

ENGINEERING AND RELATED SERVICES CONTRACT
Contract Number: 30008632

Project Title: NE Martin Luther King Boulevard Safety and Access to Transit Project	Agency Project Number: T00999
Project Location: Portland, OR	Associated RFP Number: 00002002
Federal Aid Number:	DBE Goal: 8.5% (see Exhibit E)
Total Not-to-Exceed (“NTE”) amount for this Contract. This total includes: a) all allowable costs and expenses, profit, and fixed-fee amount, if any; and b) \$772,488.28 for contingency tasks, each of which must be separately authorized by Agency.	\$ 1,011,351.06

This Contract is between City of Portland, hereafter called “Agency” and HDR Engineering, Inc., a Nebraska corporation, hereafter called “Consultant.” Agency and Consultant together are also referred to as “Parties” and individually referred to as “Party.” The primary contacts for this Contract are identified in Exhibit J, Contact Information and Key Persons.

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

For purposes of this Contract:

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

TERMS AND CONDITIONS

- 1. Contract Effective Date and Term.** This Contract is effective on the date it has been signed by the parties and all required approvals have been obtained. No work or compensation under the Contract is authorized until notice to proceed has been issued in writing (email acceptable) by the Agency. Unless otherwise amended or terminated, this Contract shall expire June 28, 2026.
- 2. Statement of Work.** Consultant shall perform all Services and deliver all deliverables as described in Exhibit A, Statement of Work (the “Services”). The required schedule for performance under the Contract is specified in the Statement of Work.
- 3. Compensation.** The maximum NTE amount, which includes the total of all allowable and reimbursable costs and expenses (and contingency tasks, if any) payable to Consultant under this Contract, is set forth in the table above and detailed further in Exhibit B, Compensation. Agency reserves the right, in its sole discretion, to amend this Contract to increase this amount for additional Services within the scope of the procurement. If this Contract was awarded as a Direct Appointment/Small Purchase, amendments to increase the maximum amount payable are subject to limitations and additional requirements as set forth in applicable Federal, State and local laws. The payment methodology and basis for payment to Consultant is described in Exhibit B, Compensation. Consultant and any subconsultants are subject to the requirements and limitations of 48 CFR Part 31 - Contract Cost Principles and Procedures.
- 4. Contract Exhibits.** This Contract includes the following exhibits, each of which is incorporated into this Contract as though fully set forth herein:

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

7. Subcontracts and Assignment; Successors and Assigns

- a. Consultant shall obtain Agency's written consent prior to entering into any subcontracts for any of the Services required by the Contract, or in any manner assigning, selling or transferring any of its

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

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

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

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

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

a. Professional Standard of Care.

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

b. Responsibility of Consultant.

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

c. Design Within Funding Limit.

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

- (i) Consultant shall accomplish the design Services required under the Contract so as to permit construction of the project within Agency's budget for construction. **Agency's budget for construction of the project is \$3,486,000.00.** Consultant shall promptly advise Agency's Contract Administrator if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable project within these limitations. Upon receipt of such information, the Contract Administrator will review Consultant's revised estimate of construction cost. Agency may, if it determines that the estimated construction contract price set forth in this Section is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth in this Section, or Agency may adjust such estimated construction contract price.
- (ii) Prior to releasing the bid for the construction contract, Agency will prepare an estimate of constructing the design submitted. If Agency's estimator(s) determines Consultant's design exceeds Agency's budget for the construction contract as set forth in Section (i) above {and as may be revised per Section (i) above}, then Consultant shall perform such redesign and other Services as are necessary to permit contract award within the funding limitation. These additional Services shall be performed at no increase in the price of the Contract. However, Consultant shall not be required to perform such additional Services at no cost to Agency if Consultant's design exceeds Agency's budget {as set forth in Section (i) above} as a result of conditions beyond Consultant's reasonable control.

11. Ownership of Work Product

- a. **Definitions.** The following terms have the meanings set forth below:
 - (i) "Consultant Intellectual Property" means any intellectual property owned by Consultant and developed independently from the Contract.
 - (ii) "Third Party Intellectual Property" means any intellectual property owned by parties other than Agency or Consultant.
 - (iii) "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item, and all intellectual property rights therein, that Consultant is required to deliver to Agency pursuant to the Contract.
- b. **Work Product.** All Work Product created by Consultant pursuant to the Contract, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire," shall be the exclusive property of Agency. Agency and Consultant agree that Work Product that constitutes original works of authorship (the "Original Work Product") is "work made for hire" of which Agency is the author within the meaning of the United States Copyright Act. If for any reason Original Work Product created pursuant to the Contract is not "work made for hire," Consultant hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all Original Work Product created pursuant to the Contract, whether arising from copyright, patent, trademark, trade secret, or any other State or Federal intellectual property law or doctrine. Upon Agency's reasonable request, Consultant shall execute such further documents and instruments necessary to fully vest such rights in Original Work Product in Agency. Consultant forever waives any and all rights relating to Original Work Product created pursuant to the Contract, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. However, see Sections 11.c and 11.d immediately below, for provisions applicable to Consultant Intellectual Property, Third Party Intellectual Property, Consultant Intellectual Property derivative works and Third Party Intellectual Property derivative works.
- c. **Consultant and Third Party Intellectual Property.** In the event that any Work Product is Consultant Intellectual Property or Third Party Intellectual Property (Consultant Intellectual Property or Third Party Intellectual Property that is applicable to the Services being performed by Consultant under the Contract or included in Work Product deliverable to Agency under the Contract), or in the event any Consultant Intellectual Property or Third Party Intellectual Property is needed by Agency to reasonably enjoy and use any Work Product, Consultant hereby agrees that it will grant to, or obtain for, the Agency an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display Consultant Intellectual Property and or Third Party Intellectual Property, including the right of Agency to authorize contractors, consultants and others to do the same on Agency's behalf.

This obligation of the Consultant does not apply to a situation involving a third party who enters a license agreement directly with the Agency. At the request of Consultant, Agency shall take reasonable steps to protect the confidentiality and proprietary interests of Consultant in any Consultant Intellectual Property licensed under this Section, within the limits of the Oregon Public Records Law (ORS 192.410 through 192.505) and the Oregon Uniform Trade Secrets Act (ORS 646.461 to 646.475).

- d. **Consultant and Third Party Intellectual Property-Derivative Work.** In the event that Work Product created by Consultant under the Contract is a derivative work based on Consultant Intellectual Property or Third Party Intellectual Property, or is a compilation that includes Consultant Intellectual Property or Third Party Intellectual Property, Consultant hereby agrees to grant to, or obtain for, Agency an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of Consultant Intellectual Property or Third Party Intellectual Property employed in the Work Product, including the right of Agency to authorize others to do the same on Agency's behalf.
- e. **Consultant Use of Work Product.** Notwithstanding anything to the contrary in this Section 11, Consultant may refer to the Work Product in its brochures or other literature that Consultant utilizes for advertising purposes and, unless specified otherwise in Exhibit A - Statement of Work, Agency hereby grants to Consultant a non-exclusive, non-transferable, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display Agency-owned Work Product on other unrelated projects, except for any "Confidential Information" protected from disclosure under the provisions of Section 12 below, pertaining to Confidentiality and Non-Disclosure.

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

13. *Indemnity*

- a. ***Claims for Other Than Professional Liability.*** *Consultant shall indemnify, defend, save, and hold harmless the Agency, State of Oregon, the OTC and ODOT, and their respective officers, members, agents and employees from any and all claims, suits, actions, losses, liabilities, damages, costs and expenses, including attorney fees, of whatsoever nature, resulting from or arising out of the acts or omissions of Consultant or its subcontractors, or their respective agents or employees, under the Contract.*
- b. ***Claims for Professional Liability.*** *Consultant shall indemnify, defend, save, and hold harmless the Agency, State of Oregon, the OTC and ODOT, and their respective officers, members, agents and employees from any and all claims, suits, actions, losses, liabilities, damages, costs and expenses, including attorney fees, of whatsoever nature, resulting from or arising out of the professionally negligent acts, errors or omissions of Consultant or its subcontractors, or their respective agents or employees, in the performance of Consultant's professional services under the Contract.*
- c. ***Indemnity for Infringement Claims.*** *Without limiting the generality of section 13(a) or 13(b), Consultant expressly agrees to indemnify, defend, save and hold harmless the*

Agency, State of Oregon, the OTC and ODOT, and their respective officers, members and their agencies, subdivisions, officers, directors, agents, and employees from any and all claims, suits, actions, losses, liabilities, damages, costs and expenses, including attorney fees, arising out of or relating to any claims that Consultant's services, the Work Product or any other tangible or intangible items delivered to the Agency by Consultant that may be the subject of protection under any state or federal intellectual property law or doctrine, or the Agency's use thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any third party; provided, Agency shall provide Consultant with prompt written notice of any infringement claim. Provided, however, Consultant shall not be obligated to indemnify, defend, save and hold harmless the Agency (or other entities identified above) under this section 13(c), based solely on the following: Consultant's compliance with Agency specifications or requirements, including, but not limited to the required use of tangible or intangible items provided by Agency.

- d. **Defense Qualification.** Neither Consultant nor any attorney engaged by Consultant shall defend or purport to defend a claim in the name of the Agency, the State of Oregon, the OTC or ODOT without first receiving from the applicable entity, authority to act as legal counsel, nor shall Consultant settle any claim on behalf of the foregoing entities without the approval of these entities. The Agency, the State of Oregon, the OTC or ODOT may, at their election and expense, assume their own defense and settlement.*
- e. **Agency's Acts or Omissions.** This section 13 does not include indemnification by Consultant of the Agency, the State of Oregon, the OTC and ODOT, and their respective officers, members, agents and employees, for the acts or omissions of these entities and their respective officers, members, agents and employees, whether within the scope of the Contract or otherwise.*

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

15. Termination

- a. Termination by Mutual Consent.** The Contract may be terminated at any time, in whole or in part, by mutual written consent of the Parties.
- b. Agency's Right to Terminate for Convenience.** Agency may, at its sole discretion, terminate the Contract, in whole or in part, upon 30 calendar days prior written notice to Consultant.
- c. Agency's Right to Terminate for Cause.** Agency may terminate the Contract, in whole or in part, immediately upon written notice to Consultant or at such later date as Agency may establish in such notice, upon the occurrence of any of the following events:
 - (i) Agency fails to receive appropriations, limitations or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to continue to make payments for Consultant's Services. Payments under this Contract and continuation of this Contract beyond the current biennium are subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available from current funding sources. The Agency may terminate this Contract, and Consultant waives any and all claims for damages, effective immediately upon receipt of written notice, or any date specified therein, if for any reason the Agency's funding from local, state and/or federal sources is not appropriated or is withdrawn, limited or impaired;
 - (ii) Federal, State or local laws, regulations or guidelines are modified or interpreted in such a way that either the Services under the Contract are prohibited or Agency is prohibited from paying for such Services from the planned funding source;
 - (iii) Consultant no longer holds any license or certificate that is required to perform the Services; or
 - (iv) Consultant commits any material breach or default of any covenant, warranty, obligation or agreement under the Contract, fails to perform the Services under the Contract within the time specified or any extension thereof, or so fails to perform the Services as to endanger Consultant's performance under the Contract in accordance with its terms, and such breach,

default or failure is not cured within 14 calendar days after Agency's notice to Consultant, or such longer period as Agency may specify in such notice.

d. Consultant's Right to Terminate for Cause.

- (i) Consultant may terminate the Contract by giving written notice to Agency if Agency fails to pay Consultant pursuant to the terms of the Contract and if Agency fails to cure within 14 calendar days after receipt of Consultant's written notice, or such longer period of cure as Consultant may specify in such notice.
- (ii) Consultant may terminate the Contract, for reasons other than nonpayment, if Agency commits any material breach or default of any covenant, warranty, obligation or agreement under the Contract, fails to perform under the Contract within the times specified, or so fails to perform as to endanger Consultant's performance under the Contract, and such breach, default or failure is not cured within 14 calendar days after Consultant's notice to Agency, or such longer period as Consultant may specify in such notice.

e. Remedies.

- (i) In the event of termination pursuant to Sections 15(a), 15(b), 15(c)(i), 15(c)(ii) or 15(d), Consultant's sole remedy (except as otherwise required by applicable State or Federal law) shall be a claim for payment of the satisfactory Services actually rendered up to the time of termination, less previous amounts paid and any claim(s) which State has against Consultant, except in the event of a termination under Section 15(c)(i) where no payment will be due and payable for Services performed or costs incurred after the last day of the current biennium. If previous amounts paid to Consultant exceed the amount due to Consultant under this subsection, Consultant shall pay all excess to Agency upon demand.
- (ii) In the event of termination pursuant to Section 15(c)(iii) or 15(c)(iv), Agency shall have any remedy available to it in law or equity. If it is determined for any reason that Consultant was not in default under Section 15(c)(iii) or 15(c)(iv), the rights and obligations of the Parties shall be the same as if the Contract was terminated pursuant to Section 15(b).

f. Consultant's Tender Upon Termination/Retained Remedies of Agency. Upon receiving a notice of termination of the Contract, Consultant shall immediately cease all activities under the Contract, unless Agency expressly directs otherwise in such notice of termination. Upon termination of the Contract, Consultant shall deliver to Agency all documents, information, works-in-progress and other property that are or would be deliverables had the Contract been completed. Upon Agency's request, Consultant shall surrender to anyone Agency designates, all documents, information, research, works-in-progress, Work Product and other property, that are deliverables or would be deliverables had the Contract been completed, that are in Consultant's possession or control and may be needed by Agency to complete the Services.

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

17. Performance Evaluations. Agency will conduct performance evaluation(s) on the Consultant and its subconsultants during the term of the Contract, which will be compiled and maintained by

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

18. Compliance with Applicable Law. Consultant shall comply with all Federal, State and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Contract, in effect at the time the Contract is executed and as may be amended, revised, enacted or adopted thereafter. Changes in these legal requirements after the execution of the Contract may or may not be the basis for modifications to Consultant's schedule, scope and fee, depending on a reasonable assessment of the nature of the change, the extent to which the change was anticipated by Consultant or the Parties, and other circumstances then existing. Without limiting the generality of the foregoing, Consultant expressly agrees to comply with: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659a.142; (iv) the Clean Air Act (42 U.S.C. 7401-7671q); (v) the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387); (vi) Executive Order 11738; (vii) Environmental Protection Agency regulations (40 CFR part 15); (viii) and all applicable standards, orders, regulations and administrative rules established pursuant to the foregoing laws. Agency's performance under the Contract is conditioned upon Consultant's compliance with, and Consultant shall comply with, the obligations applicable to public contracts and intended for contractors under ORS 279C.520 and 279C.530, which are incorporated by reference herein. All rights and remedies available to Agency under applicable federal, state and local laws are also incorporated by reference herein and are cumulative with all rights and remedies under the Contract. If Consultant discovers a conflict among Federal, State and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Contract, Consultant shall in writing request Agency to resolve the conflict (in collaboration with ODOT and FHWA as applicable). Consultant shall specify if the conflict(s) create a problem for the design or other Services required under the Contract. If Agency concludes there is a conflict among the applicable laws, Federal laws shall govern among the others; State laws shall govern over the others except Federal. The resolution of the conflict of the applicable laws by Agency shall be final and not subject to further review or challenge.

19. Permits and Licenses

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

- 20. Foreign Contractor.** If Consultant is not domiciled in or registered to do business in the State of Oregon, Consultant shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to the Contract.
- 21. Force Majeure.** Neither Agency nor Consultant shall be held responsible for delay or default in the performance of its obligations due to a cause beyond its reasonable control, including, but not limited to, fire, riot, acts of God, terrorist acts or other acts of political sabotage, or war where such cause was beyond the reasonable control of Agency or Consultant, respectively. Consultant shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the Contract.
- 22. Survival.** All rights and obligations shall cease upon termination or expiration of the Contract, except for the rights and obligations set forth in Sections 5, 9, 10, 11, 12, 13, 15(e), 15(f), 16, 22, 23, 26, 27 and 29 and all other rights and obligations which by their context are intended to survive.
- 23. Time is of the Essence.** Consultant agrees that time is of the essence in Consultant's performance of its obligations under the Contract.
- 24. Notice.** Except as otherwise expressly provided in the Contract, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by e-mail, by personal delivery, facsimile, or mailing the same, postage prepaid, to Consultant or Agency at the e-mail address, the delivery address or facsimile number set forth in the Contract, or to such other addresses or numbers as either Party may hereafter indicate in writing to the other. Any notice or day-to-day communication sent by e-mail shall be deemed received when it is sent. **The recipient of any notice sent by e-mail shall reply by e-mail to confirm receipt of such notice.** Any communication or notice made by personal delivery shall be deemed to be received when actually delivered. Any communication or notice properly addressed and mailed shall be deemed received 5 calendar days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received on the date of the notice of successful transmission generated by the transmitting machine. To be effective, such facsimile transmission must be confirmed by telephone notice to Agency's Contract Administrator or Consultant's representative, as applicable.
- 25. Severability.** The Parties agree that if any term or provision of the Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 26. Dispute Resolution and Errors & Omissions Claims Process.** In the event of a dispute between the Parties regarding any aspect of the Contract or performance under the Contract, the Parties agree to attempt in good faith to investigate and resolve any such dispute through direct communications and negotiations.
- a. Errors & Omissions Related.** In the event those good faith efforts do not resolve disputes related to potential Errors and Omissions, the Parties agree to make good faith efforts to resolve the matter pursuant to **Exhibit I, Errors & Omissions Claims Process.**
 - b. Other Disputes.** In the event good faith efforts do not resolve disputes unrelated to Errors & Omissions, the Parties agree to make a good faith effort to resolve any such dispute through fact finding and non-binding mediation prior to resorting to litigation. The mediator shall be selected by mutual agreement of the Parties. If the Parties fail to agree on a mediator, each Party shall select a mediator and those two persons shall agree on a third-party, who will be the sole mediator. The cost of the mediator shall be split equally between the Parties.
 - c. Notification to ODOT.** Agency shall immediately notify ODOT of any disputes that seek resolution with the Errors & Omissions Claims Process or mediation.
- 27. Governing Law; Venue; Consent to Jurisdiction.** The Contract shall be governed by, and construed and enforced in accordance with, the laws of the State of Oregon, without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Agency (or any agency or

department of the State of Oregon) and Consultant that arises from or relates to the Contract shall be brought and conducted solely and exclusively within the Circuit Court located in the County in which the Project is located; provided, however, if a Claim must be brought in a Federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the Agency or State of Oregon of any form or defense or immunity, whether based on sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution, or otherwise. **CONSULTANT, BY EXECUTION OF THE CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.**

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

29. False Claims

- a. Consultant understands and acknowledges it is subject to the Oregon False Claims Act (ORS 180.750 to 180.785) and to any liabilities or penalties associated with the making of a false claim under that Act. By its execution of the Contract, Consultant certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or cause to be made that pertains to the Contract or the Project for which the Services are being performed, including but not limited to Consultant's statement of proposal and any invoices, reports, or other deliverables.
- b. Consultant shall immediately disclose (in writing) to Agency whenever, in connection with the award, performance or closeout of the Contract, or any subcontract thereunder, Consultant has credible evidence that a principal, employee, agent, or subcontractor of Consultant has committed—
 - (i) A violation of the Oregon False Claims Act; or
 - (ii) A violation of State or Federal criminal or civil law involving fraud, conflict of interest, bribery, gratuity or similar misconduct.
- c. Consultant must include subsections (a) and (b) of this section in each subcontract Consultant may award in connection with the performance of the Contract. In doing so, Consultant may not modify the terms of those subsections, except to identify the subcontractors or sub grantee that will be subject to those provisions.

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

31. Merger Clause; Waiver; Interpretation. The Contract, including everything incorporated by reference, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding the Contract. No waiver, consent, modification or change of terms of the Contract shall bind either Party, unless such waiver, consent, modification or change of terms is in writing and signed by the Parties, and all necessary State of Oregon governmental approvals have been obtained. Such a waiver, consent,

modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. Either Party's failure to enforce any provision of the Contract shall not constitute a waiver by that Party of that or any other provision. The characterization of provisions of the Contract as material provisions or the failure to comply with certain provisions as a material breach of the Contract shall in no way be construed to mean that any other provisions of the Contract are not material or that failure to comply with any other provisions is not a material breach of the Contract.

CONSULTANT CERTIFICATIONS

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

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

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

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

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

Counterparts: The Contract may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Contract so executed shall constitute an original.

CONSULTANT SIGNATURE(s)

Signature: _____ Date: _____

Name: _____ Title: _____

Signature: _____ Date: _____

Name: _____ Title: _____

AGENCY SIGNATURES

Signature: _____ Date: _____

Name: _____ Title: _____

AGENCY LEGAL REVIEW:

Signature: _____ Date: _____

Name: _____ Title: _____

EXHIBIT A - STATEMENT OF WORK

A. PROJECT SCOPE

The project will install new pedestrian crossings and modify existing signals to improve safety and access to transit and to destinations along NE Martin Luther King Jr. Boulevard (MLK). See attached map, Exhibit A.

- New pedestrian crossings at the following locations on MLK:
 - NE Buffalo Street - half signal with access management / pedestrian and bicycle refuge islands
 - NE Mason Street - half signal with access management / pedestrian and bicycle refuge islands
 - NE Cook Street - half signal with access management / pedestrian refuge islands
- Modify the existing signals at NE Fremont and Killingsworth streets to provide separated left-turn phases
- Conduct lighting analysis and upgrade lighting
- Update curb ramps to ADA standards for up to 15 corners associated with the above described locations
- Signing and striping
- Paving, as needed
- Tree trimming, removal and/or planting, as needed
- Stormwater conveyance upgrades, as needed for inlet adjustment

B. REVIEW, COMMENT and SCHEDULE OVERVIEW

- Project schedule is assumed to have NTP of approximately July 2023 with an approximate 26 month design schedule assuming a final PS&E deliverable date of October 2025.
- City PM will coordinate, rectify and compile all staff review comments into one document for Consultant at each deliverable utilizing the eBuilder process.
- Consultant shall coordinate with City staff as necessary and shall revise deliverables to incorporate City review comments.

C. FORMAT REQUIREMENTS

- Consultant shall submit draft deliverables in electronic format via eBuilder.
- Consultant shall also submit all graphic files accompanying reports separately in .jpg or .tif formats unless specified differently by City.
- Each draft and final text-based or spreadsheet-based deliverable shall be provided in MS Office file formats (i.e., MS Word, Excel, etc.) and must be fully compatible with version used by City.
- Additional format requirements may be listed with specific tasks/deliverables in the SOW.

D. TASKS, DELIVERABLES and SCHEDULE

Consultant shall complete all tasks and provide all deliverables (collectively, the “Services”) included in this Statement of Work and in accordance with the performance requirements and delivery schedules included in this Statement of Work.

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 & Record Keeping

Consultant shall:

- Prepare a Quality Assurance/Quality Control (“QA/QC”) Plan for City review and approval. The QA/QC Plan must be developed consistent with requirements of City’s “QC Verification Letter Requirements” available online at: <https://www.portland.gov/transportation/engineering/capital-project-delivery-process#toc-checklist-plan-review>
- 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 and milestones as agreed upon by the Parties specified in this SOW and required to complete all Services under this work order contract (WOC). 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 three Project schedule updates will be necessary.
- Consultant shall prepare monthly billing invoices in a format approved by the City at the time of NTP. The monthly billing invoices must include a project status report that summarizes the activities completed that month and identify the party to whom the deliverables were sent. The invoice must compare the budget with the actual amount spent to date and percent complete during each billing invoice period. For budgeting purposes, it is assumed that up to 20 progress reports will be necessary.
- Develop and maintain a Project file to include survey and engineering computations, assumptions, meeting agendas and minutes, working drawings, quality control and review documentation, correspondence, and memoranda.
- Provide all deliverables using E-Builder.

1.1 Consultant Deliverables and Schedule

Consultant shall provide:

- QA/QC plan submitted electronically to City Project Manager within 7 calendar days of Notice to Proceed (NTP).
- Project Design Schedule submitted within 7 calendar days of NTP. Submit electronically to the City Project Manager (PDF and MS Project).
- Updated Project Design Schedule, as necessary, via timeline agreed to by City Project Manager. Submit electronically to the City Project Manager (PDF and MS Project).
- Progress reports and invoices submitted electronically to City Project Manager no later than the 20th calendar day of the month following the reporting period.

1.2 Coordination

Consultant shall:

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

1.2 Consultant Deliverables and Schedule

Consultant shall provide:

- On-going coordination and communication as needed to appropriately manage the Services under this WOC (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. Consultant shall prepare the meeting agenda with input from the City Project Manager. The purpose of the Project kickoff meeting is to review Project issues such as SOW; work products and deliverables; schedules; budgets; right of way; utility coordination/design; design criteria; guidance documents and standards, and quality control. Consultant shall schedule Project kickoff meeting within 10 business days of Notice

to Proceed (NTP) using available dates coordinated and provided by City Project Manager. Consultant shall prepare draft meeting minutes for review. For budgeting purposes, it is assumed that up to seven Consultant staff shall attend the one and a half hour Project kickoff meeting to be held virtually or at the Consultant or City offices.

1.3.2 Project Development Team Meetings

Consultant shall organize, conduct, prepare for and attend up to 18 Project Development Team (PDT) Meetings. Consultant shall prepare the meeting agenda with input from the City Project Manager. Consultant shall prepare draft and final meeting minutes to be distributed to City Project Manager and all other meeting participants. For budgeting purposes, it is assumed that up to four Consultant staff shall attend each one hour PDT meeting and they will be held virtually.

1.3.3 Additional Project Coordination and Meetings (CONTINGENCY)

Consultant shall organize, conduct, prepare for and attend up to 6 additional Project Development Team (PDT) Meetings for the purposes of additional ODOT, Tri-Met or other critical stakeholder coordination. Consultant shall prepare the meeting agenda with input from the City Project Manager. Consultant shall prepare draft and final meeting minutes to be distributed to City Project Manager and all other meeting participants. For budgeting purposes, it is assumed that up to five Consultant staff shall attend each one-and-a-half-hour coordination meeting and they will be held virtually. This task also assumes 24 hours of additional ODOT project management needs.

1.3.4 Concept Design Site Meeting

Consultant shall meet with City staff on-site to review the appropriateness of the conceptual crossing layouts developed prior to Project and previously provided by City. It is assumed that up to four Consultant staff shall attend the two hour site visit. Site Meeting feedback and concept PBOT layout comments from City staff will be used to kick off the 30% design efforts.

1.3 Consultant Deliverables and Schedule

For each meeting, Consultant shall provide:

- Meeting agenda submitted electronically to City Project Manager and all other meeting participants two business days prior to meeting.
- Draft meeting minutes submitted electronically to City Project Manager and all other meeting participants within two business days of meeting.
- Final meeting minutes submitted electronically to City Project Manager and all other meeting participants within 7 business days of meeting.

TASK 2 - SURVEY

Consultant shall survey this Project for the areas as described in Section A of this SOW unless otherwise noted in specific tasks. Deliverables are to be scheduled as per task 1 Project Management.

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 not limited to; vesting deeds, land sales contracts, County assessor plats and road records, subdivision plats, General Land Office plats, ODOT ROW drawings, railroad maps, county surveys, 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 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 the City of Portland. 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 Right of Way Records

Consultant shall research and obtain copies of surveys, subdivision plats, and land partition plats filed in the county surveyor's office related to the properties potentially impacted by the Project. This information is used to find monuments that might be impacted from the Project and establish property lines for area calculations when new 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, GPS stations, City of Portland benchmarks, and prior Project control surveys from City, 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 the City, One-Call Service, county, city, or other governmental agencies and utility companies.

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 datum associated with the Project area or as approved by the City of Portland. Reference the Project horizontal coordinates to the Oregon Coordinate Reference System (OCRS), Portland Zone and Project elevations to the City of Portland Vertical Datum.

Consultant shall establish horizontal control according to accepted industry 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 accepted Industry guidelines.

Consultant shall use 5/8" Rebar with plastic or brass caps, or other LPA approved control point, for the GPS and network points. Consultant shall establish a sufficient number of GPS control points through the length of the survey.

Consultant shall establish vertical control using differential leveling. Consultant shall get City of Portland 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.

- 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 and levels adjustment reports.
 - An ASCII file containing the coordinates for every network point set and found.
 - One scanned copy of the original field notes for the control network and levels in “.pdf” format. Tie sketches for control points showing each point in relation to nearby physical features.
 - A Microstation design file (*.dgn) containing all the set and tied control points to show elevations.

2.3 Monument Recovery

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

Consultant shall survey for but not limited to: Government corners, geodetic control stations, bench marks, 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 base map 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 man-made and/or natural features using a variety of City approved methods (including the City of Portland Tree Code). These methods include but are not limited to: collecting the data using terrestrial (Theodolite and EDM), GPS (RTK), 3D Laser Scanning, or station and offset.

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

Consultant shall record in the field notes the utility ownership when describing the line data points. Consultant shall record all visible utility identifications in the field notes, such as numbers shown on power 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 the City 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).

Detailed Basemap

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

Digital Terrain Model (DTM)

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

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

2.4 Consultant Deliverables and Schedule

Consultant shall provide:

- The following deliverables and submit them electronically (.PDF) to the City of Portland upon completion of the topographic mapping:
 - 1 copy of field notes.
 - Copy of the MicroStation CONNECTCADD Files (*.dgn) Detailed Base Map with OpenRoads Surface.
 - File for all topographic points collected in ASCII format (Coordinates (N, E, Elevation & Description) of all points).
 - File for all recovered monuments surveyed in ASCII format (Coordinates (N, E, Elevation & Description) of all points).
 - All files for the network control points in (ASCII) format (Coordinates (N, E, Elevation & Description) of all Control Points).
 - Tie Sketches showing the location of each Control Point relative to nearby features (sketch showing Control Point and measured distances to nearby hydrant, utility pole, etc.)
 - Files of survey research.
 - Files of tax maps.
 - Confidence Point Report.
 - Tree Survey Point Data.
 - Control Point Worksheet with datum used and descriptions of control points found and set.

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

The purpose of this task is to provide up to 2 additional field days of supplemental data collection as requested by Engineer. Consultant shall update the base map and DTM in accordance with Task 4 scope and deliverables.

2.5 Existing ROW & 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, to 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 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 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 a summary of the conclusions in the establishment of the ROW centerlines, ROW lines (including all jogs) and property boundary lines.

Control, Recovery, Retracement Record of Survey

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

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

2.5. Consultant Deliverables and Schedule

Consultant shall provide:

- Draft ROS to the appropriate County upon completion of the boundary resolution.
- Final ROS to the appropriate County for filing within 2 weeks of receipt of comments from the County.
- Copy of Final ROS to the City of Portland upon submittal to County for filing.

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 twenty-three (23). These products are:

1. Right of Way legal descriptions and exhibits

The right of way exhibits and legal descriptions shall be prepared using a metes and bounds format, the preferred format of the City’s Transportation Right of Way Section.

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) and hard copy to the LAPM and APM.

2.7 Locate, Recover and Reference Monuments (CONTINGENCY)

Consultant shall recover and reference monuments (as indicated below) in the location of the ROW identified in the control, recovery and retracement survey. Consultant shall document in field notes the monuments either found, or not found during the search phase. Consultant shall ensure compliance with the requirements of ORS 209.155.

For all monuments not destroyed during construction activities, Consultant shall note in the field notes that:

- All monuments were recovered (include date),
- All monuments exist per the control, recovery and retracement survey, or

- All monuments are within the new ROW and do not need to be reset.

The monuments may or may not be retied to confirm their original surveyed positions. This decision will be made based on Consultant surveyor's professional judgment.

Consultant shall:

- Recover monuments shown on the control, recovery and retracement survey to confirm they either still exist or were destroyed during construction. Consultant shall note destroyed monuments that are within the Project limits.
- Locate and recover any new monumentation within the Project work zone which were placed after the original field search and survey ties, which may include research of county records as appropriate. Agency may provide monuments tied prior to construction not filed with the control, recovery and retracement survey.
- Use Agency point number range for control points and monuments.

2.7 Consultant Deliverables and Schedule

Consultant shall submit the following items (per the due date included in the project milestone file):

- ASCII File of located monuments with monument point numbers and coordinates and any other electronic files (such as .fwd, .alg, ASCII, etc.) created or produced for the Project documenting Monumentation surveying - Submit within 14 calendar days after recording of the survey filing map (SFM) with the appropriate County Surveyor's office.
- Electronic .pdf copy of original field notes - Submit within 14 calendar days after recording of the SFM with the appropriate County Surveyor's office.

2.8 Right of Way ("ROW") Monumentation (CONTINGENCY)

Consultant shall document the location of the ROW lines at the completion of the Project construction. Consultant shall preserve the location of the monuments found prior to construction and shall document the ROW lines for all property acquired for the Project.

Unless otherwise approved by the Agency, Consultant shall monument the new ROW using the Boundary Method in conformance with the ODOT Monumentation Policy and the Survey Filing Map Standards (available on the Internet at <http://cms.oregon.gov/ODOT/HWY/GEOMETRONICS/Pages/documents.aspx>). Consultant may be assigned the method of monumentation, which could be the Network Method, Boundary Method, or a combination of both methods which are defined in the ODOT Monumentation Policy.

Consultant shall set control and ROW monuments, as applicable, within 60 calendar days after issuance of Substantial Completion.

2.8 Consultant Deliverables and Schedule

Consultant shall submit the following items (per the due date included in the project milestone file):

- Bentley MicroStation.dgn file displaying the control and monuments as applicable - Submit within 14 calendar days after recording of the SFM with the appropriate County Surveyor's office.
- Bentley Inroads.alg(s) file with centerline(s), control and monument data, and report of alignment(s) showing coordinates, bearing, stations, etc., per Bentley Inroads standard reports - Submit within 14 calendar days after recording of the SFM with the appropriate County Surveyor's office.
- Final report of monument station and offset relationship to the alignment(s) - Submit within 14 calendar days after recording of the SFM with the appropriate County Surveyor's office.
- Agency ROW files and copies of all deeds, court judgments, etc., from the appropriate County - Submit within 14 calendar days after recording of the SFM with the appropriate County Surveyor's office.

- Original field notes and 1 copy in .pdf format - Submit within 14 calendar days after recording of the SFM with the appropriate County Surveyor's office.
- Final ASCII file of all control and monument points set - Submit within 14 calendar days after recording of the SFM with the appropriate County Surveyor's office.

2.9 Monumentation Survey Filing Map (SFM) (CONTINGENCY)

Consultant shall document the location of the ROW lines at the completion of the Project construction. Consultant shall preserve the location of the monuments found prior to construction and shall document the ROW lines for all property acquired for the Project.

Unless otherwise approved by the Agency, Consultant shall monument the new ROW using the Boundary Method in conformance with the ODOT Monumentation Policy and the Survey Filing Map Standards (available on the Internet at <http://cms.oregon.gov/ODOT/HWY/GEOMETRONICS/Pages/documents.aspx>). Consultant may be assigned the method of monumentation, which could be the Network Method, Boundary Method, or a combination of both methods which are defined in the ODOT Monumentation Policy.

Consultant shall set control and ROW monuments, as applicable, within 60 calendar days after issuance of Substantial Completion.

2.9 Consultant Deliverables and Schedule

Consultant shall submit the following items (per the due date included in the project milestone file):

- Bentley MicroStation.dgn file displaying the control and monuments as applicable - Submit within 14 calendar days after recording of the SFM with the appropriate County Surveyor's office.
- Bentley Inroads.alg(s) file with centerline(s), control and monument data, and report of alignment(s) showing coordinates, bearing, stations, etc., per Bentley Inroads standard reports - Submit within 14 calendar days after recording of the SFM with the appropriate County Surveyor's office.
- Final report of monument station and offset relationship to the alignment(s) - Submit within 14 calendar days after recording of the SFM with the appropriate County Surveyor's office.
- Agency ROW files and copies of all deeds, court judgments, etc., from the appropriate County - Submit within 14 calendar days after recording of the SFM with the appropriate County Surveyor's office.
- Original field notes and 1 copy in .pdf format - Submit within 14 calendar days after recording of the SFM with the appropriate County Surveyor's office.
- Final ASCII file of all control and monument points set - Submit within 14 calendar days after recording of the SFM with the appropriate County Surveyor's office.

TASK 3 - ENVIRONMENTAL SERVICES

Consultant shall complete necessary field and literature investigations to provide the City and the Oregon Department of Transportation (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 or RESERVED TASK, which Consultant shall complete only following City and Consultant's written agreement on cost and receipt of NTP from City:

- 3.1.3 Final NEPA CE and PCE Documentation
- 3.2.1 Archaeological Resources - Literature Review/Field Reconnaissance/Baseline Report
- 3.2.2 Archaeological Resources - Phase I Archaeological Investigation with Technical Report (CONTINGENCY)
- 3.2.3 Archaeological Resources - Phase II Archaeological FIELD Investigation (RESERVED)
- 3.3.1 Historic Resources - Historic Resources Baseline Report

- 3.3.2 Section 106 Determination of Eligibility (DOE) (CONTINGENCY)
- 3.3.3 Section 106 Finding of Effect (“FOE”) (CONTINGENCY)
- 3.5.1 Biological Resources Compliance and Permitting - Endangered Species Act (ESA) No Effect Memorandum
- 3.5.2 Biological Resources Compliance and Permitting - Federal-Aid Highway Program (“FAHP”) ESA Programmatic Documentation (RESERVED)

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

- 3.4 Hazardous Materials

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.

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

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

3.1.1 Prospectus Part 3 (Environmental Scoping Documentation) (RESERVED)

3.1.2 PCE Determination (Draft Only) (RESERVED)

3.1.3 Final NEPA CE and PCE Documentation

Consultant shall compile data completed in tasks 3.2, 3.3.1 and 3.5.1 to complete a draft PCE Approval or CE Closeout Document and submit to ODOT and City Project Manager for review and approval. Consultant shall coordinate with City Project Manager on compiling data completed during Project development to deliver the draft PCE Approval or CE Closeout Document to ODOT and City Project Manager to finalize and approve.

Only after all relevant tasks 3.2, 3.3.1 and 3.5.1 have been completed and approved by ODOT 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 the City has accepted tasks 3.2, 3.3.1 and 3.5.1, 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)
- 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 City Project Manager.

ODOT and City Project Manager will review all draft PCE Approval and CE Closeout documents, send 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 ODOT 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 City Project Manager for review per Task 1 Project Design Schedule.
- One electronic copy of the Final ODOT accepted Draft PCE Approval or CE Closeout Document and supporting documentation to City Project Manager two weeks following receipt of draft review comments.

3.2 Archaeological Resources

All archaeological sub tasks must be supervised by registered professional archaeologists who meet the Secretary of the Interior's professional standards for Archaeology ([36 CFR 61, Appendix A](#)) and who have been "qualified" through the ODOT'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 ODOT Archaeologist with a minimum of five days advance notice prior to Field Reconnaissance.

Consultant shall examine the following data bases and/or documents:

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

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

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

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

- A completed Oregon SHPO Archaeological Report Cover Page
 - A purpose statement and full Project description including:
 - ODOT Key Number and Federal Aid Number
 - Location and legal description
 - General environmental description
 - Historic context
 - Proposed construction activities

- Defined APE and APE map
- Total acreage of impact
- Results of SHPO/THPO database search including:
 - Brief summary of previous archaeological research completed within one mile of APE
 - Brief summary of recorded archaeological features within one mile of APE; include eligibility discussion if available.
- Results of GLO and Sanborn map review including:
 - Brief summary of features (trails, buildings, etc.) depicted on maps and within APE; include eligibility discussion if available.
- Description of pedestrian survey methods including date of survey, types of transects used, and names and duties of personnel conducting the survey
- Findings of pedestrian survey including ground conditions (percent visibility) and difficulties encountered, if any.
- Identification of areas of high and low probability for archaeological resources within APE.
- Recommendations for appropriate level of additional survey 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 WORD format) of the Draft Baseline Report to City Project Manager for review per Task 1 Project Design Schedule.
- One electronic copy (in Word and PDF format) of the Final Baseline Report to City Project Manager two weeks following receipt of draft review comments.

3.2.2 Phase I Archaeological Investigation with Technical Report (CONTINGENCY)

The purpose of this task is for Consultant to establish the presence or absence of archaeological sites in, or eligible for the National Register of Historic Places (“NRHP”), which may be in the APE for the Project. Investigations under this task must comply with Guidelines for Conducting Field Archaeology in Oregon, The Phase I investigation must comply with the latest updated SHPO guidelines and the latest updated SHPO guidelines for Reporting on Archaeological Investigations. These investigations must include pedestrian survey 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/geomorphological work.

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

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

Consultant shall conduct pedestrian field surveys within the APE and must include areas where ground will be disturbed by Project construction including temporary access roads, as well as staging areas, material sources, disposal sites, detours, etc. Consultant shall provide the ODOT Archaeologist with a minimum of five days advance notice prior to conducting a pedestrian survey. Pedestrian survey methods must be consistent with the latest updated SHPO guidelines. The recommended maximum spacing of transects will be 20 meters apart and no more than 30 meters apart; and may be as close as 10 meters apart vary depending on terrain features 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 ODOT Archaeologist prior to submittal to SHPO. Consultant shall provide the ODOT Archaeologist with a minimum of five days advance notice of exploratory probing. Subsurface Exploratory Probing field methodology must be consistent with the latest updated SHPO guidelines.

Probing must be based on an established research design. Up to twenty (20) probes must be at least 30cm in diameter and dug to sterile (at least two levels void of cultural material) or to 50cm and two sterile levels where possible, or as appropriate based on varying field conditions. Materials must be screened with a 1/4-inch mesh screen (1/8-inch as needed, see SHPO guidelines).

Auguring may be used, to establish soil stratigraphy or depth of archeological deposits and may be incorporated into the research design, if approved by ODOT Archaeologist. Materials must be screened with a 1/4-inch mesh screen.

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

- A purpose statement and full Project description including:
 - ODOT Key Number and Federal Aid Number
 - Location and legal description
 - General environmental description
 - Historic context
 - Proposed construction activities
 - Defined APE and APE map
 - Total acreage of impact
 - Anticipated direct, indirect and cumulative impacts
- Results of SHPO/THPO data base searches including:
 - Brief summary of previous archaeological research completed within one mile of APE with eligibility description if available.
 - Brief summary of recorded archaeological features within one mile of APE with an eligibility description if available.
- Results of GLO and Sanborn map review including:
 - Brief summary of features (trails, buildings, etc.) depicted on maps and within APE.
 - Discussion of ethno-historic information and historic context of APE and surrounding environment.
 - Description of pedestrian survey methods including date(s) of survey, types of transects used, and names and duties of personnel conducting the survey.
 - Results of pedestrian survey including ground conditions (percent visibility) and difficulties encountered, if any; descriptions of any archaeological artifacts encountered and other pertinent information.
 - Description of subsurface exploratory probing methodology including date(s) of probing, and names and duties of personnel completing probes.

- Results of subsurface exploratory probing, including descriptions of soil conditions and any archaeological artifacts encountered and other pertinent information. Negative findings must be reported also.
- Summary of Tribal consultation(s), to be provided by ODOT.
- A summary with recommendations that must include a discussion of the site(s) identified and whether they meet NRHP criteria and maintain integrity.
- List of references cited.
- Location map at 1:24,000 scale; aerial image (Google map acceptable) showing APE; and representative digital images of current conditions within APE.
- Site forms and isolate forms (hard copies) for newly discovered archaeological sites and isolates. Consultant shall also complete the SHPO Online Site Form.
- Site update forms for previously identified archaeological sites.
- A modified [Determination of Eligibility \(DOE\)](#), a maximum of 2-3 pages long, must be included in the Appendix for historic sites with no subsurface component. This Appendix must include a short discussion on Boundaries (vertical and horizontal), Integrity as well as Statement of Significance and discussion of the NRHP Criteria. Consultant shall provide enough information to write a detailed DOE.
- Maps, photos and an artifact catalogue.

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

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

3.2.2 Consultant Deliverables and Schedule

Consultant shall prepare and submit:

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

3.2.3 Phase II Archaeological FIELD Investigation (RESERVED)

3.3 Historic Resources

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

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 up to 8 resources will be identified in the baseline report.

3.3.1 Consultant Deliverables and Schedule

Consultant shall prepare and submit:

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

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

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

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

The DOE must include but is not limited to:

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

DOEs will be prepared for up to 3 resources. ODOT Cultural/Historic Resource Specialist will transmit the final DOE(s) to SHPO and will obtain the necessary concurrence documentation from SHPO.

3.3.2 Consultant Deliverables and Schedule

Consultant shall prepare and submit:

- Draft DOE(s) (in electronic WORD format) for each resource that is potentially eligible for the NRHP to City Project Manager for review.
- Final DOE(s) (in electronic PDF format) for each resource that is potentially eligible for the NRHP to City Project Manager two weeks following receipt of draft review comments.

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

Following coordination with City and ODOT staff, Consultant shall prepare a FOE Report for each resource that is listed or has been determined eligible for listing in the NRHP following the format provided by ODOT. The FOE Report shall include a narrative assessment of the potential effects of the Project to the historic resource’s qualities that make it significant. Consultant shall include in the FOE Report a discussion of the alternatives to avoid or minimize adverse effects. When requested by ODOT, Consultant shall coordinate with the City Project Manager to discuss available options to avoid or minimize adverse effects to listed or eligible historic resources. Consultant shall coordinate with ODOT to ensure that FHWA concurs with the proposed FOE on the resources prior to transmittal to SHPO.

Consultant shall prepare FOE using the most current ODOT form.

The FOE(s) must:

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

- Discuss alternatives to avoid or minimize adverse effects to the resource.

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

3.3.3 Consultant Deliverables and Schedule

Consultant shall prepare and submit:

- Draft FOE(s) (in electronic WORD format) for each effected resource that is listed or eligible for the NRHP to City Project Manager for review.
- Final FOE(s) (in electronic WORD and PDF format) for each effected resource that is listed or eligible for the NRHP to City Project Manager two weeks following receipt of draft review comments.

3.4 Hazardous Materials (RESERVED)

3.5 Biological Resources Compliance and Permitting

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

3.5.1 Endangered Species Act (ESA) No Effect Memorandum

When the ODOT determines or approves Consultant's determination that a proposed action will not affect state or federal ESA listed or proposed species or critical habitat, a No Effects 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 one field survey of the area of 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 ODOT and/or Oregon Biodiversity Information Center ("ORBIC") to obtain data regarding listed threatened and endangered species as well as those proposed for listing under the federal and state ESA that may occur within the API. Consultant shall determine if Federally-listed species and their habitat will be affected by the Project.
- Make ESA effects determinations following the analysis of gathered ESA information. If a determination is No Effect for at least one listed or proposed species, obtain ODOT concurrence on the No Effects determination.
- Coordinate with design staff and City Project Manager to develop appropriate measures (i.e., construction special provisions) to avoid impacting listed species proposed for coverage in the NE Memo if avoidance measures are necessary to obtain the No Effect determination.
- Prepare draft NE Memo for the Project area using the most recent ODOT provided form; provide to City Project Manager for review and comment.
- Prepare final NE Memo for ODOT acceptance.
 - Notify City immediately if Consultant determines that an ESA determination of No Effect is no longer appropriate.

3.5.1 Consultant Deliverables and Schedule

Consultant shall prepare and submit:

- One electronic PDF copy of the Draft No Effect Memo to City Project Manager for review per Task 1 Project Design Schedule.
- One electronic PDF copy of the Final No Effect Memo to City Project Manager within two weeks following receipt of draft review comments.
- One electronic PDF copy of the Draft construction special provisions relevant to NE determination to City Project Manager for review per Task 1 Project Design Schedule.
- Final construction special provisions relevant to NE determination to City Project Manager within two weeks following receipt of draft review comments.

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

3.6 Wetland and Water Resources (RESERVED)

3.7 Environmental Permits and Clearances [RESERVED]

TASK 4 - PUBLIC INVOLVEMENT SUPPORT

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

4.1 Public Involvement (CONTINGENCY)

Consultant shall prepare up to three versions of outreach materials including the following:

- project fact sheets
- flyers
- door hangers
- project renderings
- PowerPoint presentation

Consultant shall prepare for and attend up to two meetings (virtually or in person) to provide Project information and address specific questions and concerns related to the Project.

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

City will schedule, coordinate the location and advertise the meetings. For budgeting purposes, it is assumed that up to four Consultant staff shall attend each one-hour public meeting which are led by City staff. No translation efforts are included in Task 4.

4.1 Consultant Deliverables and Schedule (Contingency)

Consultant shall:

- Provide outreach materials.
- Provide written meeting summaries within 5 working days of each meeting to City Project Manager.
- Provide copies of materials to be presented at each meeting.

4.2 Website (RESERVED)

4.3 Public Involvement Support

Consultant shall assist the City's public outreach efforts with the following:

- Draft text for 3 public-facing email updates on the status and purpose of the project
- Support the City staff with responses to project questions from the public including responding to voicemails and drafting responses to emails

City will coordinate with consultant for email updates anticipated schedule, as well as batch public questions to be answered by consultant. For budgeting purposes, it is assumed that up to 50 emails / phone calls will be responded to with a budgetary assumption of 47 Public Involvement Support hours. No translation efforts are included in Task 4.3.

TASK 5 - UTILITIES

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

If any utility is nonresponsive or uncooperative, Consultant shall notify the City, and the City 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. The Consultant shall use this information to confirm the survey map.

5.1 Assumptions:

Existing confidential utility information gathered in this task shall only be provided to parties that have furnished a copy of the executed confidentiality agreements with the subject utility owner and upon approval from the City to Consultant.

5.1 Consultant Deliverables and Schedule

Consultant shall provide:

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

5.2 Utility Conflict Report

Consultant shall prepare a draft and final "Utility Conflict Report" for those utilities located within the Project limits and directly impacted by the Project. The "Utility Conflict 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 a.k.a. "pothole" verification)
- Proposed project construction requirements
- Potential utility conflicts
- Probable conflict resolution (relocation, adjustment concept, or protect in place)

5.2 Consultant Deliverables and Schedule

Consultant shall provide:

- Draft Utility Report to be submitted with 30% Package under Task 11.
- Draft Utility Report to be submitted with 60% Package under Task 12.1.

- Final Utility Report to be submitted with 95% Package under Task 12.2.

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:

- Utility kickoff meeting (assumed virtual) to begin utility coordination. The meeting must address known facilities, potential for impact, design alternatives to address conflicts, timing requirements for potential relocations, and initial information on reimbursable requirements.
- Up to two (2) individual meetings with potentially affected utilities, assumed virtual.
- One (1) on-site group utility meeting, to coordinate relocation plan, construction constraints, means and methods, work sequence and schedule limitations.

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

For budgeting purposes, it is assumed that up to 2 Consultant staff shall attend each 1.5-hour meeting, not including travel time.

5.3 Consultant Deliverables and Schedule

For each meeting Consultant shall provide to City Project Manager:

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

5.4 Utility Relocations

5.4.1 Utility Notices

For those Utilities where a conflict is anticipated, Consultant shall provide a Conflict Map and Conflict Log.

The City will notify all public and private utilities through written notification by following the agencies standard utility notification process. A typical process is a 4-step notification procedure. The procedure will start with what is called a 1st Utility Notification. The 1st Utility Notification letter will be sent out at the 30% submittal stage and will include 30% PDF drawings. The letter will include an estimated construction start date. The City will receive written comments from affected utilities and will forward all notifications to the consultant for coordination. The 2nd Utility Notification letter will be sent out at the 60% submittal stage and will include 60% PDF drawings. The letter will include an estimated construction start date. The City will receive written comments from affected utilities and will forward all notifications to the consultant for coordination. The 3rd Utility Notification letter will be sent out at the 100% submittal stage and will include 100% PDF drawings. The letter will include an estimated construction start date and may include additional dates for consultant design coordination meetings.

5.4.1 Consultant Deliverables and Schedule

Consultant shall provide:

- Initial, Interim and Final Utility Conflict Maps and Conflict Log; due with submittal of 30%, 60% and 95% plans to the City.

5.4.2 Review Utility Relocation Plans and Relocation Time Requirement Letters

Consultant shall examine City-forwarded utility relocation permit plans for completeness and accuracy. If relocation plans do not resolve utility conflict, Consultant shall provide comments to City.

5.4.2 Consultant Deliverables and Schedule

Consultant shall provide:

- Review of utility relocation plan(s) submitted to the City within 10 days after receipt.

5.5 Utility Certification (RESERVED)

City will provide the Utility Certification.

Task 6 - GEOTECHNICAL SERVICES

It is assumed that PBOT standard drawings will be used for signal and luminaire foundations. PBOT standard pole foundations will be acceptable for use on this project, unless determined otherwise by project geotechnical engineer through this task. The purpose of this task is to complete a “desktop level” analysis of all proposed luminaire and signal pole sites to identify site geotechnical issues that could add risk to the project with regards to design, construction costs or schedule.

6.1 Geotechnical Research

Geotechnical Engineer (Consultant) will complete a desktop analysis including the following services:

- Gathering readily available geologic, geologic hazard, and soil maps for the area encompassing the proposed luminaire and signal pole locations included in the project. Contact ODOT, City of Portland BDS and BES to obtain available geotechnical reports in the site vicinity.
- Verification, assessment and recommendation that the use of PBOT standard pole foundations will be acceptable.
- Risk assessment and field evaluation of risks related to construction of all proposed pole foundations.
- One site visit is required to confirm research and to identify construction risks related to construction of proposed pole foundations.

6.1 Consultant Deliverables and Schedule:

Consultant shall provide:

- (1) Draft Geotechnical memorandum for preliminary City review in electronic (PDF) format
- (1) Final Geotechnical memorandum in electronic (PDF) format submitted with Foundation Feasibility Reports

6.2 Geotechnical Support During Construction

Geotechnical Engineer (Consultant) will provide technical project support during construction, including the following:

- Provide responses to specific issues that arise in the field that cannot otherwise be resolved. These responses will be addressed through Submittal Reviews, RFI's and Change Order reviews.
- Perform site visits and inspections during foundation drilling for all luminaire and signal pole locations.

6.2 Consultant Deliverables and Schedule:

Consultant shall provide:

- Formal responses to RFI and submittal reviews in electronic (PDF) format.
- Formal responses to Design Modifications as related to geotechnical issues in electronic (PDF) format.
- Approximately three site visits to observe and inspect foundation drilling operations for all luminaire and signal pole locations.

TASK 7 - HYDRAULICS RELATED SERVICES

Consultant shall provide hydraulic related design services under this SOW for delivery of Tasks and Deliverables according to the agreed upon delivery schedule. Stormwater quantity or quality design is not required for the project and the BES SWMM is assumed to not trigger new management designs.

7.1 Stormwater Conveyance Design

The purpose of this subtask is to design stormwater systems for the conveyance of drainage in the Project.

7.1.1 Storm Sewer Conveyance

The purpose of this subtask is to provide design of stormwater conveyance facilities that collect and carry roadway runoff per the PBOT Civil Design Guide for Public Street Improvements and the BES Sewer and Drainage Facilities Design Manual.

Consultant shall:

- Check inlet capacity and inlet spacing, calculate gutter flow to check spread, and provide design recommendations for inlet locations and types.
- Provide sediment and sump manhole design, if needed.
- Compare pipe network against known utilities in the Project area and provide design recommendations to minimize utility conflicts or to adjust existing utilities.

7.1.1 Consultant Deliverables and Schedule

Consultant shall provide:

- 60% Stormwater plans, specifications, and cost estimate included in 60% PS&E submittal (Task 13.1)
- 95% Stormwater plans, specifications, and cost estimate
- Final PS&E Package submittal

7.1.2 Stormwater Quantity Design (RESERVED)

7.2 Stormwater Design Report (RESERVED)

TASK 8 - TRAFFIC ENGINEERING & MANAGEMENT

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

8.1 Traffic Analysis (RESERVED)

8.2 Traffic Signal and Flashing Beacon Design

Consultant shall prepare plans, specifications, and construction cost estimate ("PS&E") for the design of traffic signals at the following locations:

- New half signals with interconnect connections to adjacent signals at NE Buffalo, NE Mason, and NE Cook Streets
- Modify the existing signals at NE Fremont and Killingsworth streets to provide separated left-turn phases
- All traffic signal plans and specifications must conform to Manual on Uniform Traffic Control Devices ("MUTCD"), PBOT, and National Electric Code ("NEC") standards as applicable. Consultant shall coordinate with the utility for service connections.

Plans and specifications shall include locating pedestrian push buttons to meet current MUTCD and ADA standards, in accordance with the PBOT Signal Design Manual.

Accompanying lighting improvements shall conform to the NEC and City of Portland standards as applicable. Consultant shall coordinate with utility for service connections.

New fiber optic interconnect will be installed underground or aerially on existing or relocated utility poles. Consultant shall coordinate joint use utility pole attachments with utility provider. Plans will specify attachment method, point of attachment, and guying/anchoring requirements.

8.2 Consultant Deliverables and Schedule

Consultant shall provide:

- 30% Traffic Signal plans and cost estimate in 30% Plans (Task 11).
- 60% Traffic Signal plans, specifications, and cost estimate included in 60% PS&E submittal (Task 12.1).
- 95% Traffic Signal plans, specifications, and cost estimate (Task 12.2).
- Final PS&E Package submittal (Task 12.3).

8.3 Additional Traffic Signal Interconnect (RESERVED)

8.4 Permanent Signing

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

8.4 Consultant Deliverables and Schedule

Consultant shall provide:

- 60% Permanent Signing plans (combined with Permanent Pavement Markings), specifications, and cost estimate included in 60% PS&E submittal (Task 10.1).
- With 60% submittal when legal crosswalks are proposed to be closed document reason for closures.
- 95% Permanent Signing plans (combined with Permanent Pavement Markings), specifications, and cost estimate included in 95% PS&E submittal (Task 10.2).
- Final Permanent Signing plans (combined with Permanent Pavement Markings), specifications, and cost estimate included in Final PS&E Package submittal (Task 10.3).

8.5 Permanent Pavement Markings

Consultant shall prepare plans, specifications, and construction cost estimates for the permanent pavement markings associated with the proposed improvements. The design must be completed in accordance with applicable MUTCD, NACTO Bikeway Design Guide and City of Portland standards.

8.5 Consultant Deliverables and Schedule

Consultant shall provide:

- 30% Permanent Pavement Marking plans and cost estimate included in 30% Plans (Task 9).
- With 30% submittal include Preliminary AutoTurn exhibits.
- 60% Permanent Pavement Marking plans (combined with Permanent Signing), specifications, and cost estimate included in 60% PS&E submittal (Task 10.1).
- With 60% submittal include Preliminary Intersection Design Vehicle Assumptions Reports (IDVAR) with AutoTurn exhibits.
- 95% Permanent Pavement Marking plans (combined with Permanent Signing), specifications, and cost estimate included in 95% PS&E submittal (Task 10.2).
- With 95% submittal include Final Intersection Design Vehicle Assumptions Reports (IDVAR) with AutoTurn exhibits.
- Final Permanent Pavement Marking plans (combined with Permanent Signing), specifications, and cost estimate included in Final PS&E Package submittal (Task 10.3).

8.6 Illumination Analysis

Consultant shall conduct a lighting analysis at the four study intersections to determine appropriate light pole layout (pole spacing, mounting heights, wattages) to meet current PBOT guidelines. Analysis shall

include vertical and horizontal analysis at the four enhanced crossings using AGi32 software and City guidelines.

The subsequent illumination design will be incorporated into Task 8.2.

8.6 Consultant Deliverables and Schedule

Consultant shall provide:

- Technical Memorandum summarizing the results of lighting analysis and electronic copies of AGi32 analysis files.

8.7 Transportation Management Plan (TMP)

Consultant shall prepare a draft Project-level TMP per the City's requirements. The TMP will follow the short version of the City's TMP templates. The TMP template to be followed for this project and the information to be included will be provide by the City.

The TMP may include such elements as: work zone traffic analysis, construction staging, work zone restrictions, detours, mobility issues, mitigation measures, and concurrence from City and conformance with the Manual on Uniform Traffic Control Devices (MUTCD) on the proposed staging approach, detours, and lane restrictions. Where detours (bike, pedestrian, or vehicular) are required Consultant shall coordinate with the City and other stakeholders to build consensus for a recommended detour route.

Consultant will develop the TMP and Traffic Control Plans to be used during construction. The TMP will be used in conjunction with the required temporary traffic control plans, Task 8.7 and Public Involvement - Public Information, Task 4.

8.7 Consultant Deliverables and Schedule

Consultant shall provide:

- Draft TMP to be included in the 30% Design Package (Task 11)
- Final TMP to be included in the 95% Design Package (Task 12.2)

8.8 Traffic Control Plans (TCPs) (CONTINGENCY)

This task will be determined if needed after PBOT 60% deliverable review and resulting constructability meeting. Consultant shall prepare and submit PS&E for temporary traffic control to accommodate the public during construction. Plans and specifications shall be developed to accommodate vehicle, bicycle and pedestrian traffic during construction. ODOT standard drawings and the PBOT Traffic Design Manual Volume 2: Temporary Traffic Control should be referenced where applicable.

Before preparing any Traffic Control Plans a 60% constructability meeting will be held where construction staging and sequencing will be discussed. After the 60% constructability meeting the consultant shall prepare TCPs for the following locations along the alignment:

- NE Buffalo Street
- NE Mason Street
- NE Cook Street

The TCPs for each location will likely include the following:

- Sequence of construction work
- Temporary Traffic Control to accommodate vehicle, bicycle and pedestrian traffic for each stage of work.

TCPs shall indicate such elements as work zone limits, transitions, traffic control devices, signage, PCMS boards, detours, and Temporary Pedestrian Accessible Route Plans ("TPARP"). The TPARP must include a pedestrian route through or around each work area that is equal to or better than the route that was there before construction.

TCPs must meet MUTCD, ODOT, and City of Portland requirements.

8.8 Consultant Deliverables and Schedule (CONTINGENCY)

Consultant shall provide:

- Temporary Traffic Control design concept and requirements included in Design Narrative (Task 11). No TCPs will be submitted as part of Task 11.
- 60% TCPs, specifications, and cost estimate included in 60% PS&E submittal (Task 10.1).
- 95% TCPs, specifications, and cost estimate included in 95% PS&E submittal (Task 10.2).
- Final TCPs, specifications, and cost estimate included in Final PS&E Package submittal (Task 10.3).

8.9 ODOT Half Signal Justification and Coordination

Consultant shall coordinate proposed concept designs prior to 30% design (Task 12) kickoff with PBOT staff, and assist PBOT staff in preparing exhibits and documenting justification for the proposed half signals at NE Buffalo, NE Mason, and NE Cook Streets to request ODOT approval.

8.9 Consultant Deliverables and Schedule

Consultant shall provide:

- Text to assist PBOT's Half Signals justification document for ODOT half signals approval

TASK 9 - RAILROAD COORDINATION (RESERVED)

TASK 10 - ROADWAY DESIGN

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

10.1 Design Criteria (RESERVED)

10.2 Roadway Design Exceptions (CONTINGENCY)

Consultant shall prepare up to three draft Roadway Design Exception Request(s) for the Project. The Design Exception Request(s) must be prepared using either the ODOT or City Design Exception Request form as appropriate. The final Design Exception Request(s) for the Project must be stamped and signed by the engineer of record. The City will coordinate final approval of the Design Exception Request(s).

10.2 Consultant Deliverables and Schedule:

Consultant shall provide:

- One electronic copy in Word format to City Project Manager of draft Design Exception Request(s) within 2 weeks of 30% Plans or TS&L.
- One electronic copy in Word and PDF format to City Project Manager of final Design Exception Request(s) no later than 2 weeks of receipt of comments from ODOT and/or the City.

TASK 11 - 30% DESIGN PACKAGE

The objective of the 30% Design Package is to identify the size of the Project footprint, required design exceptions and any required environmental permits prior to preparing the 60%, 95% and Final Plans.

Utilizing City provided concept designs and improvement layouts, Consultant shall build upon those existing designs and prepare a 30% Design Package that includes design plans (30%), cost estimate and a design narrative that addresses the following:

- Description of the purpose, need, and design solution for the Project
- Temporary Traffic Control design concept and requirements
- Summary of design exceptions that will be necessary
- Illumination Photometric Analysis Memo
- Utility conflicts
- Description of drainage features
- Tree Inventory Worksheet
- ROW needs
- 30% tab of the 30-60-95-100 Design Review Checklist and the Drafting Checklist (both found here: <https://www.portland.gov/transportation/engineering/capital-project-delivery-process#toc-checklist-plan-review>)
- 30% Estimate and report (<https://www.portland.gov/transportation/engineering/documents/estimate-template-master-2020-standard-construction-0/download>)
- SSL Checklist (<https://www.portland.gov/transportation/engineering/documents/ssl-design-checklist/download>)

Consultant shall prepare 30% plan sheets according to the following table:

Name of Sheet	Scale (based on 22"x34" sheets)	Estimated # of Sheets
Title sheet	N/A	1
Typical sections	N/A	1
Details	N/A	1
Curb Ramp Elevation Detail and Profile Plans	1"=5'	10
Roadway plans	1"=20'	3
Drainage/stormwater plans		6
Sign and striping plans	1"=20'	4
Signal and Illumination plans	1"=10'	15

Consultant shall summarize and reference in the 30% Design Package all the reports and technical memoranda pertinent to the Project. The 30% plans must bear the responsible engineer's seal. Consultant shall prepare the Title sheet in accordance with City standards and provide an index to the drawing set.

The City and ODOT will provide comments on the 30% Design Package. Consultant shall address City and ODOT comments. Consultant shall attend a 30% Plan Review Meeting to communicate and discuss resolution to City and ODOT review comments. Consultant shall provide written responses to address review comments received from City and ODOT after attending the 30% Design Package Review Meeting as part of the 60% design deliverable package.

For budgeting purposes, it is assumed that up to four Consultant staff shall attend the 2-hour 30% Design Package Review Meeting, assumed to be virtual.

11 Consultant Deliverables and Schedule:

Consultant shall provide:

- One electronic copy of 30% Plans in PDF format and one electronic copy of the tree inventory worksheet in Excel format to City Project Manager within 12 weeks of NTP.

TASK 12 - PLANS, SPECIFICATIONS, AND ESTIMATE (PS&E)

Consultants shall prepare plan sheets according to the following table:

Table 12

Name of Sheet	Scale (based on 22"x34" sheets)	Estimated # of Sheets	60% PS&E Submittal	95% PS&E Submittal	Final Submittal
Title sheet	N/A	1	X	X	X
Typical sections	N/A	1	X	X	X
Details	N/A	2	X	X	X
TCPs (including bicycle and pedestrian traffic)	1"=50'	11	X	X	X
Curb Ramp Elevation Detail and Profile Plans	1"=5'	10	X	X	X
Horizontal Alignment Plans	1"=20'	3		X	X
Roadway plans	1"=20'	3	X	X	X
Drainage plan/profiles	1"=20'	7	X	X	X
Erosion control	1"=20'	3		X	X
Drainage details	NA		X	X	X
Landscape and tree protection plan		4	X	X	X
Sign and striping plans	1"=20'	5	X	X	X
Signal and Illumination plans	1"=10'	23	X	X	X

12.1 60% PS&E

Consultant shall prepare 60% documents for the Project incorporating comments from 30% Plans review (Task 9).

Consultant shall prepare drawings, per Table 12 above and:

- Reference City and/or ODOT standard drawings and details.
- Prepare construction cost estimate quantities and unit costs utilizing City standard bid items. Consultant shall prepare the estimate to include mobilization, contingency, and construction engineering (the percentages will be agreed to by both parties). The estimate must be based on unit prices utilizing City and Consultant's historical bid information and considering a 2021 bid letting.
- Conduct one on-site meeting with the Urban Forestry Tree Inspector assigned to this project to review and discuss proposed tree protection, removal and mitigation.

The City Project Manager will rectify all City comments and submit the 30% PS&E Review Comment Log to Consultant.

Consultant shall address comments received and communicate with the City Project Manager the proposed resolution to the comments. Consultant shall provide written response to address review comments received from the City Project Manager on the 30% PS&E.

Draft Special Provisions:

The Draft Special Provisions must incorporate the City's boilerplate Special Provisions for Federal Aid Projects corresponding with the Project Work and be drafted utilizing "Track Changes". Consultant shall use the most current boilerplate Special Provisions and delete sections they do not need. Boilerplate can be found at the following website:

<https://www.portland.gov/transportation/engineering/construction-specifications>

12.1 Consultant Deliverables and Schedule

Consultant shall submit the following to the City Project Manager within 10 weeks of 30% Review Comment meeting with City staff (Task 11):

- 60% Plans (PDF).
- 60% Draft Special Provisions in electronic format (MS Word, utilizing "Track Changes" and PDF).
- 60% Construction Cost Estimate and estimate report. (<https://www.portland.gov/transportation/engineering/documents/estimate-template-master-2020-standard-construction-0/download>)
- 60% tab of the 30-60-95-100 Design Review Checklist and the Drafting Checklist (both found here: <https://www.portland.gov/transportation/engineering/capital-project-delivery-process#toc-checklist-plan-review>)
- Tree Inventory Worksheet with Treatments and Mitigation added.
- Draft Design Exceptions (if needed).
- Draft Curb Ramp Design Report Forms (found here: <https://www.portland.gov/transportation/engineering/ada-page>).
- QC verification letter.
- SSL Checklist (<https://www.portland.gov/transportation/engineering/documents/ssl-design-checklist/download>).

12.2 95% PS&E

This task includes preparation of 95% plans, Special Provisions, construction cost estimate, risk assessment, and quality control reviews, as well as incorporating comments from previous reviews.

95% Plans

Consultant shall prepare drawings, per Table 10 above and reference City and/or ODOT standard drawings and details, and other related drawings.

95% Special Provisions

Consultant shall update Project Special Provisions based on changes and clarifications to the Project design, as determined at 60% plans and in accordance with 2020 (or current edition) *City of Portland Construction Specifications* and ODOT *Specification and Writing Style Manual*. Consultant shall prepare the Special Provisions to the 95% level (the "95% Special Provisions") in MS Word utilizing "Track Changes".

The 95% Special Provisions must incorporate the City's boilerplate Special Provisions Consultant shall use the most current boilerplate Special Provisions. Boilerplates, by bid date, can be found at the following website: <https://www.portland.gov/transportation/engineering/construction-specifications>.

Consultant shall obtain concurrence from the proper City technical resource for any unique special provisions or changes made to the boilerplate special provisions, beyond fill-in-the-blank changes.

Consultant shall submit the ODOT Civil Rights Request for Goals Worksheet to the ODOT 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 (OJT) hours into the Project Special Provisions.

95% Cost Estimate

Consultant shall update the construction cost estimate quantities and unit costs utilizing City standard bid items to support the 95% Plans (the “95% Cost Estimate”). Consultant shall prepare the estimate to include mobilization, contingencies, and construction engineering. The estimate must be based on unit prices utilizing City and Consultant historic bid information and anticipating a 2025 bid letting.

Construction Schedule

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

95% PS&E Revisions/Corrections

The City Project Manager will submit a 95% PS&E Comment Log review comments to Consultant.

Consultant shall address comments received and communicate with the City Project Manager the proposed resolution to the comments. Consultant shall provide written response to address review comments received from the City on the 95% PS&E.

12.2 Consultant Deliverables and Schedule

Consultant shall submit the following to the City Project Manager within 8 weeks of the City’s written approval (e-mail acceptable) of the 60% Plans (Task 10.1):

- 95% Plans (PDF).
- 95% Special Provisions in electronic format (MS Word, utilizing “Track Changes”).
- 95% Construction Cost Estimate and estimate report.
(<https://www.portland.gov/transportation/engineering/documents/estimate-template-master-2020-standard-construction-0/download> Construction schedule in electronic format (MS Project format and PDF).
- 60% Comment response log for plans and specifications (In eBuilder).
- Local agency risk assessment form.
- Special Provisions summary form.
- Civil Rights request for goals worksheet.
- 95% tab of the 30-60-95-100 Design Review Checklist and the Drafting Checklist (both found here: <https://www.portland.gov/transportation/engineering/capital-project-delivery-process#toc-checklist-plan-review>).
- Earthwork quantities checked using digital terrain modelling (DTM), average end area method or methods of equivalent accuracy. If using DTM provide files in all files in MicroStation/InRoads format, file .dgn, .alg, .dtm and all CED cogo points.
- Quantity Calculations (CAD file and Inroads Reports).
- Approved ADA Ramp Reports.
- Inroads and Cad design files.
- QC verification letter.
- ROW Obligation Summary.
- Approved Curb Ramp Design Report Form.
- SSL Checklist (<https://www.portland.gov/transportation/engineering/documents/ssl-design-checklist/download>).
- Final Tree Inventory Worksheet and Arborist Report.

Consultant shall submit 95% PS&E Review Comment Log with Task 12.3 Final PS&E deliverable package.

12.3 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 95% PS&E Comment Log (Task 12.2).

Consultant shall coordinate with the City Project Manager to ensure all deliverables listed on the most current Final PS&E Submittal and Completeness checklists will be satisfied. Refer to the latest version of the Final PS&E checklists at the link found on this page:

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

City 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 3 weeks of receipt of documents from Consultant. Consultant shall incorporate final revisions into POR-signed Final Plans.

City will perform a final review of the incorporated revisions before they are POR stamped to confirm final revisions. No additional review expected. These can be submitted in PDF for review.

Upon request from the City, Consultant shall resolve comments from the Procurement Office.

12.3 Consultant Deliverables and Schedule

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

Description		
	Electronic	Paper
Un-signed Final Design Plans (22 x 34)	PDF and Microstation	
Project Special Provisions	Word and PDF	
POR Certification with all Special Provisions sections stamped	PDF	
100% tab of the 30-60-95-100 Design Review Checklist and the Drafting Checklist (both found here: https://www.portland.gov/transportation/engineering/capital-project-delivery-process#toc-checklist-plan-review)	Excel and Word	
SSL Checklist (https://www.portland.gov/transportation/engineering/documents/ssl-design-checklist/download).	PDF	
Email from Civil Rights noting Applicable DBE goals, MWESB targets and OJT hours	Email	
Cost Estimate and estimate narrative	PDF, Excel, .est & .dat	
Certified Local Public Agency Cost Estimate Form	Excel	
Bid Form	Excel	

CPM Construction Schedule (11 x 17 in color)	PDF	
Fuel Escalation Worksheet	Excel	
Steel Escalation Worksheet	Excel	
Project Risk Assessment Summary	PDF	
NEPA Approval Documentation (delivered under Task 3)	PDF	
Utilities Certification (delivered under Task 5)	PDF	

Consultant shall submit the following to the City Project Manager, no later than one week prior to the PS&E Due Date to the City:

- POR-signed Final Plans in PDF format.

Consultant shall submit the following to City Project Manager, no later than one week after the project has been advertised:

- Electronic data files for construction staking. Design files to be provided will include MicroStation .dgn drawings, InRoads design DTM, InRoads subgrade DTM, and InRoads geometry file. Within the files include the following:
 - Crown lines, gutter lines, top of curb lines, backs of sidewalk and berm lines.
 - Valley gutters and surface elevation of inlets.
 - Driveways and wheelchair ramps.
 - Property lines, easements, work limits.
 - Utility features including water lines, sewer lines, underground power and phone lines, and sawcut lines.
 - Structures such as retaining walls, bridges, stairs, etc.
 - Traffic Signal features pole base, signal cabinets, junction box, etc. Provide finish elevations on pole bases and signal cabinets
 - A .dgn file separated on discrete levels is required.

12.4 LETTER OF PUBLIC INTEREST FINDINGS (LPIF) (CONTINGENCY)

Consultant shall prepare up to one Public Interest Finding Letter. Consultant shall perform due diligence to determine if the items to be specified in the Public Interest Finding Letter meet the requirements of the 'Buy America' clause. Consultant shall follow latest LPIF Guidance located at:

http://www.oregon.gov/odot/hwy/opl/docs/pdf/lpif_guidance.pdf

APM will route the draft letter for internal review at the City and provide the Consultant with one set of non-conflicting review comments.

Consultant shall prepare the final LPIF and submit to APM.

12.4 Consultant Deliverables and Schedule

Consultant shall provide:

- Up to one electronic copy of the draft LPIF with the 30% Plans.
- Up to one final LPIF (one pdf file with the engineer's signature and stamp, one original copy for signatures) with the 95% Plan submittal (Task 12.2).

12.5 ADDITIONAL CURB RAMP DESIGN LOCATIONS (CONTINGENCY)

Consultant to design up to four (4) additional ADA corners if required during project design. These corners may be requested to be included in the overall project and included in the design deliverables and PS&E package.

12.5 Consultant Deliverables and Schedule

Consultant shall provide:

- Ramp design sheets, specification, and cost estimates will be included with 30%, 60%, 95% and Final deliverable packages.

TASK 13 - BID AND AWARD ASSISTANCE

This task includes the preparation of addenda, as needed, and responding to questions during the bidding phase. Consultant shall respond to questions from the City and Construction Contractors about the plans and specifications during the bidding process.

13.1 Questions During Bidding

Consultant's Project Manager, or Consultant's designee(s) approved by the City, shall assist the City with questions regarding the bid documents and bid process. Consultant shall respond to all questions in writing within one day to the City Project Manager.

Consultant shall not communicate with Construction Contractors and suppliers during bidding. Consultant shall prepare a written log to document conversations and questions asked by construction contractors or suppliers and the answers provided to the City. Consultant shall maintain the written log in the project file and provide upon request of the City.

13.1 Consultant Deliverables and Schedule

Consultant shall provide written log of conversations, questions and answers, provided to the City upon request.

13.2 Addenda to the Bid Documents (CONTINGENCY)

This task identifies specific deliverables that the City at its discretion may elect to authorize Consultant to produce. Consultant shall only complete this Task 11.2 and the identified deliverables if written (email acceptable) NTP is issued by the City.

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

If the City chooses to authorize this work, Consultant shall submit Addendum documents within a timeframe agreed to and stated in the NTP (prior to expiration of WOC).

13.2 Consultant Deliverables and Schedule

- Bid document addenda; stamped PDF; or special provision revisions.
- Consultant shall prepare and deliver the addenda text in a Microsoft Word file.
- Consultant shall prepare and deliver stamped drawings in PDF.
- Consultant shall coordinate reviews of addenda by the City prior to submittal.
- Consultant shall not be responsible for distributing addenda to bidders. The City will issue and distribute all addenda.

TASK 14 - DESIGN MODIFICATIONS AND ENGINEERING SUPPORT DURING CONSTRUCTION (CONTINGENCY)

If City PM determines that design modifications are necessary, the Consultant POR shall prepare detailed engineering design revisions as directed up to the estimated hours included in the BOC. For budgeting purposes, it is assumed that the Consultant will prepare up to five (5) design modifications.

This task also includes responding to questions during the construction phase. Consultant shall respond to questions from the City and the Contractor about the plans and specifications during construction. For budgeting purposes, it is assumed that up to three Consultant staff will attend one (1) pre-construction meeting held virtually to discuss the project with the City and the Contractor. It is

assumed that up to three Consultant staff will attend up to four (4) in person Project Construction Site Visit meetings.

Consultation during construction includes receiving questions from the City regarding potential Change Orders, receiving questions and written requests for information (RFI's), submittal review, and research of the contract documents to determine the response(s), and response back to the City.

14 Consultant Deliverables and Schedule:

- Design details for up to five (5) modifications (prepared or approved by the Consultant POR for appropriate changes to Project design) - Submit to City PM at date mutually agreed to when work was requested.
- Attend one (1) pre-construction meeting (held virtually) to discuss the project with the City and the Contractor and address questions.
- Attend up to four (4) in-person Project Construction Site Visit Meetings.
- Respond to formal RFI's and submittals.

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 inclusive of direct salary, indirect expenses and profit.

NTE - Not to Exceed Amount

T&M - Time and Materials

A. METHOD of COMPENSATION for NON-CONTINGENCY TASKS

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

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

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

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

1. Cost Plus Fixed Fee with Not-To-Exceed (CPFF)

Agency will pay Consultant actual costs plus the negotiated fixed fee, up to the NTE established in the Contract, to complete the Services required under the Contract.

Actual Costs. Actual costs are limited to:

LPA A&E Contract Form C017-B070620-RevLR

- **Direct Salary Costs** –the direct salary rate (up to the maximum rate approved in the Contract for the employee’s classification) paid to the specific employee(s) productively engaged in work to complete the Services required under the Contract.
- **Allowable Indirect Costs** - (See section I, Indirect Costs)
- **Other Direct Costs (ODCs)** without mark-up - Approved travel costs (up to the rates allowed in Section B of this Exhibit) and other approved direct-non labor expenses that are not included in overhead.
- **Subconsultant Costs** (without mark-up) - the actual labor costs, ODCs (as described above) and indirect costs that have been billed to Consultant and recognized by Consultant as valid, undisputed and payable.

Fixed-Fee. A profit rate will be negotiated. The Fixed-Fee amount will be developed by multiplying the negotiated profit rate by the Labor Costs (excluding labor costs from NBRs) plus Allowable Indirect Costs for the Project. The cost basis for calculating the Fixed Fee must not include:

- ODCs,
- labor costs for firms using NBRs (these rates already include profit),
- FCCM
- costs for contingency tasks, if any. Cost and profit for contingency tasks will be included in the amount negotiated for each contingency task and will not be included in the Fixed-Fee for non-contingency tasks.

The total not-to-exceed amount for allowable, actual costs for non-contingency tasks is: \$ 945,621.10

The total dollar amount for the Fixed Fee for non-contingency task is: \$ 69,012.80

Consultant acknowledges and agrees that the Fixed-Fee is only due and payable for work authorized by Agency and satisfactorily completed by Consultant.

B. PAYMENT OPTIONS

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

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

Basis of Payment or Fixed Fee (for CPFF only)

The Basis of Payment for Fixed Fee is as follows:

- The Fixed-Fee will be paid for accepted and verified progress based on an estimated percentage of completion of the Services and deliverables required under the Contract.
- The Fixed-Fee will be paid as a single lump sum payment following completion and acceptance of all Services and deliverables required under the Contract.
- The Fixed-Fee will be paid in the amounts identified for each completed and accepted milestone:

C. TRAVEL

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

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

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

D. INVOICES

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

- The Agency's Contract number
- The Agency'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 ODCs for which Consultant seeks reimbursement, including a breakdown by task of the number of labor hours for each employee, employee names and classifications. Include receipts for any items purchased or equipment rentals for the Project that exceed \$100. Include copies of all invoices, similarly detailed, from authorized subconsultants.
- Agency will reimburse Consultant for approved travel expenses incurred in accordance with **Exhibit B**, Section C of the Contract, if Agency has agreed to reimburse Consultant for travel expenses. For travel expense claims include receipts for lodging; rental cars, airfare.

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 Agency.
- 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.

Agency 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 Agency within 5 business days of Agency’s request. Agency will not make payment to Consultant under the applicable invoice until Agency has received all requested supporting documentation from Consultant and Agency has approved the invoiced amounts. Any overdue payments to Consultant by Agency 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. Agency will endeavor to notify Consultant within 10 business days of receipt of invoice regarding any necessary revisions or corrections to the invoice. If revisions are necessary, payment will be made no later than 45 calendar days from receipt of the revised invoice. Any interest for overdue payment will be in conformance with Oregon law.

F. CORRECTIVE WORK

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

G. WITHHOLDING/RETAINAGE

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

H. PAYMENT REDUCTION

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

I. SPECIFIC LIMITATIONS and UNALLOWABLE CHARGES

Specific Limitations

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

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

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

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

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

Unallowable Charges

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

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

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

J. INDIRECT COSTS; SALARY and BILLING RATE SCHEDULES

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

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

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

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

3. Salary and Billing Rate Schedules

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

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

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

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

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

K. RATE REVISIONS

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

L. BREAKDOWN OF COSTS (BOC)

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

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

- a) the proposed staff assignments (classifications and names) and hours per task and sub-task;

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

Notes:

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

The final BOC agreed to by the Parties is incorporated by this reference as Exhibit B.1

EXHIBIT C - INSURANCE

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

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

This insurance must cover damages caused by negligent acts, errors or omissions of Consultant and Consultant's subcontractors, agents, officers or employees related to the professional Services to be provided under the Contract. If this insurance is provided on a "claims made" basis, Consultant shall continue the same coverage for **2 years**, **3 years**, or **6 years** after completion of the Services or acquire "tail" coverage or an Extended Reporting Period endorsement for the foregoing extended period beyond Contract expiration or termination. Evidence of any required extended period coverage will be a condition of final payment under the Contract.
3. **Required by Agency** **Not required by Agency.**
Commercial General Liability insurance must be issued on an occurrence basis with per occurrence limit, or the equivalent, of not less than \$1,000,000 covering "bodily injury" and "property damage." Any annual aggregate limits shall not be less than \$2,000,000.
4. **Required by Agency** **Not required by Agency.**
Automobile Liability insurance covering Consultant's business-related automobile use, with a combined single limit, or the equivalent, of not less than \$1,000,000 each occurrence for "bodily injury" and "property damage," including coverage for all owned, non-owned, rented or hired vehicles.
5. **Notice of change or cancellation.** There shall be no cancellation, material change (one that would adversely impact the protection of Agency provided through the insurance coverages required in this **Exhibit C**), reduction of limits or intent not to renew the insurance coverage(s) without 30 calendar days prior written notice from Consultant or its insurer(s) to Agency. **All policies and certificates of insurance, including Workers' Compensation, must include a notice of cancellation or nonrenewal clause as required under ORS 742.700 to 742.710.**
6. **Certificates of Insurance.** As evidence of the insurance coverages required by this Contract, Consultant shall furnish acceptable insurance certificates to Agency prior to Contract execution. Throughout the life of this Contract, Consultant shall submit updated certificates of insurance prior to the policy expiration date(s) indicated for the required coverages. If requested by Agency, Consultant shall either: a) provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency; or b) make such insurance policies, endorsements, self-insurance documents and related insurance documents available for inspection by Agency's representatives at a location in the State of Oregon that is reasonably convenient for Agency's representatives responsible for verification of the insurance coverages required under the Contract.
7. **Additional Insureds.** Insurance certificates for Automobile and Commercial General Liability must include an endorsement physically attached to the certificate specifying the Agency, the State of Oregon, the OTC, the Oregon Department of Transportation, and their respective officers, members, agents and employees as Additional Insureds and must expressly provide that the interest of the Additional Insureds shall not be affected by Consultant's breach of policy provisions.
8. **Subcontractors.** Consultant shall: (i) obtain proof of the above insurance coverages, as applicable, from any subcontractor providing Services related to this Contract, or (ii) include subcontractors within Consultant's coverage for the duration of the subcontractor's Services related to this Contract.

EXHIBIT D - TITLE VI NON-DISCRIMINATION PROVISIONS

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

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

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

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

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

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

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

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

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

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

4. **Subcontractor Reporting:** Complete and submit an initial **Paid Summary Report** [form 734-2882] per the instructions on the form.
- e. **Good Faith Efforts:** Contractor shall make good faith efforts, as set forth in 49 CFR § 26.53, Appendix A to Part 26, and ODOT DBE Program Plan, to obtain and support DBE participation that could reasonably be expected to produce and maintain a level of DBE participation sufficient to meet the Contract goal. Good faith efforts are required during solicitation, upon Contract award, and continue throughout the performance of the Contract to maximize DBE participation. The Agency (or local agency when applicable) Project Manager (“APM”) may request Contractor to submit evidence of good faith efforts prior to Contract execution or at any time during the course of the Contract and Contractor shall promptly submit such evidence. Contractor shall use the specific DBEs listed in the Committed DBE Breakdown and Certification form(s) to perform the work and supply the materials for which each is listed unless the contractor obtains ODOT’s prior written consent to terminate and replace a DBE as provided in section j. below. Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBEs as required by this provision.
- f. **Commercially Useful Function (“CUF”):** Contractor is responsible to ensure the DBE performs a commercially useful function on the Contract. A DBE performs a CUF when it is responsible for execution of the work of the Contract/subcontract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. Additional detail regarding CUF requirements and other conditions for counting participation by DBE contractors is set forth in 49CFR § 26.55. The APM will review the proposed DBE participation and may provide written comments as to whether the activities and type of work identified for DBEs complies with program regulations. In those instances where proposed activity and type of work violates applicable regulations, written comments will be offered as to corrective action required in order to comply with the regulations. ODOT may perform a CUF review at any time during the performance of the Contract.
- g. **Changes in Work Committed to DBE:** ODOT will consider the impact on DBE participation in instances where the prime Contract is amended to reduce, or delete work committed to the DBE. In such instances, Contractor shall not be required to replace the work but is encouraged to do so to the maximum extent practicable.
- h. **Prompt Payment and Retainage:** Contractor shall pay each subcontractor for satisfactory performance under its contract no later than 10 calendar days from receipt of each payment Contractor receives from ODOT (or local agency when applicable) for the subcontracted work. In addition, within 10 calendar days of receipt of retainage from ODOT (or local agency when applicable), Contractor shall pay to each subcontractor the retainage that pertains to the work of that subcontractor.
- i. **Reporting Requirements:** Contractor must report payment information for all subcontractors and suppliers used under the Contract throughout the period of performance. Contractor shall complete and submit initial, interim and final Paid Summary Report(s) [form 734-2882] per the instructions included on the form.
- j. **Termination of DBE Notification Requirement:** Contractor shall comply with all requirements set forth in 49 CFR § 26.53 regarding termination of DBEs including, without limitation, documentation of good cause, 5-day notice to the DBE subcontractor and ODOT, DBE responses, ODOT’s prior written consent of DBE termination, and replacement of DBEs. ODOT will provide such written consent only if it agrees the prime contractor has good cause to terminate the DBE in accordance with 49 CFR 26.53(f)(3).
- k. **Remedies:** Contractor’s failure to comply with these DBE Provisions and the requirements of 49 CFR Part 26 may result in one or more of the following administrative actions as deemed appropriate by ODOT: non-compliance documented in ODOT evaluation of Contractor performance, a corrective action plan prepared by Contractor, ODOT (or local agency when applicable) withholding of retainage, suspension of work, reporting of non-compliance to the federal System for Award Management (“SAM”) available at <https://sam.gov/SAM/>, any other remedies provided under the Contract.
- l. **Information/Questions:** The DBE program is administered by the ODOT Office of Civil Rights (“OCR”). Questions related to the DBE Program may be sent via email to ocrinforequest@odot.state.or.us or otherwise directed to: Oregon Department of Transportation Office of Civil Rights ODOT Materials Laboratory Building, 800 Airport Road SE, Rm 61, Salem, OR 97301; Phone: 503-986-4350.
- 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:

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

Acronyms & Definitions Applicable to Exhibit E

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

COMMITTED DBE BREAKDOWN and CERTIFICATION FORM(S)

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

EXHIBIT 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.

a.1 * Agency's Project Manager (APM) Name:	Liz Rickles
Ph:	503-823-7078
E-mail:	Elisabeth.rickles@portlandoregon.gov

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

Name:	Ashly Hoffman
Ph:	503-865-6001
E-mail:	Ashly.hoffman@portlandoregon.gov

a.3 Agency's address for invoicing:

Mailing Address:	E-Builder
E-mail:	PBOT.e-builder@portlandoregon.gov

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

Name:	Travis Kruger
Ph:	503-915-3795
E-mail:	Travis.kruger@hdrinc.com

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

Name:	Travis Kruger
Address:	PO Box 74008202 Chicago,IL 60674-8202 Bank of America ML US ABA# 081000032 Account# 355004076604
Ph:	503-915-3795
E-mail:	Travis.Kruger@hdrinc.com PortlandAP@hdrinc.com

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

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