. **Certificates of Insurance.** As evidence of the insurance coverages required by this Contract, Consultant shall furnish acceptable insurance certificates to Agency prior to Contract execution. Throughout the life of this Contract, Consultant shall submit updated certificates of insurance prior to the policy expiration date(s) indicated for the required coverages. If requested by Agency, Consultant shall either: a) provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency; or b) make such insurance policies, endorsements, self-insurance documents and related insurance documents available for inspection by Agency's representatives at a location in the State of Oregon that is reasonably convenient for Agency's representatives responsible for verification of the insurance coverages required under the Contract.
7. **Additional Insureds.** Insurance certificates for Automobile and Commercial General Liability must include an endorsement physically attached to the certificate specifying the Agency, the State of Oregon, the OTC, the Oregon Department of Transportation, and their respective officers, members, agents and employees as Additional Insureds and must expressly provide that the interest of the Additional Insureds shall not be affected by Consultant's breach of policy provisions.
8. **Subcontractors.** Consultant shall: (i) obtain proof of the above insurance coverages, as applicable, from any subcontractor providing Services related to this Contract, or (ii) include subcontractors within Consultant's coverage for the duration of the subcontractor's Services related to this Contract.

EXHIBIT D - TITLE VI NON-DISCRIMINATION PROVISIONS

During the performance of this Contract, Consultant, for itself, its assignees and successors in interest (hereinafter referred to as the "Consultant") agrees as follows:

- a. **Compliance with Regulations:** Consultant shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
- b. **Nondiscrimination:** Consultant, with regard to the work performed by it during the Contract, shall not discriminate on the grounds or race, color, sex, or national origin in the selection and retention of subconsultants, including procurements of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
- c. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subconsultant or supplier shall be notified by Consultant of Consultant's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.
- d. **Information and Reports:** Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Agency, ODOT, FHWA or the Federal Transit Administration (FTA) as appropriate, to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to Agency, ODOT, FHWA or FTA as appropriate, and shall set forth what efforts it has made to obtain the information.
- e. **Sanctions for Noncompliance:** In the event of Consultant's noncompliance with the nondiscrimination provisions of this Contract, Agency shall impose such Contract sanctions as it, ODOT, FHWA or FTA may determine to be appropriate, including, but not limited to:
 - (i) Withholding of payments to Consultant under the Contract until Consultant complies, and/or
 - (ii) Cancellation, termination or suspension of the Contract, in whole or in part.
- f. **Incorporation of Provisions:** Consultant shall include the provisions of paragraphs (a) through (e) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as Agency, ODOT, FHWA or FTA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event Consultant becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, Consultant may request Agency, ODOT, and, in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

EXHIBIT E – DISADVANTAGED BUSINESS ENTERPRISE (“DBE”) PROVISIONS (Goal)

The DBE program is administered by the ODOT Office of Civil Rights (“OCR”). As the Agency is entering into this Contract under authority granted by ODOT, the DBE Provisions apply the same as if ODOT were the contracting agency.

“Consultant” and “Contractor” are hereinafter referred to as “Contractor”. **See sections d and i for specific documentation and reporting requirements of Contractor.**

- a. Policy and Program Authorities:** ODOT and Contractor agree to abide by and take all necessary and reasonable steps to comply with these DBE Provisions and the following, which are incorporated in this Contract with the same force and effect as though fully set forth in this Contract:
- o [ODOT DBE Policy Statement](#)
 - o [ODOT DBE Program Plan](#), and
 - o Requirements of [Title 49, Code of Federal Regulations, Part 26](#) - Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

ODOT’s DBE Program authorities are set forth in the ODOT DBE Program Plan.

- b. DBE Goals:** ODOT’s overall goal for DBE participation is 11.6% for FHWA funded contracting and 6% (proposed) for FTA funded contracting. For FHWA funded contracting, ODOT may assign DBE Contract goals to increase participation by DBEs. For any Contract with an assigned DBE goal, Contractor shall select a portion of work available under the Contract for DBE participation. Contractor may use DBE subcontractors, suppliers, manufacturers, or Professional Services and Related Services providers to fulfill the assigned DBE Contract goal as long as the DBE is certified in the types of work selected. The assigned DBE Contract goal remains in effect throughout the life of the Contract. Dollar values of participation shall be credited toward meeting the assigned DBE Contract goal based on DBE gross earnings.

- **A separate DBE Contract goal, as set forth on page 1 of the Contract, has been assigned for this procurement.**

- c. Nondiscrimination Requirement:** Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Contract. Failure by Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as ODOT deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR § 26.13(b)).
- d. Documentation of Proposed Participation:** Contractor shall document sufficient DBE participation to meet an assigned Contract goal or, alternatively, document adequate good faith efforts to do so (see 49 CFR § 26.53). All work committed to a DBE firm toward meeting the assigned participation goal must be performed under a written subcontract. The subcontract must fully describe any work committed to be performed by the DBE and shall include all required flow-down provisions of the primary Contract. Contractor must complete and submit the following documentation, as applicable:
1. **Subcontractor Solicitation and Utilization Report (SSUR)** – submitted with proposal in response to formal and informal Requests for Proposals (RFPs).
 2. **Breakdown of Costs (“BOC”) or (“BOC-NBR”), as applicable** - submitted prior to negotiation and execution of the Contract and each amendment that changes the scope of work and costs under the Contract. The BOC forms and BOC Requirements are available from the Internet at: <https://www.oregon.gov/ODOT/Business/Procurement/Pages/PSK.aspx>. The BOC or BOC-NBR must clearly list any tasks or subtasks to be performed by subcontractors (DBEs and non-DBEs), each subcontractor’s Federal Tax ID and identification of any required personnel. Include in the Expense Detail tab any required equipment and supplies furnished by the DBE, any of the prime contractor’s resources that will be provided for the DBE’s use, and identification of any second or lower tier subcontractors with the dollar amounts for each.
 3. **Committed DBE Breakdown and Certification Form(s)-AE.** Required for all Contracts with assigned goals and completed prior to Contract execution and any proposed substitution. See submittal instructions on the Instructions tab of the form.
 4. **Subcontractor Reporting:** Complete and submit an initial **Paid Summary Report** [form 734-2882] per the instructions on the form.

- e. **Good Faith Efforts:** Contractor shall make good faith efforts, as set forth in 49 CFR § 26.53, Appendix A to Part 26, and ODOT DBE Program Plan, to obtain and support DBE participation that could reasonably be expected to produce and maintain a level of DBE participation sufficient to meet the Contract goal. Good faith efforts are required during solicitation, upon Contract award, and continue throughout the performance of the Contract to maximize DBE participation. The Agency (or local agency when applicable) Project Manager (“APM”) may request Contractor to submit evidence of good faith efforts prior to Contract execution or at any time during the course of the Contract and Contractor shall promptly submit such evidence. Contractor shall use the specific DBEs listed in the Committed DBE Breakdown and Certification form(s) to perform the work and supply the materials for which each is listed unless the contractor obtains ODOT’s prior written consent to terminate and replace a DBE as provided in section j. below. Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBEs as required by this provision.
- f. **Commercially Useful Function (“CUF”):** Contractor is responsible to ensure the DBE performs a commercially useful function on the Contract. A DBE performs a CUF when it is responsible for execution of the work of the Contract/subcontract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. Additional detail regarding CUF requirements and other conditions for counting participation by DBE contractors is set forth in 49CFR § 26.55. The APM will review the proposed DBE participation and may provide written comments as to whether the activities and type of work identified for DBEs complies with program regulations. In those instances where proposed activity and type of work violates applicable regulations, written comments will be offered as to corrective action required in order to comply with the regulations. ODOT may perform a CUF review at any time during the performance of the Contract.
- g. **Changes in Work Committed to DBE:** ODOT will consider the impact on DBE participation in instances where the prime Contract is amended to reduce, or delete work committed to the DBE. In such instances, Contractor shall not be required to replace the work but is encouraged to do so to the maximum extent practicable.
- h. **Prompt Payment and Retainage:** Contractor shall pay each subcontractor for satisfactory performance under its contract no later than 10 calendar days from receipt of each payment Contractor receives from ODOT (or local agency when applicable) for the subcontracted work. In addition, within 10 calendar days of receipt of retainage from ODOT (or local agency when applicable), Contractor shall pay to each subcontractor the retainage that pertains to the work of that subcontractor.
- i. **Reporting Requirements:** Contractor must report payment information for all subcontractors and suppliers used under the Contract throughout the period of performance. Contractor shall complete and submit initial, interim and final Paid Summary Report(s) [form 734-2882] per the instructions included on the form.
- j. **Termination of DBE Notification Requirement:** Contractor shall comply with all requirements set forth in 49 CFR § 26.53 regarding termination of DBEs including, without limitation, documentation of good cause, 5-day notice to the DBE subcontractor and ODOT, DBE responses, ODOT’s prior written consent of DBE termination, and replacement of DBEs. ODOT will provide such written consent only if it agrees the prime contractor has good cause to terminate the DBE in accordance with 49 CFR 26.53(f)(3).
- k. **Remedies:** Contractor’s failure to comply with these DBE Provisions and the requirements of 49 CFR Part 26 may result in one or more of the following administrative actions as deemed appropriate by ODOT: non-compliance documented in ODOT evaluation of Contractor performance, a corrective action plan prepared by Contractor, ODOT (or local agency when applicable) withholding of retainage, suspension of work, reporting of non-compliance to the federal System for Award Management (“SAM”) available at <https://sam.gov/SAM/>, any other remedies provided under the Contract.
- l. **Information/Questions:** The DBE program is administered by the ODOT Office of Civil Rights (“OCR”). Questions related to the DBE Program may be sent via email to ocrinforequest@odot.state.or.us or otherwise directed to: Oregon Department of Transportation Office of Civil Rights 3930 Fairview Industrial Drive SE (MS 23), Salem, OR 97302; Phone: 503-986-4350 Fax: 503-986-6382.
- m. **Directory of Certified Firms:** A searchable database for active certified firms (by NAICS code, NIGP code, ODOT code, certification type, location or project ethnicity goals) is available on line at: <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>.

Related Web Sites:

All forms, documents and CFR citations referenced or linked in these DBE Provisions are available on line at:

- o **Forms:** <https://www.oregon.gov/ODOT/Business/OCR/Pages/Forms.aspx>
- o **Documents:** <https://www.oregon.gov/ODOT/Business/OCR/Pages/Disadvantaged-Business-Enterprise.aspx>
- o **49 CFR Part 26:** <https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=34ea04c7ed3d45b0e41f82a5646f1c15&rgn=div5&view=text&node=49:1.0.1.1.20&idno=49>

Acronyms & Definitions Applicable to Exhibit E

APM	ODOT's or local agency's Project Manager
BOC	Breakdown of Costs
BOC-NBR	Breakdown of Costs for Negotiated Billing Rates
CFR	Code of Federal Regulations
CUF	Commercially useful function
DBE	Disadvantaged Business Enterprise
OCR	ODOT Office of Civil Rights
ODOT	Oregon Dept. of Transportation
RFP	Request for Proposals
SSUR	Subcontractor Solicitation and Utilization Report
USDOT	United States Department of Transportation

COMMITTED DBE BREAKDOWN and CERTIFICATION FORM(s)

The signed Committed DBE Breakdown and Certification Form(s) is not physically attached but incorporated into this Contract by this reference with the same force and effect as though fully set forth herein. A copy of the signed Committed DBE Breakdown and Certification Form(s) has been provided to the ODOT Office of Civil Rights (for tracking purposes) prior to Contract execution.

**EXHIBIT E.1 - DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROVISIONS
(No-Goal) (RESERVED)**

EXHIBIT F - SPECIAL TERMS & CONDITIONS (RESERVED)

EXHIBIT G - RESERVED

EXHIBIT H - RESERVED

EXHIBIT I - ERRORS & OMISSIONS ("E&O") CLAIMS PROCESS

Exhibit I is not physically attached but is incorporated into this Contract with the same force and effect as though fully set forth herein. For purposes of this Contract, the term "Agency", as used in the E&O Claims Process, means "local public agency". The E&O Claims Process (as may be revised from time to time by ODOT) is available at the following Web address as Exhibit I:

<http://www.oregon.gov/ODOT/Business/Procurement/DocsPSK/xbti.pdf>

EXHIBIT J - CONTACT INFORMATION and KEY PERSONS

1. Party Contact Information.

a.1 * Agency's Project Manager (APM)

Name:	Mark Foster
Ph:	503-373-4307
E-mail:	mfoster@co.marion.or.us

a.2 *: Agency Contract Administrator for contractual matters:

Name:	Tim Beaver, Contracts Specialist
Ph:	503-365-3100
E-mail:	tbeaver@co.marion.or.us

a.3 Agency's address for invoicing:

Mailing Address:	Marion County Public Works 5155 Silverton Rd. NE, Bldg. 1 Salem, OR 97305 Attn: Mark Foster
E-mail:	mfoster@co.marion.or.us

b. **Consultant's Project Manager (PM) for this Contract is:

Name:	Jeff Parker, PE
Ph:	503-400-3284
E-mail:	jparker@dowl.com

c. Consultant's remit address for payments and contact for billings:

Name:	Shelli Polley
Address:	DOWL, LLC 4275 Commercial St. SE, Suite 100 Salem, OR 97302
Ph:	503-400-3284
E-mail:	spolley@dowl.com

* Agency may change the Contract Administrator or Project Manager designation by promptly sending written notice (e-mail acceptable) to Consultant.

** Any changes to Consultant's Project Manager must be approved in writing (e-mail acceptable) by Agency.

2. Key Persons

Consultant acknowledges and agrees that Agency selected Consultant, and is entering into the Contract because of the special qualifications of Consultant's key personnel ("Key Persons" or "Key Personnel"), which may include specific staff agreed to during Contract negotiations. In particular, Agency, through the Contract is engaging the expertise, experience, judgment and personal attention of the Key Persons identified in the Contract.

Each Key Person shall not delegate performance of any management powers or other responsibilities he or she is required to provide under the Contract to another of Consultant's or subconsultant's personnel without first obtaining the written consent of Agency. Further, Consultant shall not re-assign or transfer any Key Person to other duties or positions such that the Key Person is no longer available to provide Agency with their expertise, experience, judgment, and personal attention according to any schedule established under the Contract without first obtaining Agency's prior written consent to such re-assignment or transfer. Notification of request to change a Key Person shall be in writing (via e-mail or other form as may be required by Agency.) Throughout the term of the Contract, Consultant shall provide updated information (if requested by Agency) to demonstrate the continuing qualifications of any staff working on Agency projects, including those approved as Key Persons.

In particular, Agency, through the Contract is engaging the expertise, experience, judgment and personal attention of the following Key Persons:

Name	Role
Jeff Parker, PE	Project Manager
Pete Slocum, PE, SE	Structural Engineering
Andy Silbernagel, PLS, PE	Survey
Austin Bloom	Environmental
Stan Petroff, PE	Roadway Design

3. Reassignment or Transfer of Key Person

In the event Consultant requests that Agency approve a reassignment or transfer of a Key Person:

- Consultant shall provide a resume for the proposed substitute demonstrating that the proposed replacement has qualifications that are equal to or better than the qualifications of the person being replaced.
- Agency shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for the Key Person.
- Any substitute or replacement for a Key Person must be approved in writing (e-mail acceptable) and shall be deemed to be a Key Person under the Contract.

Consultant agrees that the time/costs associated with the transfer of knowledge and information for a Key Person replacement is not a cost borne by Agency and shall not be billed to Agency. This includes labor hours spent reviewing project documentation, participation in meetings with personnel associated with the Contract/project, and participating in site visits to become familiar with the project.