



**DAN JOHNSON**  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of a Contract with David Evans and Associates, Inc. for the  
South End Road at Milepost 3.8**

<b>Purpose/Outcomes</b>	This contract will provide engineering services to design improvements needed to stabilize the roadway and slope on South End Road at Milepost 3.8.
<b>Dollar Amount and Fiscal Impact</b>	Contract value is \$485,959.14 Federal Emergency Relief funds: \$436,051.14 County Road fund match (10.27%): \$49,908.00
<b>Funding Source</b>	215-7432-02101-481180-22270 Federal Emergency Relief Program (ERP) and Clackamas County Road Funds.
<b>Duration</b>	Contract execution through June 30, 2021
<b>Previous Board Action</b>	01/01/17: BCC Approval of Master Certification Agreement No. 30923 for County implementation of federally funded projects 08/16/18: BCC Approval of Supplemental Project Agreement No. 32607 for 2011 Emergency Relief Program Project Funding
<b>Strategic Plan Alignment</b>	This project will provide strong infrastructure and ensure safe communities by maintaining the County's existing road infrastructure.
<b>Counsel Review</b>	May 6, 2019
<b>Contact Person</b>	Joel Howie, Project Manager 503-742-4658

**Background:**

Clackamas County obtained Federal Emergency Relief Program (ERP) funds to stabilize the roadway and slope on South End Road at Milepost 3.8. The road was damaged in March of 2017 as a result of heavy rains that occurred during the spring of 2017. A state emergency declaration, which included Clackamas County, was signed by the governor allowing Clackamas County to be eligible for the ERP funding.

Clackamas County constructed temporary repairs to these areas of roadway prism failure and deterioration in the spring of 2017. A more permanent solution is required to mitigate the slope instability and it is anticipated that the permanent solution will consist of a retaining wall and roadway embankment reinforcement. This contract will provide engineering services to design these improvements in accordance with ODOT and federal requirements.

**Procurement Process:**

This project was advertised in accordance with ORS and LCRB Rules on October 11, 2018. Proposals were opened on November 7, 2018. The County received one Proposal: David Evans and Associates, Inc. An Evaluation committee was assembled consisting of County staff. After evaluations of proposals

David Evans and Associates, Inc. was determined to be a qualified proposer. Upon Contract award, the final statement of work was negotiated and finalized. Project fees were negotiated and based upon existing Oregon Department of Transportation ("ODOT") Negotiated Billing Rates.

This contract has been reviewed and approved by County Counsel.

**Recommendation:**

Staff respectfully recommends that the Board approve and execute the Engineering and Related Services Contract with David Evans & Associates, Inc. for the South End Road at Milepost 3.8 Project. The Contract amount not to exceed is \$485,959.14.

Sincerely,

A handwritten signature in cursive script that reads "Joel Howie".

Joel Howie,  
Civil Engineering Supervisor

Placed on the BCC Agenda \_\_\_\_\_ by Procurement and Contract Services



**ENGINEERING AND RELATED SERVICES CONTRACT**  
**Contract Number: 2018-103 (RFP 22270-01)**

<b>Project Title: South End Road at Milepost 3.8</b>	<b>County Project Number: 22270</b>
<b>Project Location: Clackamas County</b>	<b>Associated RFP Number: 22270-01</b>
<b>Federal Aid Number: 21257</b>	<b>DBE Goal: 8.5% (see Exhibit E)</b>
<b>Total Not-to-Exceed (“NTE”) amount for this Contract.</b> This total includes: a) all allowable costs and expenses, profit, and fixed-fee amount, if any; and b) \$37,131.86 for contingency tasks, each of which must be separately authorized by County.	<b>\$ 485,959.14</b>

This Contract is between Clackamas County, hereafter called “County” or “Agency” and **David Evans and Associates, Inc.**, an Oregon corporation, hereafter called “Consultant.” County 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 County. Unless otherwise amended or terminated, this Contract shall expire June 30, 2021.

**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. County 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, 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 F - Special Terms & Conditions
- 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 County reserves the right (i) to determine the delivery schedule (as mutually acceptable to County and Consultant) for the Services to be performed and (ii) to evaluate the quality of the completed performance, County 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 County, 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/DocsLPA/COI\\_LPA.docx](https://www.oregon.gov/ODOT/Business/Procurement/DocsLPA/COI_LPA.docx)) 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 County 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, County 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 County 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 County, 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 County 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 County or a particular project.

**7. Subcontracts and Assignment; Successors and Assigns**

- a. Consultant shall obtain County'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 County 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. County'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 County 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) County'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 County in accordance with applicable law for all damages to County 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 County 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 County's budget for construction. **County's budget for construction of the project is \$2,100,000.** Consultant shall promptly advise County'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. County 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 County may adjust such estimated construction contract price.
- (ii) Prior to releasing the bid for the construction contract, County will prepare an estimate of constructing the design submitted. If County's estimator(s) determines Consultant's design exceeds County'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 County if Consultant's design exceeds County'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 County 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 County 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 County. County and Consultant agree that Work Product that constitutes original works of authorship (the "Original Work Product") is "work made for hire" of which County 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 County 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 County's reasonable request, Consultant shall execute such further documents and instruments necessary to fully vest such rights in Original Work Product in County. 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 County under the Contract), or in the event any Consultant Intellectual Property or Third Party Intellectual Property is needed by County to reasonably enjoy and use any Work Product, Consultant hereby agrees that it will grant to, or obtain for, the County 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 County to authorize contractors, consultants and others to do the same on County'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 County. At the request of Consultant, County 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, County 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 County to authorize others to do the same on County'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, County 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 County-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 County, 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 County of such subpoena or other legal process, provide County with copies of any subpoena, other legal process and any other written materials supporting the subpoena or other legal process, and otherwise cooperate with County in the event County decides to oppose the disclosure of the Confidential Information. In the event County decides not to oppose such subpoena or other legal process or County'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 County, 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 County, 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 County, 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 County by Consultant that may be the subject of protection under any state or federal intellectual property law or doctrine, or the County'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, County 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 County (or other entities identified above) under this section 13(c), based solely on the following: Consultant's compliance with County specifications or requirements, including, but not limited to the required use of tangible or intangible items provided by County.

- d. **Defense Qualification.** Neither Consultant nor any attorney engaged by Consultant shall defend or purport to defend a claim in the name of the County, 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 County, the State of Oregon, the OTC or ODOT may, at their election and expense, assume their own defense and settlement.
- e. **County's Acts or Omissions.** This section 13 does not include indemnification by Consultant of the County, 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. **County's Right to Terminate for Convenience.** County may, at its sole discretion, terminate the Contract, in whole or in part, upon 30 calendar days prior written notice to Consultant.
- c. **County's Right to Terminate for Cause.** County may terminate the Contract, in whole or in part, immediately upon written notice to Consultant or at such later date as County may establish in such notice, upon the occurrence of any of the following events:
  - (i) County fails to receive appropriations, limitations or other expenditure authority sufficient to allow County, 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 County 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 County'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 County 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 County's notice to Consultant, or such longer period as County may specify in such notice.

- d. **Consultant's Right to Terminate for Cause.**
  - (i) Consultant may terminate the Contract by giving written notice to County if County fails to pay Consultant pursuant to the terms of the Contract and if County 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 County 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 County, 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 County upon demand.
  - (ii) In the event of termination pursuant to Section 15(c)(iii) or 15(c)(iv), County 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 County.** Upon receiving a notice of termination of the Contract, Consultant shall immediately cease all activities under the Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of the Contract, Consultant shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract been completed. Upon County's request, Consultant shall surrender to anyone County 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 County 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 County, 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. County, 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.** County will conduct performance evaluation(s) on the Consultant and its subconsultants during the term of the Contract, which will be compiled and maintained by County, 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). County 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. County may adjust evaluation score(s) upon County's finding of good cause. County may provide copies of any performance evaluation documentation to ODOT, FHWA, and other parties unless lawfully exempt from disclosure. County 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. County 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. County'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.505 through 279C.580, which are incorporated by reference herein. All rights and remedies available to County 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 County 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 County 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 County 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 County 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 County 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 County 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 County 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 County 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 County'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.** County 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 County (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 County 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.** County may amend the Contract to the extent permitted by applicable statutes, administrative rules and ordinances and as mutually agreed upon by County and Consultant. County may agree to appropriate increases in the maximum compensation payable under the Contract, should any County-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 County 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 County carrying out an affirmative action goal, policy or program under ORS 279A.100, and fails to maintain the required certification, County 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 signing on behalf of Consultant hereby certifies under penalty of perjury:

- (1) Consultant has provided its correct TIN to County;
- (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 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 County on a properly prepared and submitted form and, if determined necessary by County or ODOT, a mitigation plan has been approved by County 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 County.
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**Signature page to follow.**

**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: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS**

Chair: \_\_\_\_\_

Date: \_\_\_\_\_

Recording Secretary: \_\_\_\_\_

**COUNTY LEGAL REVIEW (Approved as to Form):**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



# Exhibit A

## STATEMENT of WORK and DELIVERY SCHEDULE South End Road at Milepost 3.8 Project

### A. PROJECT DESCRIPTION and OVERVIEW of SERVICES

Clackamas County (the “Agency”) is contracting with David Evans and Associates, Inc. (the “Consultant”) for “Services” (as defined in Section E, below) in connection with the following project (the “Project”): South End Road at Milepost 3.8. South End Road in the vicinity of Milepost 3.8 has experienced significant roadway distress due to slope instability as a result of heavy rainfall in the spring of 2017. Clackamas County constructed temporary repairs to these areas of roadway prism failure and deterioration. However, it is clear that a more permanent solution is required to mitigate the slope instability. It is anticipated that the permanent solution will consist of up to a 250 ft long retaining wall and up to 650 ft route length of roadway embankment reinforcement (i.e., deep patch). The Project limits extend along the existing South End Road centerline between the following coordinates: 45.34645833, -122.6169306 at the route-direction north end; and 45.34361111, -122.6209333 at the route-direction south end, as shown in the Figure 1 below. The southern project limit extends approximately 700 ft beyond the south end of the currently assumed extents of the constructed mitigation for slope instability.



Figure 1 – KMZ file of South End Road Project.

## General Expectations

Consultant commits to oversee and direct the design of the Project to obtain the greatest long-term value for the Agency, and which reflects the prudent expenditure of public funds within the constraints of the Project, program, context and budget. In pursuing this goal, Consultant commits to:

- Develop a design that is appropriate for the context of the Project and the nature of its function, both present and future;
- Avoid expenditures for aesthetic effect that are disproportionate to the Project as a whole;
- Manage and facilitate all facets of the Project that are reasonably within Consultant’s control to provide for the Project being completed on or ahead of time and within budget;
- Strive to reduce the construction cost of the Project while keeping life-cycle costs low;
- Use recycled/recyclable products to the maximum extent economically feasible in the performance of the Contract; and
- Apprise Agency throughout the Project concerning the economic impact of all design decisions, and embody sound and cost-effective sustainability principles in the Services performed under the Contract in accordance with the Department of Administrative Services Sustainable State Facilities Standards and Guidelines.

## Project Phasing

This Project is divided into 2 phases:

1. Preliminary Design, Right of Way, and Final Design Phase
2. Construction Phase

This statement of work (“SOW”) addresses the first phase of the Project. Following completion of a given phase, Agency may, at its discretion:

- Amend this Contract to add the next phase (or various elements), or
- Elect to complete subsequent phase tasks with in-house staff, or
- Assign subsequent phase tasks to another consulting firm.

Agency and Consultant shall negotiate the detailed tasks, deliverables, schedule, and costs for each phase Agency elects to add. Each added phase will be authorized only by written Contract amendment with all required approvals and signatures.

## Agency Responsibilities

- Agency review periods do not exceed 3 weeks.
- Agency will be primary point of contact with the Oregon Department of Transportation (“ODOT”) regarding the Contract and the design aspects of this Project.

## Acronyms and Definitions

AASHTO ....American Association of State Highway and Transportation Officials	ADT .....Average Daily Traffic
ADA.....Americans with Disabilities Act of 1990	APE.....Area of Potential Effect
	API.....Area of Project Impact
	APM.....Agency Project Manager (Clackamas County)

ASTM .....	American Society for Testing and Materials	OCMC.....	Oregon City Municipal Code
BMP .....	Best Management Practice	ODA.....	Oregon Department of Agriculture
CE .....	Categorical Exclusion	ODFW .....	Oregon Department of Fish and Wildlife
CFR.....	Code of Federal Regulations	ODOT .....	Oregon Department of Transportation
City.....	City of Oregon City	ORBIC .....	Oregon Biodiversity Information Center
CPM .....	Critical Path Method	ORS.....	Oregon Revised Statutes
DAP.....	Design Acceptance Package	PA .....	Price Agreement
DBE.....	Disadvantaged Business Enterprise	PCE .....	Programmatic Categorical Exclusion
DEQ .....	Department of Environmental Quality	PDT .....	Project Development Team
DOE .....	Determination of Eligibility	POR.....	Professional of Record
DSL.....	Department of State Lands	PSA .....	Project Study Area
DTM.....	Digital Terrain Model	PS&E.....	Plans, Specifications, and Estimate
ESA .....	Endangered Species Act	QA/QC .....	Quality Assurance/Quality Control
ETWP.....	Exploration and Testing Work Plan	REC.....	Regional Environmental Coordinator
FAHP .....	Federal Aid Highway Programmatic Agreement	ROE.....	Right of Entry
FHWA.....	Federal Highway Administration	ROS.....	Record of Survey
GIN .....	General Information Notice	ROW .....	Right of Way
GIS .....	Geographic Information System	SHPO .....	State Historic Preservation Office
GLO .....	General Land Office	SOW.....	Statement of Work
GPS .....	Global Positioning System	T&E.....	Threatened & Endangered
HMCA.....	Hazardous Materials Corridor Assessment	THPO .....	Tribal Historic Preservation Office
JPA.....	Joint Permit Application	USACE .....	United States Army Corps of Engineers
LAL.....	Local Agency Liaison	USFWS .....	United States Fish and Wildlife Service
LPA .....	Local Public Agency (Clackamas County)	UST .....	Underground Storage Tank
MUTCD .....	Manual on Uniform Traffic Control Devices		
MWESB.....	Minority, Women, and Emerging Small Business		
NE .....	No Effects		
NEPA .....	National Environmental Policy Act		
NMFS.....	National Marine Fisheries Service		
NRHP .....	National Register of Historic Places		
NTP .....	Notice to Proceed		
NWI/LWI...	National/Local Wetland Inventory		
OAR .....	Oregon Administrative Rule		

## **B. STANDARDS and GENERAL REQUIREMENTS**

The following standards and general requirements shall apply to this SOW:

### **1. Standards**

#### ***General and Administrative***

- Oregon Standard Specifications for Construction, ODOT 2018 Standard Specifications
- ODOT Local Agency Guidelines

#### ***Environmental***

- Wetland Delineation Manual, United States Corp of Engineers/Environmental Protection Agency 1987
- Federal-aid Highway Program User Guide: For Oregon's Programmatic Endangered Species Act Consultation on the Federal-aid Highway Program

#### ***Geotechnical***

- Soil and Rock Classification Manual, ODOT 1986
- Geotechnical Design Manual, ODOT April 2011

#### ***Hydraulic***

- Hydraulic Manual, Parts I and II, ODOT 2008
- HEC-18 Evaluating Scour at Bridges, Federal Highway Administration ("FHWA")
- HEC-20 Stream Stability at Highway Bridges, FHWA

#### ***Roadway***

- Manual of Uniform Traffic Control Devices
- Standards Manual of the Oregon Utilities Coordinating Council

#### ***Structural***

- ODOT Geotechnical Design Manual

#### ***Right-of-Way***

- ODOT Right of Way Manual
- Real Estate Acquisition Guide for Local Public Agencies
- Uniform Standards of Professional Appraisal Practice
- Uniform Appraisal Standards for Federal Land Acquisition

### **2. Software Requirements**

The Consultant shall develop the design utilizing AutoCAD Civil 3D version 2015 or later.

### **3. Reserved**

### **4. General Requirements**

- The Agency Project Manager ("APM") (or such other individual identified in specific tasks or as designated in writing to Consultant) is the primary contact on behalf of Agency for this Project.
- To the extent possible, all transmittals from Consultant to Agency must include as applicable the Contract number, Price Agreement ("PA") number, Project name, and the Project key number.
- Consultant shall represent Project and Agency in an appropriate and professional manner in public.

## 5. Compliance with Applicable Law

**6. ADA Compliance – Assessment, Design, Inspection.** When the Services under this SOW include **assessment or design (or both)** for curb ramps, sidewalks or pedestrian-activated signals (new, modifications or upgrades), Consultant shall:

- a. Utilize ODOT standards to assess and ensure Project compliance with the Americans with Disabilities Act of 1990 (“ADA”), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards; and
- b. Follow ODOT’s processes for design, modification, upgrade, or construction of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, and ODOT Construction Specifications, and providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection Form.

When the Services under this SOW include **inspection** of curb ramps, sidewalks or pedestrian-activated signals (new, modifications or upgrades), all such inspections shall include inspection for compliance with the standards and requirements in a. and b. above. In addition, at Project completion, Consultant shall send an ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to ODOT’s Project Manager for each curb ramp constructed, modified, upgraded, or improved as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT’s fillable Curb Ramp Inspection Form and instructions are available at the following address: <http://www.oregon.gov/ODOT/Forms/Pages/default.aspx>.

Above references to curb ramps, sidewalks or pedestrian-activated signals also include, when applicable, shared use paths, transit stops, park-and-rides, and on-street parking.

## C. REVIEW, COMMENT, and SCHEDULE OVERVIEW

- Consultant shall submit all deliverables to APM or designee unless otherwise noted in specific tasks.
- Consultant shall make revisions to address Agency review comments and submit revised deliverable(s) to APM within 10 business days of receipt of Agency review comments, unless a different time frame is specified for specific tasks or otherwise agreed to in writing by Agency.

## D. FORMAT REQUIREMENTS

- Consultant shall submit draft deliverables in electronic format via email (and up to three [3] hard copies of deliverables, if requested).
- Consultant shall also submit all graphic files and accompanying reports in PDF.
- Consultant shall provide AutoCAD files of the final design in .dwg format.
- 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 the version used by Agency.
- Additional format requirements may be listed with specific tasks/deliverables throughout the SOW or in the PA/Contract.

## **E. TASKS, DELIVERABLES, and SCHEDULE**

Consultant shall complete all tasks and provide all deliverables (collectively, the “Services”) included in this SOW, unless specifically stated otherwise in a particular task. Consultant shall provide all labor, equipment, and materials to manage, coordinate, and complete the work in accordance with the performance and delivery schedules identified in this SOW.

**Task Numbering:** For purposes of standardization, task numbers in this SOW may be non-sequential and do not necessarily begin with “1” on the first task.

### **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.

#### **1.1 Administration and Record Keeping**

Consultant shall:

- Prepare a Project design schedule using the Critical Path Method (“CPM”). 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. Updates to the Project schedule shall be made during the course of the Project if milestone dates are modified. For budgeting purposes, it is assumed that up to 3 Project schedule updates will be necessary;
- Prepare invoices and progress reports according to the Contract. Each progress report must:
  - Include a summary of the 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; and
  - Identify unresolved issues and concerns that may affect the SOW, schedule, and/or budget for Services
- Develop and maintain a Project file to include survey and engineering computations, assumptions, meeting agendas and summary notes, working drawings, QC and review documentation, correspondence, and memoranda.

#### **1.1 Consultant Deliverables and Schedule**

Consultant shall provide:

- Project Design Schedule submitted within 7 calendar days of NTP (submit electronically to the APM in PDF and provide an electronic file in Microsoft Project format to the APM);
- Updated Project Design Schedule, as necessary, via timeline agreed to by APM (submit electronically to the APM in PDF and provide an electronic file in Microsoft Project format to the APM); and
- Up to 20 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 SOW;

- Contact other Agency staff, ODOT staff, and regulatory agency staff, if necessary throughout the Project duration to gather any additional information needed for the Project, Project site, regulations, and guidance; and
- Provide overall management, direction, and coordination of staff (including subconsultants, if any) to include any necessary internal Consultant staff meetings.

## **1.2 Consultant Deliverables and Schedule**

Consultant shall provide:

- Ongoing coordination and communication as needed to appropriately manage the Services under this SOW (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 Agency's office (150 Beaver Creek Road, Oregon City) with Agency, ODOT Local Agency Liaison ("LAL"), City of Oregon City representative, Consultant's project manager, and other necessary Consultant staff in attendance. Consultant shall prepare the Meeting Agenda with input from the APM and ODOT LAL. The purpose of the Project kickoff meeting is to review Project issues such as the 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 7 business days of NTP. Consultant shall prepare Draft Meeting Summary Notes for review and prepare the Final Meeting Summary Notes. For budgeting purposes, it is assumed that up to 3 Consultant staff shall attend the 1.5-hour-long Project kickoff meeting.

### **1.3.2 Project Development Team Meetings**

Consultant shall organize, conduct, prepare for, and attend up to 4 Project Development Team ("PDT") Meetings; 2 via telephone (90% and 100% milestones) and 2 in-person meetings (30% and 60% milestones). Each in-person PDT meeting will be held at Agency's office (150 Beaver Creek Road, Oregon City) with Agency, City of Oregon City representative, Consultant's project manager, and other necessary Consultant staff in attendance. Consultant shall prepare the Meeting Agenda with input from the APM. Consultant shall prepare Draft and Final Meeting Summary Notes. For budgeting purposes, it is assumed that up to 3 Consultant staff shall attend each 1.5-hour-long PDT meeting.

## **1.3 Consultant Deliverables and Schedule**

For each meeting, Consultant shall provide:

- Meeting Agenda submitted electronically to APM and all other meeting participants at least 2 business days prior to meeting,
- Draft Meeting Summary Notes submitted electronically to APM no later than 5 business days after the meeting, and
- Final Meeting Summary Notes submitted electronically to APM no later than 5 business days after receiving consolidated comments from the APM.

## **TASK 2 SURVEY**

Consultant shall survey this Project for the areas as shown in Figure 1 of Section A for areas related to the proposed Project limits on South End Road, unless otherwise noted in specific tasks. Consultant shall obtain readily available aerial photos to supplement the survey outside of the Project limits. Deliverables are to be scheduled as per Task 1, Project Management.

### **Right of Entry (“ROE”)**

Agency will obtain up to 3 ROEs required for Consultant’s survey and other field reconnaissance work. Agency and Consultant acknowledge that once requests to owners are sent out, it can take up to 3 weeks to receive the authorization (ROE) back from the landowners due to schedules and availability. If ROEs are required for geotechnical boring outside of the right of way (ROW), Consultant shall provide a map identifying the approximate location of the proposed boring(s) on the parcel. This map will be included in the Agency’s mailing to the affected property owner to assist the owner in understanding the proposed work. Consultant shall allow adequate time for Agency to obtain this additional ROE.

### **2.1 Research**

Consultant shall obtain the research data for the area, as described in Section A 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 are not limited to: vesting deeds, land sales contracts, Agency assessor plats and road records, subdivision plats, General Land Office plats, county surveys, and road dedications and vacations.

#### **Existing Vesting Deeds and Property Ownerships**

Consultant shall obtain a “Trio listing kit” (typically provided by a title company). Consultant shall obtain a Preliminary Title Report from the title company if the “Trio Listing Kit” is insufficient to thoroughly identify property ownership. 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 APM. 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 ROW 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 by the Project and establish property lines for area calculations when new ROW 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.



### 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, Global Positioning System (GPS) stations, benchmarks, and prior Project control surveys from Agency, and federal, county, city, and other governmental agencies.

### 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 Agency, One-Call Service, county, city, or other governmental agencies, and utility companies.

### Existing Water Way Data

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, and federal, county, city, and other governmental agencies. Consultant shall include items such as, but not limited to: Federal Emergency Management Agency flood maps, tide gage data, and stream navigability per Division of State Lands (“DSL”) designation.

## **2.1 Consultant Deliverables and Schedule**

Consultant shall incorporate information from this task into the deliverables listed in Tasks 2.4 and 2.5 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 Oregon Coordinate Reference System, Portland Zone horizontal datum and NAVD88 vertical datum unless otherwise specified by the Agency.

Consultant shall establish horizontal control according to Agency standards 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 Agency guidelines. A control traverse will be established along South End Road for topography and monument ties.

Consultant shall use 5/8-inch rebar with plastic or brass caps, 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.

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.

## **2.2 Consultant Deliverables and Schedule**

Consultant shall:

- Place control points in the ground at the Project location; and
- 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, and/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, and/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; and
- An AutoCAD file (\*.dwg) containing all vertical and horizontal control points stored as cogo points to show elevations.

### **2.3 Monument Recovery**

The purpose of this task is to address the requirements of Oregon Revised Statutes (“ORS”) 209.150 and 209.155, and other survey-related statutes for construction projects.

Consultant shall survey for, but not limited to, the following: government corners, geodetic control stations, benchmarks, ROW 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 and/or ROW 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 basemap and DTM for the Project.

#### **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 human-made and/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. Topographic data collected will include: trees of 6” in diameter and larger at chest height including genus, species, and size; existing roadway striping and signing including crosswalks, arrows, bike lane markings, lane lines, and all traffic control signs; driveways located within project;

Consultant shall contact Oregon Utility Notification Center to request pre-survey utility locates.

Consultant shall keep the locate request number and ticket information in 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 and/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 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, Threatened and Endangered (“T&E”) species, hazmat sites, archaeology sites, and sensitive plants.

Consultant shall survey up to seven cross sections of the road and downhill slope to support slope stability analyses. The cross sections will extend from approximately 8 feet up the uphill slope to approximately 8 feet from the toe of the downhill slope.

Consultant shall provide flaggers for safety when working in or along South End Road due to the narrow width of road, minimal or nonexistent shoulder, and limited sightlines.

#### Detailed Basemap

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

#### Digital Terrain Model

Consultant shall create a three-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 for generating contours described below. Consultant shall collect confidence points in the field and generate a confidence point report. The topographical data and confidence points must meet Agency’s criteria. Consultant shall generate 0.2-foot minor contours and 1-foot major contours for road surfaces, and 1 foot minor contours and 5 foot major contours for ground surfaces throughout the DTM for a QC analysis of the surface.

### **2.4 Consultant Deliverables and Schedule**

Consultant shall provide the following deliverables and submit them electronically (.PDF) to the APM within 60 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, and

- Control Point Worksheet with datum used and descriptions of control points found and set.

## **2.5 Existing ROW and Boundary Resolution**

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

### **Resolve ROW and Property Boundaries**

Consultant shall resolve the location of the ROW within the present Project limits as described in this SOW.

Consultant shall resolve identified ROW centerlines alignments, ROW lines, and property boundaries abutting the roadway and along the proposed route of construction, using accepted concepts and rationale or 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 ROW alignments and property boundaries for the area as described. Consultant shall provide a detailed narrative of available evidence; desirable evidence not available; rationale for decisions made; and summary of the conclusions in the establishment of the ROW centerline, ROW lines (including all jogs), and property boundary lines.

### **Control, Recovery, and Retracement Record of Survey**

If the Project will impact property or existing survey monuments, Consultant shall create a Record of Survey (“ROS”) which meets the requirements of Agency and the Oregon Revised Statutes. The survey or surveys 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 ROW centerlines, ROW lines, and/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 the Agency and submit the final ROS for filing in the format required.

## **2.5 Consultant Deliverables and Schedule**

Consultant shall provide:

- Draft ROS to Agency within 60 days of NTP, and
- Final ROS for filing within 2 weeks of receipt of comments from Agency.

## **2.6 Right Of Way Engineering (Mapping & Descriptions)**

The purpose of this subtask is to prepare right of way engineering products used in the acquisition of property. The estimated number of right of way files is three (3). These products are:

- Right of Way acquisition map
- Autocad file used to prepare the acquisition map
- Right of Way legal descriptions and exhibits

The right of way acquisition map, exhibits and legal descriptions shall be prepared in accordance with LPA or ODOT Geometrics Right of Way Engineering Manual and ODOT's Right of Way Section's Right of Way & Rail/Utility Coordination Contractor Services Guide (March 2009 revision).

## **2.6 Consultant Deliverables and Schedule**

Consultant shall provide in accordance with Project Schedule developed in Task 1:

- Legal descriptions and exhibits in electronic (.PDF) to the APM.
- Final Right of Way acquisition map in electronic (.PDF and CADD) to APM.

## **TASK 3 ENVIRONMENTAL SERVICES**

Consultant shall complete necessary field and literature investigations to provide 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 Agency's and Consultant's written agreement on cost and receipt of NTP from Agency:

- Final National Environmental Policy Act ("NEPA") Categorical Exclusion ("CE") and Programmatic CE Documentation
- Archaeological Literature Review/Field Reconnaissance/Baseline Report
- Phase 1 Archaeological Investigation with Technical Report (CONTINGENCY)
- Historic Resources Baseline Report
- Hazardous Materials Corridor Assessment
- Endangered Species Act No Effect Memorandum
- Federal-Aid Highway Programmatic Documentation
- Wetland/Waters of the U.S./State Fieldwork and Determination Memo
- Joint Permit Application for Impacts to Wetland/Waters (CONTINGENCY)

For all of Task 3, the Project Area is the same as described in Section A of this SOW unless otherwise noted and described in specific Task 3 subtasks.

Agency is responsible for obtaining all ROE. Consultant shall not conduct any fieldwork outside of Agency ROW and/or property until all ROEs for private property have been obtained and are in field staff's possession.

### **3.1 NEPA CE and Programmatic CE ("PCE") and Supporting Documentation**

Consultant shall provide technical assistance and services necessary to meet FHWA NEPA classification documentation requirements for NEPA CE projects ("Class 2 Projects").

#### **3.1.3 Final NEPA CE and PCE Documentation**

Consultant shall compile data completed in tasks 3.2 through 3.6 to complete a draft PCE Approval or CE Closeout Document and submit to Agency for review and approval. Consultant shall coordinate with Agency on compiling data completed during Project development to deliver the draft PCE Approval or CE Closeout Document to Agency to finalize and approve.

Only after all relevant tasks 3.2 through 3.6 have been completed and approved by Agency can this task be completed. In the draft PCE Approval or CE Closeout Document, Consultant shall follow the specific protocols in the CE/PCE Procedures to complete drafts of the following:

- After Agency has accepted Tasks 3.2 through 3.6, complete each of the resource narrative sections using protocols and standard language contained in the “Procedures for Completing NEPA for Categorical Exclusion and Programmatic Categorical Exclusion Projects with Oregon Division Federal-Aid Highway Program Nexus” (known as the CE/PCE Procedures, available here: [http://www.oregon.gov/ODOT/GeoEnvironmental/Docs\\_NEPA/NEPA\\_CE-PCE-Procedures.pdf](http://www.oregon.gov/ODOT/GeoEnvironmental/Docs_NEPA/NEPA_CE-PCE-Procedures.pdf)).
- Include the supporting documents required as per the CE/PCE Procedures, as applicable to the Project (e.g., Endangered Species Act [“ESA”] approvals, cultural resources documentation, hazardous materials, etc.). If submittal of the draft PCE or CE document requires supporting documentation not developed under this SOW, it will be provided by APM.

Agency and ODOT will review all draft PCE Approval and CE Closeout Document, and send them back to Consultant for any revisions needed. ODOT will approve, on behalf of FHWA, the accepted PCE Approval document as per the PCE Agreement, or Agency will submit the accepted CE Closeout Document to FHWA Oregon Division for FHWA review and approval.

### **3.1.3 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- One electronic copy of the Draft PCE Approval or CE Closeout Document and supporting documentation to APM for review per Task 1 Project Design Schedule, and
- One electronic copy of the Final Agency accepted Draft PCE Approval or CE Closeout Document and supporting documentation to APM 2 weeks following receipt of draft review comments.

## **3.2 Archaeological Resources**

All archaeological subtasks must be completed by registered professional archaeologists who meet the Secretary of the Interior's professional standards for Archaeology ([36 Code of Federal Regulations \[CFR\] 61, Appendix A](#)) and who have been “qualified” through the [Agency’s 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 Area of Potential Effect (“APE”) and to make recommendations for further archaeological review.

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 Agency Archaeologist with a minimum of 5 days’ advance notice prior to Field Reconnaissance.

Consultant shall examine the following databases and/or documents:

- The State Historic Preservation Office (“SHPO”) database in Salem, OR, and/or appropriate Tribal Historic Preservation Office (“THPO”) database if the APE is within a recognized reservation boundary;
- General Land Office (“GLO”) maps;
- Sanborn Fire Insurance Maps; and

- Other records archives (i.e., historical societies, tribal archives) for known/potential prehistoric and historic archaeological resources within a 1-mile radius of the APE.

Field reconnaissance must include a pedestrian survey. Consultant shall conduct pedestrian surveys within the APE, and these surveys 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 and/or ground visibility. Consultant shall determine transect spacing based on professional judgment to help 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. Agency 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 1 mile of APE
  2. Brief summary of recorded archaeological features within 1 mile of APE, including 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, including 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 the APE
- Recommendations for appropriate level of additional survey and/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 Microsoft Word format) of the Draft Baseline Report to APM for review per Task 1 Project Design Schedule, and
- One electronic copy (in Word and PDF formats) of the Final Baseline Report to the APM 2 weeks following receipt of draft review comments.

### **3.2.2 Phase I Archaeological Investigation with Technical Report (CONTINGENCY TASK – See Section F)**

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 for Reporting on Archaeological Investigations. These investigations must include pedestrian survey and/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 or geomorphological work).

Consultant shall conduct record searches and literature review for the APE provided by Agency, within a 1-mile radius, prior to any fieldwork. Consultant shall, at a minimum, examine the following databases and documents:

- SHPO database in Salem, OR;
- Appropriate THPO database, if APE is within a recognized reservation boundary;
- GLO maps;
- Historic topographic maps;
- Sanborn Fire Insurance Maps; and
- Other records archives (i.e., historical societies and tribal archives) for known/potential prehistoric and historic archaeological resources within a 1-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 Agency Archaeologist with a minimum of 5 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, depending on terrain features and/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 Agency Archaeologist prior to submittal to SHPO. Consultant shall provide the Agency Archaeologist with a minimum of 5 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. Probes must be at least 30 centimeters (cm) in diameter and dug to sterile (at least two levels void of cultural material) or to 50 cm 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 archaeological deposits and may be incorporated into the research design, if approved by Agency Archaeologist. Up to 20 discovery probes will be excavated under this task.

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

- A purpose statement and full Project description including:
  1. Agency 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 database searches including:
  1. Brief summary of previous archaeological research completed within 1 mile of APE, with eligibility description if available
  2. Brief summary of recorded archaeological features within 1 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, and 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 to 3 pages long, which 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 the 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 Geographic Information System (“GIS”) files (\*.shp, \*.shx, and \*.dbf).

### **3.2.2 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

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

## **3.3 Historic Resources**

All historic resources subtasks must be completed by professional historians who meet the Secretary of the Interior’s professional standards for architectural history and/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 Agency Historic Resources Baseline Report is to identify and characterize the historic resources issues, using the APE to determine what may be impacted by a transportation project. The Historic Resources Baseline Report is a scoping report that is not intended to be a comprehensive technical report. As part of developing the Historic Resources Baseline Report, Consultant shall review the SHPO Statewide Inventory and conduct an on-site reconnaissance of the Project Area.

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 approximately 10 resources will be identified in the baseline report. Previous inventories have identified 4 NRHP-eligible properties within the APE.

### **3.3.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- One electronic copy (in Microsoft Word format) of the Draft Historic Resources Baseline Report to APM and ODOT for review per Task 1 Project Design Schedule, and

- One electronic copy (in Word and PDF formats) of the Final Historic Resources Baseline Report to APM and ODOT 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 (“HMCA”)**

Consultant shall perform the HMCA within the Project Area of Project Impact (“API”) and according to accepted environmental procedures as outlined in the Hazardous Waste Guide for Project Development (1990), by the *American Association of State Highway and Transportation Officials (AASHTO)* Special Committee on Environment, Archaeology and Historic Preservation, and the 2010 ODOT Hazardous Materials Program Procedures Guide available on the Agency website at:

<https://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/docs/HazMat/HazMatProgramProceduresl.pdf>

Consultant shall prepare the HMCA Report per the most recent version of the Agency Level 1 Hazardous Materials Corridor Study report template.

Consultant shall:

- Review available federal and state environmental records for hazardous waste generators, documented leaking or permitted underground storage tanks (“USTs”), sites with known or suspected releases, landfill sites, and Superfund sites using government web-based databases or using a commercial database search report. Consultant shall use the search radii set forth in American Society for Testing and Materials (“ASTM”) Standard E1527-05 for these database searches. Consultant shall review Oregon Department of Environmental Quality (“DEQ”) files for all sites that could impact the Project corridor to determine the nature and extent of contamination.
- Conduct a site reconnaissance of the Project API that consists of systematically traversing the Project API and viewing adjacent properties from roadways and public access areas. Consultant shall include photographs documenting Project API observations in the HMCA Report. Consultant shall use the reconnaissance to identify potential sources of contamination that could impact the proposed Project during construction or that could result in Agency acquiring contaminated property.
- Conduct historical research to assess past uses of the Project API and adjacent properties starting in 1920 and at 10-year intervals to present time. Consultant shall note data gaps in the HMCA Report. Consultant shall make recommendations for additional research if the historical resources are insufficient in describing the Project API land use history for the last 50 years. The historical research must include a review of historic aerial photographs and at least 1 or more of the following:
  - Sanborn Fire Insurance maps
  - Historic property ownership/occupancy records
  - Interviews of available key Agency personnel familiar with the site history
  - Review of chain-of-ownership documents, if provided by Agency
- Contact local Agency Maintenance and Engineering staff to get an accounting and records relating to prior maintenance activities that have occurred in the Project Area that may relate to hazardous materials.

- Prepare an AASHTO Initial Site Assessment Checklist according to AASHTO guidelines. Consultant shall incorporate the checklist into the HMCA Report.
- Prepare a draft and final HMCA Report to include a description of field observations, information from state and federal environmental databases, DEQ file review information, historic land use, a scaled map showing the location of all identified potential sources of contamination and sample locations and depths (as applicable), photographs, copies of historic data, copies of state and federal databases, results of any testing, and any other relevant documentation. The HMCA Report must include conclusions that identify specific sources of contamination that could impact the Project or the proposed construction work, and recommendations for further investigation or remediation. Consultant shall use the Agency’s report template to structure the report.

Consultant shall prepare a draft HMCA Report for APM and ODOT review and comment. Consultant shall prepare a final HMCA Report based on APM and ODOT review comments and acceptance of the draft document.

### **3.4.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- One electronic copy (in Microsoft Word format) of the Draft HMCA Report to APM for review per Task 1 Project Design Schedule, and
- One electronic copy (in PDF format) of the Final HMCA Report to APM and ODOT 2 weeks following receipt of draft review 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 in accordance with ODOT Technical Services Bulletin GE14-03(B) or most current ([http://www.oregon.gov/ODOT/Engineering/Doc\\_TechnicalGuidance/GE14-03b.pdf](http://www.oregon.gov/ODOT/Engineering/Doc_TechnicalGuidance/GE14-03b.pdf)).

#### **3.5.1 ESA No Effects Memorandum**

When Agency 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 Memorandum (“NE Memo”) 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 1 field survey of the API at the appropriate time for each ESA-listed plant, fish, and wildlife species with the potential to be present in the API and their potential suitable habitats following standard/appropriate field survey techniques;
- Conduct Oregon Department of Agriculture (“ODA”), 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 Agency and/or Oregon Biodiversity Information Center (“ORBIC”) to obtain data regarding listed threatened and endangered (also referred to as T&E) species, as well as those

proposed for listing under the federal and state ESA that may occur within the API, and Consultant shall determine whether federally listed species and their habitat will be affected by the Project;

- Communicate with local ODA, ODFW, NMFS, and USFWS staff via phone or email to acquire additional specific ESA information for the Project Area;
- Make ESA effects determinations following the analysis of gathered ESA information (if a determination is “No Effects” for at least one listed or proposed species, obtain Agency concurrence on the No Effects determination);
- Coordinate with design staff, Agency, and ODOT 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 Effects determination;
- Prepare draft NE Memo for the Project Area using the most recent Agency-provided form, and provide to Agency and APM for review and comment;
- Prepare final NE Memo for Agency acceptance; and
- Notify Agency immediately if Consultant determines that an ESA determination of No Effects is no longer appropriate.

### **3.5.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- 1 electronic PDF copy of the Draft NE Memo to APM for review per Task 1 Project Design Schedule;
- 1 electronic PDF copy of the Final NE Memo to APM within 2 weeks following receipt of draft review comments;
- 1 electronic PDF copy of the Draft construction special provisions relevant to NE determination to APM for review per Task 1 Project Design Schedule; and
- Final construction special provisions relevant to No Effects determination to APM within 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 species 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. 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.

Consultant shall:

- Facilitate early coordination with NMFS and/or USFWS according to Section 2.3 of the FAHP Programmatic User’s Guide;
- Coordinate with the 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 ODOT Regional Environmental Coordinator (“REC”) for the Project;
- Contact the ODOT 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, and/or USFWS for additional site-specific information on ESA species;
- Review all ESA information provided or obtained;
- Facilitate and attend 1 site visit with the Agency and USFWS and/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; and
- Prepare and submit all required FAHP Programmatic forms to the Agency REC for the Project, utilizing the latest templates available on the Agency 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,
  - Change Form.

### **3.5.2 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- Draft Site Visit Meeting Notes, within 1 week of the meeting, to APM, and REC;
- Final Site Visit Meeting Notes, within 1 week of receiving comments, to APM, LAPM, and REC;
- Draft FAHP Programmatic Project Initiation Form, within 2 weeks of Kickoff Meeting, to APM and REC;
- Final FAHP Programmatic Project Initiation Form, within 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; and
- Final FAHP Programmatic Project Notification documents, within 2 weeks of receiving comments, to APM and REC.

## **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 and Determination Memo**

Consultant shall complete a wetland field determination for the Project Study Area (“PSA”).

Consultant shall use available data (including but not limited to: soil surveys, aerial photos, and National/Local Wetland Inventory [“NWI/LWI”] maps), 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, and label and number the flags to identify their function;
- Prepare sketch maps of approximate wetland boundaries with numbering of flags or stakes;

- Use field methods and collect data that meets the U.S. Army Corps of Engineers (“USACE”) and DSL technical requirements for wetland delineations and ordinary high water demarcations, and collect and record wetland delineation data on approved wetland determination data sheets for possible inclusion with a wetland delineation report; and
- Consultant shall notify Agency if wetlands are present and will be impacted.

Consultant shall prepare 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 Agency 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 PSA.

### **3.6.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- Sketch map of approximate wetland and waters boundaries to Agency (if present) per the schedule in Task 1;
- Notification to Agency (via email) if wetlands are present and will be impacted per the schedule in Task 1;
- Electronic copy (Word) of the draft Wetland Determination Technical Memo to APM for review per the schedule in Task 1; and
- Electronic copy (PDF) of the Final Wetland Determination Technical Memo to APM 2 weeks following receipt of draft review comments.

### **3.6.2 Joint Permit Application for Impacts to Wetland/Waters (Contingency – See Section F)**

If the Project requires impacts to wetlands or waters, Consultant shall prepare a Joint Permit Application Form (“JPA”) for the federal Clean Water Act Section 404 and 401 permit and the Oregon DSL Removal-Fill Law permit. A draft of the application will be prepared for Agency review and comment prior to submitting the application to agencies. It is assumed that any permanent wetland impacts can be mitigated by purchasing credits from the Mud Slough Wetland Mitigation Bank.

### **3.6.2 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- Electronic copy of Draft JPA with attachments to APM for review per the schedule in Task 1, and
- Final JPA with attachments based on Agency review comments.

## **3.7 RESERVED**

It is assumed the Agency will attend any land use pre-application meetings and hearings and develop applicable Oregon City land use applications and obtain permits, if required.

#### **TASK 4 PUBLIC INVOLVEMENT SUPPORT**

Consultant shall assist Agency, as defined below, for the design phase of the Project through Final Plans, Specifications, and Estimate (“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**

###### **4.2.1 Open House Meetings**

Consultant shall prepare materials for and attend up to 2 two-hour open houses to provide Project information and solicit from the public questions and concerns related to the Project. Consultant will provide 2 staff to attend the open house. Agency will document input received from the meetings and prepare written summaries.

###### **4.2.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit to Agency in formats compatible for website and other uses:

- One draft and 1 final copy of a strip map of the Project Area, annotated with the proposed improvements and impacts;
- One draft and 1 final copy of an aerial map of the Project Area;
- One draft and 1 final electronic copy of 1, 8 1/2 x 11, 2-sided fact sheet including problem description, background, project and schedule information, decision process, and avenues for involvement;
- One Fast Facts display board with concise description of the Project;
- One electronic flyer to be distributed by Agency;

###### **4.2.2 Stakeholder Meeting**

Consultant shall attend, as a Project resource, 1 one-hour meeting with Project stakeholders to identify issues and discuss the Project process. Consultant will provide 1 staff to attend the stakeholder meeting. Agency will document input received from the meetings and prepare written summaries.

###### **4.2.2 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

- One consultant to attend 1 meeting with identified Project stakeholders;

#### **TASK 5 - UTILITIES**

Consultant shall perform the coordination of all utility facilities within the Project limits in accordance with the *Oregon Utility Relocation Manual*.

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 the 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, Survey.

### **5.1 Consultant Deliverables and Schedule**

Consultant shall provide:

- Existing utility information gathered in Task 5.1 to be included in the survey map/basemap; and
- 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**

Consultant shall prepare a draft and final Utility Report for those utilities located within the Project limits. The Utility Report should include as many of the following items that are known and applicable:

- Description of utilities located within the Project limits,
- Utility facility's structure dimension,
- Probable buried depth of cover or aerial lowest height of wire,
- General description of utility facility structure material,
- Reliance upon other utilities in the vicinity (joint use facility),
- Description of the means used to verify facility location and limits of conflict (test hole data, aka "pothole" verification),
- Proposed project construction requirements,
- Potential utility conflicts, and
- Probable conflict resolution (relocation or adjustment concept).

### **5.2 Consultant Deliverables and Schedule**

Consultant shall provide:

- Draft Utility Report to be submitted with Design Acceptance Package ("DAP") under Task 13, and
- Final Utility Report to be submitted to Agency within 10 business days receipt of comments on draft document.

### **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:

- 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 Summary Notes summarizing the discussions at the group utility meeting.

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

### **5.3 Consultant Deliverables and Schedule**

For each meeting Consultant shall provide to APM:

- Meeting Agenda for each meeting, due within 2 business days prior to meeting; and
- Meeting Summary Notes, 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:

- Preparation of Project Notification Letter(s)/Utility Conflict Notices
- Review of Utility Relocation Plans and Preparation of Relocation Time Requirement Letters

#### **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>

The Project Notification Letter must include plan sheets indicating location of existing utilities in relationship to the 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 located at:

<https://www.oregon.gov/ODOT/ROW/Pages/Utility-Forms.aspx>

Consultant's coordination schedule must allow each utility a 30-day period to respond with a proposal from date of the notice. Multiple notices or revised notices must be created and delivered to a utility owner when additional facility conflicts become apparent 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 Preliminary plans to Agency; and
- One electronic copy (PDF) of Project Notification/Utility Conflict Letters, with enclosures, to APM and State Utility Liaison.

#### **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 the utility for correction and resubmittal.

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 (reference ODOT's Bridge Design/Drafting Manual, sec. 3.14.10.3-4:

[http://www.oregon.gov/ODOT/HWY/BRIDGE/docs/bddm/oct2014\\_finals/sec\\_3\\_oct2014.pdf](http://www.oregon.gov/ODOT/HWY/BRIDGE/docs/bddm/oct2014_finals/sec_3_oct2014.pdf).)

Consultant shall obtain acceptance or rejection of the utility's 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 Agency within 10 days after acceptance, and
- Time Requirement Letter(s) submitted to each utility, Agency, and State Utility Liaison within 20 business days after submittal of Advance Plans to Agency.

#### **5.6 Utility Certification**

Consultant shall complete and sign the Utility Certification 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 Agency's signature, a Public Interest Finding as part of the Utility Certification, including facts regarding the cause for the exception, an action plan, and a time table in securing a utility agreement (i.e., the Time Requirements Letter).

#### **5.6 Consultant Deliverables and Schedule**

Consultant shall provide:

- One electronic copy (PDF) of the Utility Certification sent to the State Utility Liaison for co-signature, due 10 business days prior to PS&E; and
- One hard copy of signed Utility Certification form to be incorporated into PS&E package.

### **TASK 6 GEOTECHNICAL/PAVEMENT SERVICES**

Consultant shall conduct a geotechnical field investigation to explore the following:

- Surface and subsurface conditions in proposed bank stabilization improvement areas.

Consultant shall provide documentation that summarizes and presents the results of the investigation, analyses, and recommendations.

#### **6.1 Data Review/Reconnaissance**

Data Review:

Consultant shall review available existing information to evaluate the following:

- Geologic conditions, landslide information, and hazards along the proposed project limits, such as geologic units, historic land use, and fill materials.

Consultant shall review available information from the following sources (as applicable):

- Existing published and unpublished literature from Agency records;
- Previous geology and/or geotechnical reports from Agency, and federal, city, county, or other officials, consultants, groups or individuals pertinent to the Project;
- As-built roadway plans (as available); and
- Maintenance records.

Reconnaissance:

Consultant shall conduct a geologic and geotechnical reconnaissance of the site consisting of up to 2 separate site visits. Consultant shall identify the following:

- Geologic conditions at the Project site, any geologic hazards present, and their impacts to the proposed Project elements.

As part of the site reconnaissance work, Consultant shall:

- Observe surface conditions that may be indicative of subsurface conditions of concern, as well as past or ongoing geologic processes (e.g., areas of seeps or springs, erosion, unstable slopes, shallow groundwater, roadway settlement, offsets and depressions, existing earthwork performance, exposed soil and bedrock units);
- Identify site constraints, staging concerns (for exploration and construction), and environmental considerations;
- Identify potential exploration and/or monitoring locations; and
- Locate borings and stake or paint on the ground the proposed boring locations.

**6.1 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Tasks 6.2 and 6.6.

**6.2 Exploration and Testing Work Plan**

Consultant shall prepare an Exploration and Testing Work Plan (ETWP) prior to beginning field work. No field work is to be performed, other than initial site reconnaissance, before review and approval by Agency of the ETWP.

The ETWP shall address the proposed drilling boring locations, site access, exploration and sampling procedures, preliminary laboratory testing plan, safety plan, and traffic control plan. The traffic control plan must address minor road encroachments as well as lane and/or shoulder closures for activities associated with cores, borings, or drive probes, and restoration of pavements, shoulders, and other areas disturbed due to subsurface exploration activities, including erosion control measures.

Consultant shall obtain required Utility Permits from Agency for exploration locations in public ROW prior to beginning field work.

Agency shall satisfy 1 request to obtain any required Right-of-Entry Agreements from the adjacent property owners under Task 14 prior to beginning field work. Agency will need a minimum of 3 weeks to obtain the ROE.

## **6.2 Consultant Deliverable and Schedule:**

Consultant shall provide:

- ETWP in Microsoft Word format, at least 5 business days prior to beginning field work, to APM.

## **6.3 Geotechnical and Pavement Explorations**

Consultant shall conduct field investigation work in accordance with the most current versions of the ODOT Geotechnical Design Manual and the ODOT Pavement Design Guide.

All field explorations shall be performed in conformance with the approved ETWP developed in Task 6.2. When possible, Consultant shall coordinate traffic control and other subcontractors, such as drillers, to provide exploration services for geotechnical explorations concurrently.

Consultant shall perform subsurface explorations to estimate and characterize the *in situ* soils for the purposes of addressing foundation support and other geotechnical or geological considerations for the following:

- Slope stability and retaining wall design.

The anticipated subsurface explorations to be performed for the Project are shown in the following table:

<b>Exploration Method</b>	<b>Quantity</b>	<b>Depth/Length of Exploration(s)</b>
Drilled Borings (shallow)	4	25 to 30 feet each
Drilled Borings (deep)	1	75 feet
Slope Inclinerometers with Vibrating Wire Piezometers (installed in selected drilled borings)	3	2 for 25 to 30 feet deep; 1 for 75 feet deep
Surface Geophysical Profiles (seismic refraction lines)	5	150 feet each

Consultant shall provide an experienced engineer or geologist to supervise the field operations for *in situ* data gathering.

Consultant shall perform the exploration work while following additional requirements as follows:

- Boring locations that have restrictions must have boring performed in conformance with the permit requirements.
- The drill cuttings and drilling mud must be collected in sealable steel drums and removed from the site, unless otherwise coordinated with Agency.
- The borings must be abandoned and backfilled according to Oregon Water Resources Department regulations.
- All borings and core holes through pavement must be patched with cold patch asphalt emulsion, quick set PCC, or as approved by Agency.
- Inclinerometers and vibrating wire installations will include flush-mounted monuments.

### **6.3 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Task 6.7.

### **6.4 Laboratory Testing**

Consultant shall perform laboratory tests on disturbed and/or undisturbed soil samples obtained from the explorations in order to:

- Characterize the subgrade and subsurface soils,
- Develop engineering soil parameters for the retaining wall design,
- Assist with determining engineering geologic unit boundaries, and
- Check field soil description and identification.

The laboratory testing program shall be performed in accordance with standard ASTM and Agency practices to include the following:

- Moisture/density,
- Atterberg limits,
- Gradation (minus No. 200 sieve wash),
- Direct shear testing (if applicable), and
- Unconfined compressive strength of intact rock (if applicable).

### **6.4 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Task 6.7.

### **6.5 Geotechnical Monitoring**

Consultant shall collect data from the inclinometers and vibrating wire piezometers twice during the winter months (including the initial reading) and once during the spring months.

### **6.5 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Task 6.7.

### **6.6 Geotechnical Design Analysis**

Consultant shall perform the slide mitigation design analysis and pavement design for the Project. Consultant will evaluate up to 3 potential mitigation alternatives for the Project site in order to develop a preferred cost-effective mitigation alternative for the Project. The detailed SOW is as follows:

- Evaluate regional and site-specific geologic hazards,
- Estimate soil residual shear strength along the landslide failure planes,
- Evaluate potential landslide mitigation design alternatives,
- Meet with Agency to discuss findings and potential mitigation design alternatives,
- Develop the final design mitigation recommendations, and
- Provide the pavement design recommendations.

### **6.6 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Task 6.7.

### **6.7 Geotechnical Report and Foundation/Geotechnical Data Sheets**

Consultant shall prepare a Geotechnical Report according to the ODOT Geotechnical Design Manual criteria for submittal to Agency for review. The Geotechnical Report must:

- Summarize the geotechnical design and construction recommendations;

- Identify general specification criteria for the construction contract and provide recommendations for special provisions, if required;
- Summarize the results of the geotechnical analyses and geotechnical monitoring; and
- Provide design recommendations for the slope stability and retaining wall design.

#### **6.7 Consultant Deliverables and Schedule:**

Consultant shall provide:

- Draft Geotechnical and Pavement Design Report in Microsoft Word and PDF formats to be incorporated into the DAP delivered under Task 13.
- Final Geotechnical and Pavement Design Report in PDF format to APM within 2 weeks of receipt of comments from Agency.

#### **6.8 Review of Geotechnical-related Plans and Specifications**

Consultant shall review geotechnical-related plans and specifications to confirm that the landslide mitigation design plans and specifications, as well as pavement design plans and specifications, are consistent with the geotechnical design and construction recommendations provided in the Geotechnical and Pavement Design Report.

#### **6.8 Consultant Deliverables and Schedule:**

The review comments will be provided by using tracked changes in the Word document, and sketches on the plans.

### **TASK 7 HYDRAULICS-RELATED SERVICES**

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

#### **7.1-7.4 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.

#### **Storm Sewer Conveyance**

The purpose of this subtask is to provide design of stormwater conveyance facilities that collect and carry roadway runoff per local agency, ODOT Hydraulics Manual, and/or FAHP Programmatic Biological Opinion, whichever standard is most strict.

Consultant shall:

- Determine the locations of flow entering and leaving the Project ROW;
- Review existing conditions downstream of locations where flow is leaving the Project ROW for deficiencies and document observations;
- Delineate on-site drainage basins, calculate peak flow rates for design, model the proposed pipe network, and calculate hydraulic grade line to check that proper freeboard design requirements are being met;
- Check inlet capacity and inlet spacing, calculate gutter flow to check spread, and provide design recommendations for inlet locations;

- Provide design recommendations for pipe network, associated pipe sizes, pipe material recommendations, and manhole access design recommendations (i.e., spacing, location within a travel lane, etc.);
- Provide manhole diameter design recommendations based upon analysis of pipe connections at each manhole;
- Compare pipe network against known utilities in the Project Area and provide design recommendations to minimize utility conflicts or to adjust existing utilities; and
- Provide stormwater outfall design and energy dissipater design recommendations, if needed.

### **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 local agency standards, ODOT Hydraulics Manual, and/or FAHP Programmatic Biological Opinion, whichever standard is most strict.

The design strategy is to limit upstream flow from entering the Project Area. This flow will not have stormwater quality criteria. Due to space constraints, flow generated through the Project Area will be contained using drainage curb, using an enclosed system as necessary, and then treated via a hydrodynamic separator or cartridge filtration system, and piped into the enclosed system near Fifth Avenue. The Consultant shall also study an alternative using impermeable swales where space permits that would drain into an enclosed system.

Consultant shall:

- Define “Contributing Impervious Area”;
- Delineate on-site drainage subbasins;
- Identify treatment Best Management Practice (“BMP”) types applicable for the site;
- Identify potential locations to site facilities within and outside the ROW;
- 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.);
- Prepare up to 2 stormwater management strategies that combine potential stormwater facilities into a comprehensive solution for meeting the needs of the Project; and
- Compare alternative stormwater management strategies and recommend a preferred strategy.

### **Stormwater Quantity Design**

The Project is not anticipated to trigger requirements for stormwater quantity management. The design assumes that no stormwater quantity analysis is necessary for the Project, because there is no change to impervious area. There will be coordination with NMFS to provide an overview of the design to get concurrence.

### **7.6 Stormwater Design Memo**

The purpose of this subtask is to provide preliminary stormwater design recommendations and document the final stormwater facility design recommendations.

Consultant shall prepare a preliminary version of the Project Stormwater Design Memo per Water Environment Services Guidelines or FAHP guidelines containing preliminary stormwater facility design recommendations.



Consultant shall prepare a final Stormwater Design Memo 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 provide:

- Draft Stormwater Design Memo in PDF file format, along with an Microsoft Word file containing the report narrative, and 2 hard copies, due with the DAP; and
- Final Stormwater Design Memo, in PDF file format, of complete report, and 2 hard copies, due with the Final Plans.

#### **7.7 Stormwater Operations and Maintenance Manual**

The purpose of this subtask is to provide Operations and Maintenance Manual documentation of all proposed stormwater management facilities, so that Agency has a record of the stormwater facilities that need to be as-built and as operated, and how to maintain them after the Project is constructed. The manual must be developed using the Agency templates referenced in ODOT's Hydraulics Manual. The general outline described in the Hydraulics Manual shall be followed unless agreed to otherwise by the APM, as follows:

- 1) Identification
  - a) Facility Type
  - b) Location
- 2) Facility Contact Information. This section provides a general summary of contacts for operational clarification, maintenance clarification, and repair or restoration assistance. This section requires no or little modification.
- 3) Construction
- 4) Storm Drain System and Facility Overview
- 5) Auxiliary Outlet (High Flow Bypass)
- 6) Maintenance Requirements
- 7) Waste Material Handling
- 8) Operations and Maintenance Appendices A, B, and C

Consultant shall prepare up to 2 Draft Operations and Maintenance Manuals, 1 for each stormwater facility anticipated for the Project, per Chapter 4, Section 4.6.6 of the ODOT Hydraulics Manual (latest edition). Consultant shall prepare operational plans as outlined in Technical Bulletin GE 16-01 (B) titled "Stormwater Control Facility Operation and Maintenance Plan Development Drafting Guidance."

#### **7.7 Consultant Deliverables and Schedule:**

Consultant shall provide:

- 1 copy of each Draft Operations and Maintenance Manual, in Microsoft Word and PDF formats, to the APM with Advanced Plans; and
- 1 copy of each draft operational plan in AutoCAD format (\*.DWG file) to the APM with Advanced Plans.

### **TASKS 8 TRAFFIC ENGINEERING AND MANAGEMENT**

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

### **8.1 Permanent Signing**

Consultant shall prepare plans, construction cost estimates, and special provisions for the permanent signing associated with the proposed improvements. Consultant shall perform the design work for this task through guidance provided by the current edition of the ODOT Traffic Sign Design Manual, the Manual on Uniform Traffic Control Devices (“MUTCD”) and Oregon Supplements to the MUTCD (OAR 734-020-005), the Oregon Standard Drawings and Details, and LPA standards as applicable. Signing Plans will include but are not limited to the following: permanent signing plans, signing details, and sign and post data tables. Existing signs within the Project limits will be shown on the plans.

#### **8.1 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Tasks 13 and 15.

### **8.2 Permanent Pavement Markings**

Consultant shall prepare plans, construction cost estimates, and special provisions for the permanent pavement markings associated with the proposed improvements. Consultant shall perform the design work for this task through guidance provided by the current edition of the ODOT Traffic Line Manual, ODOT Pavement Marking Design Guidelines, the MUTCD, the Oregon Supplement to the MUTCD (OAR 734-020-005), the Oregon Standard Drawings and Details, and LPA standards as applicable.

#### **8.2 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Tasks 13 and 15.

### **8.3 Traffic Control Plans**

Consultant shall prepare plans, construction cost estimates, and special provisions for temporary traffic control to accommodate the public during construction. ODOT standard drawings must be referenced where possible. Consultant shall prepare traffic control plans in accordance with the current ODOT Traffic Control Design Manual, ODOT Traffic Control Plans Design Manual, ODOT Contract Plans Development Guide, applicable ODOT Standard Drawings, the MUTCD, and LPA standards as applicable. One detour plan is anticipated for this Project.

#### **8.2 Consultant Deliverables and Schedule:**

Information from this task shall be incorporated into deliverables for Tasks 13 and 15.

## **TASK 9 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**

Consultant shall prepare draft and final design criteria. Design criteria shall be consistent with Agency Roadway Standards. Consultant shall present the design criteria in a table or matrix format listing all conditions, assumptions, and minimum standards for the roadway design elements of the Project. This includes:

- Obtain functional classification facility based on current Transportation System Plan;
- Obtain existing and design year Average Daily Traffic (“ADT”) from traffic report or Project Prospectus;

- Determine design speed;
- Determine roadside design requirements (clear zone);
- Match existing cross slope, centerline, and any horizontal curves;
- Match existing vertical grade and any vertical curves; and
- Determine cross section elements:
  - Number and width of travel lanes,
  - Shoulders,
  - Curbs,
  - Side slopes and retaining wall location, and
  - Ditches or swales (drainage facilities).

**10.1 Consultant Deliverables and Schedule:**

Consultant shall provide:

- Draft design criteria electronically and in hard copy to APM within 6 weeks from NTP, and
- Final design criteria electronically and in hard copy to APM within 2 weeks from receipt of Agency comments.

**10.2 Concept Plans/Alternative Analysis**

The Consultant shall work with Agency to develop up to 2 alternatives for the roadway alignment and cross section, based on initial solutions from the Project Prospectus, suggestions from Agency, and current Agency design standards.

Consultant shall develop each alternative to concept-level design sufficient to establish construction limits, quantities, and major construction activities. Each alternative shall have horizontal and vertical alignments developed that meet minimum design standards. Consultant shall prepare a conceptual drawing for each alternative. The drawing shall utilize the topographic survey base map or corridor roll plot on an aerial map at a scale of 1 inch = 30 feet. Geometric design elements that do not meet design standards shall be identified as needing a design exception.

Consultant shall analyze each alternative and determine the potential benefits and impacts associated with construction of the proposed alternative. Potential benefits and impacts to be considered include, but are not limited to, ROW, retaining wall location, existing landslide locations, utilities, stormwater facilities, and environmental.

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

Consultant shall prepare an Alternatives Analysis technical memorandum that summarizes the results of analysis for each alternative. The memo must include a summary of the identified impacts and the cost estimate associated with each alternative, to allow Agency to determine which alternative to move forward to the DAP.

**10.2 Consultant Deliverables and Schedule:**

Consultant shall provide:

- Alternatives Analysis technical memorandum and drawings to APM electronically (PDF) within 5 months of NTP.

### **10.3 Roadway Design Exceptions (CONTINGENCY TASK – See Section F)**

Consultant shall prepare up to 2 draft Roadway Design Exception Request(s) for the Project. The Design Exception Request(s) must be prepared using the standard Design Exception Request form provided by Agency. The final Design Exception Request(s) for the Project must be stamped and signed by the engineer of record. Agency will coordinate final approval of the Design Exception Request(s).

#### **10.3 Consultant Deliverables and Schedule:**

Consultant shall provide:

- 1 electronic copy in Microsoft Word format to APM of draft Design Exception Request(s) within 2 weeks of the DAP, and
- 1 hard copy and 1 electronic copy in Word and PDF formats to APM of final Design Exception Request(s) no later than 2 weeks after receipt of comments from Agency.

### **TASK 11 NEW RETAINING WALL DESIGN**

Consultant shall perform structural analysis and design for a tied-back retaining wall, and developing layout and performance requirements for the reinforced roadway embankment. Consultant shall base the general design upon AASHTO LRFD Bridge Design Specifications. Consultant shall address other design requirements and costs conforming to AASHTO, Agency, and ODOT standards. It is assumed that no grading plan will be required for the excavation outboard of the retaining wall or reinforced roadway embankment.

#### **11.1 Retaining Wall Type, Size and Location (TS&L)**

Consultant shall address the following in the Retaining Wall TS&L narrative:

- Type, size and location of the retaining wall
- Summary of existing conditions of the retaining wall
- Outline of site specific constraints, including but not limited to; topography, geology, hydrology, environmental constraints and requirements, permits, R/W, utilities, and cost

Consultant shall prepare retaining wall plan sheets in accordance with the table in 13.1 below.

Consultant shall prepare cost estimates for the wall and reinforced roadway embankment.

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

#### **11.1 Consultant Deliverables and Schedule**

Consultant shall:

- Submit the draft Retaining Wall TS&L for the tied-back retaining wall including narrative, plan sheets and cost estimates to APM in accordance to the schedule of Task 1
- Incorporate final Retaining Wall TS&L including narrative, plan sheets and cost estimate into the DAP submittal delivered under Task 13.

#### **11.2 Preliminary Retaining Wall Design**

Consultant shall prepare preliminary 60% plans for the Project incorporating Agency comments on the DAP submittal. Consultant shall update the cost estimate.

Consultant shall complete design and prepare retaining wall plans to be in the construction bid package to a 60% design level. Consultant shall reference Agency or ODOT standard drawings and details. The following retaining wall plans are anticipated:

- Plan and Elevation

- General Notes
- Foundation Plan and Data Sheet
- Construction Notes and Details
- Typical Section(s)
- Wall Elevation Table(s)
- Wall Details
- Miscellaneous details

### **11.2 Consultant Deliverables and Schedule**

Consultant shall provide:

- 60% plans, draft design exceptions submitted as part of Task 15.1
- Final design deviations submitted within 2 weeks of receipt of comments from Agency.
- Final design exceptions submitted within 2 weeks of receipt of comments from Agency.

### **11.3 Advance Retaining Wall Design**

Consultant shall incorporate all comments received from the Agency during 60% review and prepare 90% advance retaining wall plans to be included in the construction bid package. Consultant shall reference Agency or ODOT standard drawings and details, and other related drawings.

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

Consultant shall complete Class II design check of the Advance PS&E according to ODOT Bridge Practices and Procedures Manual (BPPM).

### **11.3 Consultant Deliverables and Schedule**

Consultant shall provide:

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

### **11.4 Final Retaining Wall Design**

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

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

### **11.4 Consultant Deliverables and Schedule:**

Consultant shall provide final bridge PS&E documents submitted as part of Task 15.3

## **TASK 12 RESERVED**

### **TASK 13 - DESIGN ACCEPTANCE PACKAGE (30%)**

The objective of the DAP is to identify the size of the Project footprint, required design exceptions, and any required environmental permits prior to preparing the Preliminary, Advance, and Final Plans.

Consultant shall develop the alternative chosen in Tasks 7.6 and 10.3 by Agency to prepare the DAP.

Consultant shall prepare a DAP that includes 30% design plans, a 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, ADT, posted speed, and other design standards pertinent to the Project);
- Summary of design exceptions that will be necessary;
- Summary of retaining wall locations evaluated;
- Retaining Wall TS&L;
- Outline of Project constraints such as topography, environmental, permits, ROW, 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;
- Description of geotechnical subsurface conditions;
- Draft Geotechnical Report;
- Draft Stormwater Memo;
- ROW needs; and
- Construction staging, temporary detours, and temporary protection and direction of traffic during construction.

Consultants shall prepare DAP plan sheets according to the following table:

Name of Sheet		Estimated # of Sheets
Title Sheet		1
Typical Sections and Notes		1
Details		2
Retaining Wall Plan and Typical Section		2
Roadway Plan and Profiles		2
Stormwater Water Quality and Detention Plan and Details		2

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 standards and provide an index to the drawing set.

Agency will provide comments on the DAP. Consultant shall address Agency and LPA comments. Consultant shall attend a DAP Plan Review Meeting to communicate and discuss resolution to Agency review comments. Consultant shall provide written responses to address review comments received from Agency after attending the DAP Plan Review Meeting.

For budgeting purposes, it is assumed that up to 2 Consultant staff shall attend the 2-hour DAP Plan Review Meeting, including travel time.

### **13.1 Consultant Deliverables and Schedule**

Consultant shall provide:

- One electronic copy of DAP in PDF format to APM within 7 months of NTP, and
- One electronic copy of written responses to DAP review comments to APM within 1 week of the DAP Plan Review Meeting.

### **TASK 14 RIGHT OF WAY (ROW)**

Consultant shall conduct the ROW activities for all properties in accordance with the most current version of the following:

- ROW Services Agreement specific to the Project;
- *ODOT Right of Way Manual*;
- *ODOT Guide to Appraising Real Property*;
- *ODOT Right of Way & Rail/Utility Coordination Contractor Services Guide*;
- Oregon Revised Statute 35, with reference to the *Uniform Appraisal Standards for Federal Land Acquisitions*; and
- Agency ROW acquisition policies and procedures.

Consultant shall use Agency versions of all forms, spreadsheets, brochures, and pamphlets referenced in the *ODOT Right of Way Manual* and needed to complete work associated with Task 14. These forms, spreadsheets, brochures, and pamphlets shall not be altered without written permission from Agency. They may be obtained through the Agency Right of Way Manager or Designee.

Consultant shall track status for all parcel files to be acquired for ROW purposes in the format provided by Agency. Consultant should coordinate the details of this process with the Agency Right of Way Manager or Designee at the Project Kickoff meeting.

For estimating purposes, up to 3 files are anticipated for this Project.

### **14.1 R/W Meetings (PE & R/W Phase)**

Consultant shall attend meetings to coordinate the Right-of-Way tasks with the Agency, internal Project team members and other discipline activities as needed. Meetings may be scheduled for, but are not limited to, the following:

- Site Visit meetings
- Project Development meetings
- Plans Review meetings

### **Assumptions**

- There will be up to 1 site visit meeting.
- Right of Way consultant to attend project meetings as needed via conference call.

### **14.2 Title Reports and Document Requests**

Consultant shall prepare and assemble all title documents, including vesting deeds, necessary to accomplish acquisition of ROW, to Agency and/or ODOT standards, for each impacted property.

## **14.2 Consultant Deliverables and Schedule**

Consultant shall provide:

- Clearance Documents from Lenders and/or Lessees per the schedule developed in Task 1, Project Management.

## **14.3 RESERVED**

## **14.4 ROW Programming Estimate**

Consultant shall prepare a ROW programming estimate for use by the Right of Way Section to program funds for property acquisition. Consultant shall obtain the most current version of the Programming Estimate Form to be used from the Agency Right of Way Manager or Designee. The programming estimate shall include the Project name and county in which the Project is located, and all Project ROW costs, including separate Consultant, Agency, and ODOT ROW costs as outlined in the Right of Way Services Agreement with the Agency. The ROW programming estimate shall include dollar amounts for the following items: Land and Improvements, Damages/Cost to Cure, Relocation, Demolition, Personnel and Administration, and Legal and Contingencies, as well as totals for all items. The programming estimate shall be submitted to the appropriate Agency Right of Way Manager or Designee for review.

Consultant shall revise and resubmit the programming estimate, incorporating comments received from Agency.

## **14.4 Consultant Deliverables and Schedule**

Consultant shall provide:

- One draft programming estimate for delivery electronically to Agency Right of Way Manager or Designee and APM, per the schedule developed in Task 1, Project Management; and
- One final programming estimate for delivery electronically to Agency Right of Way Manager or Designee and APM, per the schedule developed in Task 1, Project Management.

**PLEASE NOTE: Consultant shall not perform any Services described in Tasks 14.5 through 14.6 below until Agency issues NTP for the ROW phase of the Project.**

## **14.5 Preliminary Activities**

Upon receipt of authorization to proceed with ROW acquisition, Consultant shall set up ROW parcel files and deliver a General Information Notice (“GIN”), acquisition and relocation brochures, and a copy of the applicable portion of the ROW acquisition map (marked Preliminary and showing the parcel(s) to be purchased) to all owners and occupants of affected properties. Consultant shall send the GIN via certified mail with proof of delivery kept in the parcel file. Consultant shall use the Agency GIN form.

Consultant shall prepare and maintain a Report of Personal Interview for each file. The Report of Personal Interview must include proof of delivery of the GIN; a statement that brochures were delivered and explained; and a date, place of contact, parties contacted, and summary of content of contact for all personal contact with affected property owners and/or their representatives, and of other activities conducted during the course of the ROW process.



#### **14.5 Consultant Deliverables and Schedule**

Consultant shall provide:

- GINs (1 hard copy to each property owner and 1 electronic copy to Agency) within 20 business days following NTP for the ROW acquisition phase.

#### **14.6 Appraisal and Appraisal Review**

Consultant shall use appraisers who are licensed or certified in the State of Oregon, competent in eminent domain appraising, and on ODOT's Qualified Appraisers List.

Consultant shall provide 1 real estate appraisal for each property or properties that constitute the "larger parcel" as described in the *ODOT Right of Way Manual* from which an interest is to be acquired. If identification of the larger parcel is problematic, Consultant shall resolve the issue in consultation with the Agency Right of Way Manager or Designee.

All real estate appraisals provided by the Consultant shall be prepared using forms or formats of, or approved by, the Agency's ROW Section. The types of appraisal reports shall fall into the following categories:

- Taking and damages appraisals for simple takings, and
- Detailed (before/after) appraisals for complex takings.

Consultant shall prepare all reports and estimates necessary to value specialty items to be acquired or to support cost-to-cure estimates.

Consultant shall provide not fewer than 15 days' written notice to owners of the planned appraisal inspections. The property owner and designated representative, if any, shall be invited to accompany the appraiser on any inspection of the property for appraisal purposes. Consultant shall send this notice via certified mail with proof of delivery, and it shall be kept in the parcel file.

Special Benefits, if any, must be quantified by the appraiser whether or not there are any compensable damages to the property.

Consultant shall perform independent reviews of appraisals. Consultant shall ensure that the same firm does not perform both the appraisals and the appraisal reviews. Consultant shall forward both the appraisal and the review to Agency for final approval.

Agency will establish just compensation for each property owner and will notify the Consultant.

Consultant shall continue documentation in the Report of Personal Interview for each file. The Report of Personal Interview must include proof of delivery of the written notice of appraisal inspection, date and place of contact, parties of interest contacted, a statement that brochures were delivered and explained, and record of other activities conducted during the appraisal.

#### **14.6 Consultant Deliverables and Schedule**

Consultant shall provide:

- 15-day notice of appraisal inspection to each property owner and an electronic copy to Agency's ROW Section and to APM, per the schedule developed in Task 1, Project Management;

- Report of Personal Interview to Agency ROW Section and APM within 3 business days of request; and
- Appraisal and appraisal review in electronic format for each file to Agency ROW Section and APM, and in hard copy format to Agency ROW Section, in accordance with the Project Design Schedule developed under Task 1, as follows:
  - Value finding/taking and damages appraisal (for simple takings), OR
  - Detailed before-and-after appraisal (for complex takings), and
  - Specialty reports, if necessary, prior to incorporation in appraisal reports.

### **Assumptions**

- It is assumed that these are taking and damages appraisals. If appraisals needed are more complex in nature, fees and schedules will be adjusted accordingly.

### **14.7 Acquisition Services**

All ROW shall be acquired in the name of Agency as easement, if a partial acquisition, and as fee, if a whole acquisition is required. Consultant shall conduct negotiations, on behalf of the Agency, in good faith and in compliance with all federal and state laws and regulations and Agency policies and procedures. Consultant shall conduct negotiations for acquisition of real property based on Just Compensation issued by Agency.

Consultant shall consult with Agency to determine the extent to which Consultant will be responsible for clearing title encumbrances identified on the Preliminary Title Report or making the offer subject to clearing title encumbrances. Consultant shall present any requests for taking title subject to one or more outstanding interests to Agency for approval. Fee owners' and contract purchasers' ownership interests must be addressed. When impacted by the taking, lessees' interests must also be addressed.

Consultants shall prepare and present to Agency the draft Offer Packets. All offers will be made on Agency letterhead, will include Agency contact information, and will be signed by Agency. These Offer Packets shall include, but shall not be limited to, acquisition and relocation brochures, offer-benefit letter, acquisition and relocation summary statements, Terms of Agency's Offer signed by Agency, copy of appraisal, map of acquisition, instruments of conveyance, and W-9 form (if money is exchanged).

To every reasonable extent possible, Consultant shall make offers in person, especially where the acquisition involves either a major impact to the property or the displacement of persons occupying the property. If this is deemed not possible, Consultant shall send the offer via certified mail. Proof of delivery must be documented in the Report of Personal Interview and file.

Consultant shall make every reasonable effort to acquire the ROW expeditiously by negotiation. Consultant shall give property owners reasonable opportunity to consider the offer (statutorily, 40 calendar days) and to present material the owner believes is relevant to determining the value of the property. Consultant shall attempt to negotiate an approved administrative settlement but shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property (49 CFR 24.102(h)).

- IF the OFFER is ACCEPTED, Consultant shall present a Final Report Packet covering the acquisition of ROW to Agency for final approval, payment, conveyance of title, and recording.

- IF a COUNTER OFFER is received, Consultant shall submit the proposed COUNTER OFFER (exceeding the estimate of just compensation) with a justification letter and owner-supplied supporting documentation to Agency for approval. If counter offer is accepted, see above.
- IF an acceptable agreement is not reached, Consultant shall prepare and submit a Recommendation for Condemnation.

Consultant shall continue documenting the Report of Personal Interview for each file. The Report of Personal Interview must include contact with property owners, owners' attorneys and occupants, efforts to achieve amicable settlements, owners' suggestions for changes in plans, and responses to owners' counterproposals.

**14.7 Consultant Deliverables and Schedule**

Consultant shall provide the following per the Project Design Schedule developed under Task 1:

- Three Draft Offer Packets for review for each file to Agency ROW Section;
- Three Final Offer Packets for review and signature to Agency ROW Section;
- Three Final Report Packets, 1 for each file, containing the file contents and a Final Report (Agency form) to Agency ROW Section;
- If applicable, proposed counter offers with justification information to Agency ROW Section; and
- If applicable, Recommendation for Condemnation to Agency ROW Section.

**14.8 Relocation (Reserved)**

**14.9 Condemnation Process Assistance – (CONTINGENCY TASK – See Section F)**

After good faith effort has been made to acquire ROW at the Agency's determination of just compensation, if settlement with the property owner(s) is NOT reached, Consultant shall:

- With Agency authorization, send Final Offer letter to the property owner in accordance with the ROW Manual.
- Provide information and clarification to Agency and LPA in support of mediation and condemnation proceedings, and assist property owner with any relocation according to the Consultant Services Guide.

**Assumptions**

- There is 1 condemnation file.
- Agency will initiate condemnation proceedings.

**14.9 Consultant Deliverables and Schedule:**

Consultant shall provide:

- One file prepared for condemnation.

**Task 14 Assumptions:**

- Consultant to secure and pay for all title reports.
- Agency will provide conveyance document forms.
- Agency will approve GIN and offer documents. GINs and offer letters will be on Agency letterhead and will be signed by Agency.
- Agency will disperse payment to property owners and record all documents.

- Number of parcels 3 is based on preliminary alignment and is subject to change. If more or less, payment for this scope of services may be adjusted up or down by negotiation.
- Consultant shall provide legal descriptions and exhibits, property impact maps, and other drawings as needed.
- Consultant shall provide the most up-to-date plan sheets as needed for the ROW process.

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

Consultants shall prepare plan sheets according to the following table:

**Table 15**

<b>Name of Sheet</b>	<b>Estimated # of Sheets</b>	<b>60% PS&amp;E Submittal</b>	<b>Advance Submittal</b>	<b>Final Submittal</b>
Title Sheet and General Notes	2	x	x	x
Typical Sections	1	x	x	x
Existing Conditions and Details	4	x	x	x
Detour Plan	1	x	x	x
Roadway Plans and Profiles and Stormwater Conveyance Notes	3	x	x	x
Pipe Data Sheet	1	x	x	x
Erosion Control Plans and Notes	3		x	x
Foundation Data Sheet	1	x	x	x
Retaining Wall Plan, Profile, and Details	8	x	x	x
Stormwater Facility Details	2	x	x	x
Seeding/Restoration Plans and Details	2		x	x
Permanent Signing and	4	x	x	x
Permanent Pavement Marking		x	x	x

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

Consultant shall prepare preliminary (60%) documents for the Project, incorporating comments from DAP review (Task 13).

Consultant shall prepare drawings, according to Table 15 above and:

- Reference Agency standard drawings and details; and
- Prepare construction cost estimate quantities and unit costs utilizing Agency standard bid items (Consultant shall prepare the estimate to include mobilization, contingency, and construction engineering, and the percentages will be agreed to by both parties). The estimate must be based on unit prices utilizing Agency and Consultant’s historical bid information and considering an early 2021 bid letting.

The APM will submit a Preliminary PS&E Review Comment Log as a single electronic file 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 on the Preliminary PS&E.

### **15.1 Consultant Deliverables and Schedule**

Consultant shall submit the following to the APM within 8 weeks of the APM written approval (e-mail acceptable) of the final DAP (Task 13):

- Preliminary Plans (PDF),
- Special Provisions Document Assembly Form (PDF), and
- Preliminary Construction Cost Estimate in Excel/table format (PDF).

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

### **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 2018 *Oregon Standard Specifications for Construction as amended* and *Agency Specification and Writing Style Manual*. Consultant shall prepare the Special Provisions to the 90% level (the “Advance Special Provisions”) in Microsoft Word utilizing “Track Changes.”

The Advance Special Provisions must incorporate the Agency’s boilerplate Special Provisions 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:

[http://www.oregon.gov/ODOT/HWY/SPECS/Pages/Boilerplate\\_Special\\_Provisions.aspx](http://www.oregon.gov/ODOT/HWY/SPECS/Pages/Boilerplate_Special_Provisions.aspx).

Consultant shall submit the Agency Civil Rights Request for Goals Worksheet to the Agency Office of Civil Rights and incorporate the appropriate Disadvantaged Business Enterprise (“DBE”) goals; Minority, Women, and Emerging Small Business (“MWESB”) aspirational target values; and On the Job Training hours into the Project Special Provisions.

#### Advance Cost Estimate:

Consultant shall update the construction cost estimate quantities and unit costs utilizing Agency 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 and Consultant historic bid information and anticipating an early 2021 bid letting. Consultant shall prepare the final cost estimate using Agency’s Trns\*port Estimator software.

Construction Schedule:

Consultant shall prepare a construction schedule, using the Critical Path Method, or CPM, (Microsoft Project and PDF formats) 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 responses to address review comments received from the APM on the Advance PS&E.

**15.2 Consultant Deliverables and Schedule**

Consultant shall submit the following to the APM within 8 weeks of the APM’s written approval (e-mail acceptable) of the Preliminary Plans (60%) (Task 15.1):

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

Consultant shall submit the 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 Review Comment Log (Task 15.2).

Consultant shall coordinate with the APM to provide deliverables listed on the most current Final PS&E Submittal and Completeness checklists. Refer to the latest version of the Final PS&E checklists at: [http://www.oregon.gov/odot/hwy/opl/pages/manuals\\_forms\\_etc.aspx](http://www.oregon.gov/odot/hwy/opl/pages/manuals_forms_etc.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 Office of Pre-letting.

**15.3 Consultant Deliverables and Schedule**

Consultant shall submit the following, 5 weeks prior to the PS&E due date, to Agency:

Description	To APM		To ODOT LAL	
	Electronic	Paper	Electronic	Paper
Unsigned Final Design Plans (11" x 17")	PDF	X	PDF	X
Project Special Provisions	Word and PDF	X	PDF	X
POR Certification with all Special Provisions sections stamped	PDF			
Signed Special Provision Integrity Certification	PDF			
Email from Civil Rights noting applicable DBE goals, MWESB targets, and On the Job Training hours		X		
Cost Estimate	PDF and Excel	X	Excel	X
CPM Construction Schedule (11" x 17", in color)	PDF	X	PDF	X
Fuel Escalation Worksheet	Excel			
Steel Escalation Worksheet	Excel			
Utilities Certification (delivered under Task 5)	PDF and Excel		PDF	

Consultant shall submit the following to APM, no later than 1 week prior to the PS&E due date, to Agency:

- POR-signed Final Plans printed on 11-inch x 17-inch paper;
- POR-signed Final Plans printed on 11-inch x 17-inch paper, 2 copies; and
- POR-signed Final Plans in PDF format.

Consultant shall submit the following to ODOT LAL, no later than 1 week prior to the PS&E due date, to Agency:

- POR-signed Final Plans printed on 11-inch x 17-inch paper, 5 copies; and
- POR-signed Final Plans in PDF format.

#### **TASK 16 BID AND AWARD ASSISTANCE**

This task includes the preparing addenda, as needed, and responding to questions during the bidding phase. Consultant shall respond to questions from Agency and Construction Contractors about the plans and specifications during the bidding process. The duties of the Consultant Project Manager in the Bid and Award phase are summarized in the *ODOT Construction Manual*, Chapter 6 – Examination of Project Site or Data by Bidders. This document can be found at:

[https://www.oregon.gov/ODOT/Construction/Doc\\_ConstructionManual/cm06.pdf](https://www.oregon.gov/ODOT/Construction/Doc_ConstructionManual/cm06.pdf).

This document is revised and updated from time to time. Consultant will review this chapter and develop a scope of work that reflects the responsibilities of the PM as detailed in Chapter 6 of the *ODOT Construction Manual*, and will revise the scope of work as necessary to fit the needs of the Project.

### **16.1 Questions During Bidding**

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 2 days, to Agency Project Manager.

Consultant shall, during the bidding process, assist Agency with the communications with Construction Contractors and suppliers in a manner that ensures that no Construction Contractor 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 construction contractors or suppliers, and the answers provided to Agency. Consultant shall maintain the written log in the project file and provide it upon request of the APM or Agency.

### **16.1 Consultant Deliverables and Schedule**

Consultant shall provide:

- Written log of conversations, questions, and answers, provided to APM or Agency upon request.

### **16.2 Addenda to the Bid Documents (CONTINGENCY TASK – See Section F)**

This task identifies specific deliverables that 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 Agency. The not-to-exceed amount for completing this contingency task is \$5,534 and is only billable if authorized.

Consultant shall prepare up to 1 bid addenda to provide interpretation of construction documents.

If Agency chooses to authorize this work, Consultant shall submit addendum documents within 3 calendar days from NTP, unless a different time frame is agreed to and stated in the NTP (prior to expiration of SOW).

Consultant shall prepare and deliver the addenda text in a Microsoft Word file. Consultant shall prepare and deliver stamped drawings in PDF and 11" x 17" Mylar. 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.

## **F. CONTINGENCY TASKS**

The table below is a summary of contingency tasks that County, 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 County's Project Manager. If requested by County, 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 County 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
3.2.2 Phase I Archaeological Investigation with Technical Report	\$14,810	1	T&M	\$14,809.60
3.6.2 Joint Permit Application for impacts to wetlands/waters	\$9,295	1	T&M	\$9,294.88
10.3 Roadway Design Exceptions	\$5,029	1	T&M	\$5,029.04
14.9 Condemnation Process Assistance	\$2,465	1	T&M	\$2,464.51
16.2 Addenda to the Bid Documents	\$5,534	1	T&M	\$5,533.83
<b>Total NTE For All Contingency Tasks:</b>				\$37,131.86

## EXHIBIT B - COMPENSATION

### Definitions:

**CPFF** - Cost Plus Fixed Fee

**FCCM** - Facilities Capital Cost of Money

**NBR** - Negotiated Billing Rates. NBRs are fully loaded billing rates used by firms that do not have an audited, approved overhead rate. NBRs are inclusive of direct salary, indirect expenses and profit.

**NTE** - Not to Exceed Amount

**T&M** - Time and Materials

### A. METHOD of COMPENSATION

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 County's satisfaction without additional compensation.

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

- Reduce the NTE, Fixed-Price or Fixed-Fee amount associated with Tasks/Deliverables that were not authorized by County 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.

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

County 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.
- **Direct Non-Labor Costs** (without mark-up) - Approved travel costs (up to the rates established 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 County notifies Consultant otherwise in writing) - the hourly labor rates and direct non-labor costs (as described above) that have been billed to Consultant and recognized by Consultant as valid, undisputed and payable.

The dollar amount for T&M Services is: \$ 485,959.14
--

### B. PAYMENT OPTIONS

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

**(For CPFF and T&M) - Progress Payments for Acceptable Progress.** County 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.

**(For Fixed-Price) - Progress Payments for Percentage of Services Completed.** County will pay Consultant monthly progress payments based on a percentage of the total agreed fixed price. Monthly progress payments shall be limited to an amount commensurate with the percentage of the total Services and deliverables that were completed in the month invoiced.

**Payment upon Milestone (or other Unit) Completion.** County will pay Consultant the fixed price per milestone amount(s), or all amounts due as actual costs up to the Contract NTE amount per milestone, but only after Consultant completes and County accepts all Services and deliverables required under the Contract for a given milestone (or other unit) as listed below:

**Payment upon Full Completion.** County will pay Consultant the fixed price amount, or all amounts due as actual costs up to the Contract NTE amount, but only after Consultant completes and County's accepts all Services and deliverables required under the Contract.

### **C. TRAVEL**

The Fixed Price amount(s) in this Contract includes all travel, lodging, per diem, and mileage expenses. County 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 County's responsibilities and is related to official County 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/SCD/SARS/policies/oam/40.10.00.PO.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 County will be reimbursed according to the rates set forth by the State Controller at <https://www.oregon.gov/DAS/SCD/SARS/policies/oam/40.10.00.PO.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 County, 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 County (and with supporting documentation to substantiate charges on the invoice, including a detailed line-item breakdown of labor and direct non-labor costs 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:

Final SOW March 20, 2019  
RFP #22270-01 / #2018-103

- The County's Contract number
- The County's project number

**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.**

#### **CPFF and 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 direct non-labor expenses for which Consultant seeks reimbursement, including a breakdown by task of the number of labor hours for each employee, employee names and classifications. Include copies of all invoices, similarly detailed, from authorized subconsultants.
- County will reimburse Consultant for approved travel expenses incurred in accordance with **Exhibit B**, Section C of the Contract, if County has agreed to reimburse Consultant for travel expenses.

**Fixed-Price Compensation.** Consultant shall prepare invoice(s) based on the payment option identified in Section B of this Exhibit:

- For Contracts using "Payment upon Full Completion" payment option, Consultant shall submit a single invoice requesting payment for the full Fixed-Price amount after all Services have been completed and all Deliverables have been accepted by County.
- For Contracts using "Progress Payments for Percentage of Services Completed" payment option, Consultant invoices shall be limited to an amount commensurate with the percentage of the total Services (including Deliverables) that were completed in the month invoiced.

County may request a full written itemization of and receipts for, but not limited to, any or all labor and direct costs billed by Consultant. Consultant shall provide written itemization and receipts to County within 5 business days of County's request. County will not make payment to Consultant under the applicable invoice until County has received all requested supporting documentation from Consultant and County has approved the invoiced amounts. Any overdue payments to Consultant by County for an approved invoice are subject to ORS 293.462.

#### **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. County 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 County's satisfaction. If County, using reasonable discretion, determines that the Services or associated deliverables, or both, are unacceptable, County 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 County outlining how the deficiency shall be corrected. Consultant shall correct any deficiencies in the Services and Deliverables to County's satisfaction without further compensation. County will not unreasonably withhold payment.

#### **G. WITHHOLDING/RETAINAGE**

County 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 County under the Contract. County will make final payment of any balance due to Consultant promptly upon verification of completion and acceptance of all Services by County and will pay interest as required on retainage.

#### **H. PAYMENT REDUCTION**

County, or its duly authorized agents, may audit Consultant's fiscal records, including certified payroll and overhead records at any time. If County finds previously undisclosed inaccurate or improper costs have been invoiced and paid, County will notify Consultant and seek clarification. County, 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 County 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 County project shall charge only for actual productive time spent directly on the project identified in the Contract.

County 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 County 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 County contracts and subcontracts may not be discriminatory against the County. It is discriminatory against the County if employee (or owner/sole proprietor) compensation (in whatever form or name) is in excess of that being paid for similar non-County 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 County 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**

County 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 direct non-labor costs.
- 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 County 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, County 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 County 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 County.

**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 County 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.

**Direct Non-Labor Rate 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** - The rate schedules approved for the Contract and the BOC are incorporated into this Contract. Prior to approval of additional subconsultants, Consultant shall provide to County any requested documentation of qualifications and experience of the prospective subconsultant and its staff.

#### **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 County. 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 County 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 direct non-labor expenses; 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 direct non-labor costs. County 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 direct non-labor expenses 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.

**The final BOC agreed to by the Parties is incorporated by this reference**









Breakdown of Costs - Dated: 3-18-2019

PA/ATA or Contract Number: 2018-103  
 WOC Number: N/A  
 PROJECT NAME: South End Road @ MP 3.8 Project

Cell Color Legend  
 Yellow cells are for data entry  
 Green cells have formulas (no data entry unless specified)  
 Gray cells are section dividers (no data entry unless specified)

For Instructions, click on "Instructions" tab below.

Job Classifications (Individuals' names are optional)

Direct Salary Rate (Avg. Actual, Max) Current Year  
 Annualized Direct Salary Rate (OR enter Negotiated Billing Rate)  
 Fully Burdened Billing Rate

Task #

NON-CONTINGENCY TASKS/DELIVERABLES

Task #	Hours/Task	Profit
C10.3 ROADWAY DESIGN	477.25	
C14.9 RIGHT OF WAY (ROW)		
C16.2 BID AND AWARD ASSISTANCE	525.15	
TOTAL Contingency	1,884	

MULTIPLIERS			
% of budget in Current Year (CY)	80.00%	Accepted Overhead	179.42%
% of budget in CY+1	20.00%	FCCM	0.00%
% of budget in CY+2	0.00%	Negotiated Profit	10.50%
% of budget in CY+3	0.00%	Annual Escalation Rate	3.50%
Weighted Escalation Factor	1.007		

Enter Billing Rate Multipliers  
 These values will be zero if a firm uses Negotiated Billing Rates (NBRs); otherwise, use applicable Overhead, FCCM, and escalation at 4.5%.

Epic Land Solutions, Inc.

Certification: Not Certified

Task #	DATA ENTRY SECTION										CALCULATION SECTION							
	Advisory Manager	Project Manager	Sr. ROW Agent	ROW Agent	Administrative Support	Budget & Financial Controls	Appraiser	Technical Support	QA/QC	Profit	Hours	Escalated Direct Labor or NBR \$	Overhead	FCCM	Direct Expenses	Total Cost	Profit	
	\$67.17	\$52.25	\$29.86	\$25.88	\$21.99	\$49.76	\$44.78	\$31.35	\$32.59	\$0.00								
	\$208.85	\$162.46	\$92.84	\$80.47	\$68.37	\$154.71	\$139.23	\$97.47	\$101.33	\$0.00			179.42%	0.00%			10.50%	
TOTAL Non-Contingency + Contingency	\$ 29,687	3	43	47	25	51	5	12	1	3	0	190	\$ 6,555	\$ 11,761	\$ -	\$ 18,000	\$ 36,316	\$ 1,923

MULTIPLIERS			
% of budget in Current Year (CY)	80.00%	Accepted Overhead	
% of budget in CY+1	20.00%	FCCM	
% of budget in CY+2	0.00%	Negotiated Profit	
% of budget in CY+3	0.00%	Annual Escalation Rate	3.50%
Weighted Escalation Factor	1.007		

Enter Billing Rate Multipliers  
 These values will be zero if a firm uses Negotiated Billing Rates (NBRs); otherwise, use applicable Overhead, FCCM, and escalation at 4.5%.

Global Transportation Engineering Corporation

Certification: DBE

Task #	DATA ENTRY SECTION						CALCULATION SECTION											
	Principal Project Manager	Sr. Project Engineer	Sr. Engineering Associate	Tech YW (CAD Support)	Hours	Profit	Escalated Direct Labor or NBR \$	Overhead	FCCM	Direct Expenses	Total Cost	Profit						
	\$140.00	\$140.00	\$120.00	\$75.00	\$95.00													
	\$140.00	\$140.00	\$120.00	\$75.00	\$95.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0.00%						
TOTAL Contingency																		
TOTAL Non-Contingency + Contingency	42	10	10	36	36	0	0	0	0	0	0	134	\$ 14,600	\$ -	\$ -	\$ 165	\$ 14,765	\$ -

MULTIPLIERS			
% of budget in Current Year (CY)	80.00%	Accepted Overhead	135.86%
% of budget in CY+1	20.00%	FCCM	0.00%
% of budget in CY+2	0.00%	Negotiated Profit	10.50%
% of budget in CY+3	0.00%	Annual Escalation Rate	3.50%
Weighted Escalation Factor	1.007		

Heritage Research Associates, Inc.

Task #	DATA ENTRY SECTION										CALCULATION SECTION						
	CS Project Manager	Sr. Archaeologist/Historian/Geologist	Project Archaeologist	Technical Specialist, MA	Asst Field/Lab Director/Field Crew	Office/Lab Support	Hours	Escalated Direct Labor or NBR \$	Overhead	FCCM	Direct Expenses	Total Cost	Profit				
	\$59.61	\$59.61	\$46.44	\$34.28	\$28.39	\$26.78	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00					
	\$60.03	\$60.03	\$46.77	\$34.52	\$28.59	\$26.97	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00					
	\$156.45	\$156.45	\$121.88	\$89.97	\$74.51	\$70.28	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00					
TOTAL Contingency																	
TOTAL Non-Contingency + Contingency	20	0	112	56	56	6	0	0	0	0	0	0					

Breakdown of Costs - Dated: 3-18-2019

PA/ATA or Contract Number: 2018-103
WOC Number: N/A
PROJECT NAME: South End Road @ MP 3.8 Project

Call Color Legend
Yellow cells are for data entry
Green cells have formulas (no data entry unless specified)
Grey cells are section dividers (no data entry unless specified)

Enter Billing Rate
These values will be zero if a firm uses Negotiated Billing Rates (NBRs); otherwise, use applicable Overhead, FCCM, and

For instructions, click on "Instructions" tab below.

MULTIPLIERS table with columns for Current Year (CY), Accepted Overhead, Negotiated Billing Rates (NBRs), Annual Escalation Rate, and Weighted Escalation Factor.

Shannon & Wilson

Main cost breakdown table with columns for Job Classifications, Certification, DBE, ILATION SECTION, DATA ENTRY SECTION, CALCULATION SECTION, and various cost components like Hours, Escalated Direct Labor, Overhead, FCCM, etc.

Project Summary

GRAND TOTAL CALCULATION SECTION table summarizing total costs, overhead, FCCM, and profit for the entire project.

Breakdown of Costs - Dated: 3-18-2019

PA/ATA or Contract Number: 2018-103  
WOC Number: N/A  
PROJECT NAME: South End Road @ MP 3.8 Project

Enter Billing Rate

These values will be zero if a firm uses Negotiated Billing Rates (NBRs); otherwise, use applicable Overhead, FCCM, and

Cell Color Legend  
Yellow cells are for data entry  
Green cells have formulas (no data entry unless specified)  
Grey cells are section dividers (no data entry unless specified)

For instructions, click on "Instructions" tab below.

Job Classifications

(Individuals' names are optional)

Direct Salary Rate (Avg. Actual, Max) Current Year  
Annualized Direct Salary Rate (OR enter Negotiated Billing Rate)  
Fully Burdened Billing Rate

NON-CONTINGENCY TASKS/DELIVERABLES

Table with columns for Task #, Hours, Escalated Direct Labor or NBR \$, Overhead, FCCM, Direct Expenses, Total Cost, Profit. Rows include C10 ROADWAY DESIGN, C14 RIGHT OF WAY (ROW), C16 BID AND AWARD ASSISTANCE.

Certification: DBE

MULTIPLIERS table with columns for Multipliers and Enter Billing Rate Multipliers. Includes rows for % of budget in Current Year (CY), CY+1, CY+2, CY+3, and Weighted Escalation Factor.

Shannon & Wilson

Certification: Not Certified

Main data entry table with columns for various job classifications (Sr. VP, VP, Sr. Assoc., Assoc., Sr. Prof. III, Sr. Prof. II, Sr. Prof. I, Prof. IV, Prof. III, Prof. II, Sr. Tech Services, Prof. II, Sr. Office Services, Office Services IV, Office Services III, Office Services 1) and summary columns (Hours, Escalated Direct Labor or NBR \$, Overhead, FCCM, Direct Expenses, Total Cost, Profit).

Project Summary

GRAND TOTAL CALCULATION SECTION table summarizing total hours, labor costs, overhead, FCCM, direct expenses, total cost, profit, and contingency.

## 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 County**  **Not required by County.**  
**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, or  \$2,000,000. 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 County**  **Not required by County.**  
**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 County**  **Not required by County.**  
**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 County 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 County. **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 County 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 County, Consultant shall either: a) provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to County; or b) make such insurance policies, endorsements, self-insurance documents and related insurance documents available for inspection by County's representatives at a location in the State of Oregon that is reasonably convenient for County'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 County, 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 County, 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 County, 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, County 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 County, 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 County, 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 County 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 WOC or project-specific Contract (as applicable), 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>, 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](mailto: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

## EXHIBIT F - SPECIAL TERMS & CONDITIONS

Provisions in this Exhibit F are in addition to and do not supersede the terms and conditions set forth in the Contract.

## 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.**

<b>a.1 * County's Project Manager (APM) Name:</b>	Joel Howie
<b>Ph:</b>	503-742-4658
<b>E-mail:</b>	<a href="mailto:jhowie@clackamas.us">jhowie@clackamas.us</a>

**a.2 \*: County Contract Administrator for contractual matters:**

<b>Name:</b>	
<b>Ph:</b>	
<b>E-mail:</b>	

**a.3 County's address for invoicing:**

<b>Mailing Address:</b>	150 Beaver Creek Road, Oregon City, OR 97045
<b>E-mail:</b>	<a href="mailto:jhowie@clackamas.us">jhowie@clackamas.us</a>

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

<b>Name:</b>	Joel Tubbs, PE
<b>Ph:</b>	503-223-6663
<b>E-mail:</b>	<a href="mailto:Joel.tubbs@deainc.com">Joel.tubbs@deainc.com</a>

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

<b>Name:</b>	Davin Evans and Associates, Inc.
<b>Address:</b>	2100 SW River Parkway Portland, Oregon 97201
<b>Ph:</b>	503-223-6663
<b>E-mail:</b>	<a href="mailto:Joel.tubbs@deainc.com">Joel.tubbs@deainc.com</a>

\* County may change the Contract Administrator or Project Manager designation by promptly sending written notice (e-mail acceptable) to Consultant, with a copy to ODOT Procurement Office.

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

## 2. Key Persons

Consultant acknowledges and agrees that County 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, County, 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 County. 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 County with his or her expertise, experience, judgment, and personal attention according to any schedule established under the Contract without first obtaining County'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 County.) Throughout the term of the Contract, Consultant shall provide updated information (if requested by County) to demonstrate the continuing qualifications of any staff working on County projects, including those approved as Key Persons.

In particular, County, through the Contract is engaging the expertise, experience, judgment and personal attention of the following Key Persons:

Name	Role
Joel Tubbs, PE, SE	Project Manager
Guido Partier, PE	Structures
John Macklin	Environmental
Rick Smith, PE	Construction PM/Constructability Review
Park Piao, PE, GE	Geotechnical

## 3. Reassignment or Transfer of Key Person

In the event Consultant requests that County 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.
- County 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 County and shall not be billed to County. 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.