

# Contract Review Sheet

A&amp;E Standard Prof Svcs Agmnt

**PW-7131-26**Title: French Prairie Rd: West Champoeg Creek Bridge Construction Inspection ServicesContractor's Name: David Evans and Associates, Inc.Department: Public Works DepartmentContact: Traci ClarkeAnalyst: Kathleen GeorgePhone #: 503-365-3100Term - Date From: ExecutionExpires: December 31, 2027Original Contract Amount: \$ 332,158.01 Previous Amendments Amount: \_\_\_\_\_Current Amendment: \$ - New Contract Total: \$ 332,158.01 Amd% 0%Outgoing Funds  Federal Funds  Reinstatement  Retroactive  Amendment greater than 25%Source Selection Method: 30-0220 Formal Selection A&EPW1765-26

## Description of Services or Grant Award


The Champoeg Creek Bridge #05492 is located on French Prairie Road NE, a minor collector in the Marion County 2005 Rural Transportation System Plan. The bridge is narrow and the timber substructure requires continual maintenance. The bridge was constructed in 1955 and is a single span concrete bridge on timber piles. With a sufficiency rating of 44.4, the bridge and approach rails are all substandard, and the deck geometry rating is 2-intolerable. The approach roadway alignment to the bridge is adequate.

This Project will replace the bridge with a new structure meeting current AASHTO and ODOT standards for load capacity, deck width, barrier and approach rail. The new structure will be raised to improve hydraulic capacity and lengthened to adequately clear-span the inner channel. The new bridge will remain on the existing alignment and traffic will be detoured during construction.

DEA is needed to provide construction and environmental inspection, and geotechnical support services. The County issued an RFP in January of this year and David Evans and Associates, Inc. (DEA) was the only proposer. They are well qualified to provide these services.

Desired BOC Session Date: 7/15/2026Contract should be in DocuSign by: 6/24/2026Agenda Planning Date: 7/2/2026Printed packets due in Finance: 6/30/2026Management Update: 6/30/2026BOC upload / Board Session email: 7/1/2026BOC Session Presenter(s) Ryan CrowtherCode: Y


## REQUIRED APPROVALS

  
06/24/2026  
Date

Traci Clarke  
06/23/2026  
Date

Finance - Contracts

Contract Specialist

  
06/25/2026  
Date

Jan Fritz  
Jan Fritz (Jun 26, 2026 16:41:08 PDT)  
06/26/2026  
Date

Legal Counsel

Chief Administrative Officer



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: July 15, 2026

Department: Public Works

Title: French Prairie Road: West Fork Champoeg Creek Bridge, Inspection Services Contract

Management Update/Work Session Date: 7/7/2026 Audio/Visual aids [ ]

Time Required: 5 minutes Contact: Jill Ogden Phone: 3152

Requested Action: Approve contract PW-7131-26 with David Evans and Associates in the amount of \$331,158.01 to provide construction engineering support services for the French Prairie Road: West Fork Champoeg Creek bridge replacement project.

Issue, Description & Background: The French Prairie Road: West Fork Champoeg Creek bridge is narrow and in poor condition, it has no approach guardrail and the bridge rail is substandard. In 2021 the County received State fund exchange funding from the Oregon Department of Transportation (ODOT) through the Local Bridge Program to replace this bridge. The project is currently in the bidding process with construction anticipated this summer and fall. A Consultant is needed to provide construction and environmental inspection, and geotechnical support services. The County issued an RFP in January of this year and David Evans and Associates, Inc. (DEA) was the only proposer. They are well qualified to provide these services.

Financial Impacts: The proposed contract amount is \$332,158.01, of which 89.73% is being funded with State fund exchange and 10.27% with matching County Road funds.

Impacts to Department & External Agencies: None.

List of attachments: Contract PW-7131-26 with DEA

Presenter: Ryan Crowther

Department Head Signature: Brian Nicholas Digitally signed by Brian Nicholas Date: 2026.06.10 08:43:28 -07'00'

**MARION COUNTY  
ENGINEERING AND RELATED SERVICES CONTRACT  
Contract Number: PW-7131-26**

<b>Project Title: French Prairie Road: Champoeg Creek Bridge</b>	<b>County Project Number: 105455</b>
<b>Project Location: 3 Mi. West of Woodburn, OR</b>	<b>Associated RFP Number: PW1764-26</b>
<b>Total Not-to-Exceed (“NTE”) amount for this Contract.</b> This total includes: a) all allowable costs and expenses, profit, and fixed-fee amount, if any; and b) \$19,683.33 for contingency tasks, each of which must be separately authorized by County.	<b>\$ 332,158.01</b>

This Contract is between Marion County, hereafter called “County” and David Evans and Associates, Inc., an Oregon corporation, hereafter called “Consultant.” County and Consultant together are also referred to as “Parties” and individually referred to as “Party.” The primary contacts for this Contract are identified in Exhibit F, Contact Information and Key Persons.

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 Marion County Public Contracting Rules section 30-0110); and
- d) “Related Services” has the meaning provided in Marion County Public Contracting Rules section 10-0110.

**TERMS AND CONDITIONS**

- 1. Contract Effective Date and Term.** This Contract is effective on the date it has been signed by the parties and all required approvals have been obtained. No work or compensation under the Contract is authorized until notice to proceed has been issued in writing (email acceptable) by the County. Unless otherwise amended or terminated, this Contract shall expire December 31, 2027.
- 2. Statement of Work.** Consultant shall perform all Services and deliver all deliverables as described in Exhibit A, Statement of Work (the “Services”). The required schedule for performance under the Contract is specified in the Statement of Work.
- 3. Compensation.** The maximum NTE amount, which includes the total of all allowable and reimbursable costs and expenses (and contingency tasks, if any) payable to Consultant under this Contract, is set forth in the table above and detailed further in Exhibit B, Compensation. County reserves the right, in its sole discretion, to amend this Contract to increase this amount for additional Services within the scope of the procurement. The payment methodology and basis for payment to Consultant is described in Exhibit B, Compensation.
- 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 – Special Terms and Conditions
  - Exhibit E – Errors & Omissions (“E&O”) Claims Process
  - Exhibit F – Contact Information and Key Persons

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

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

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

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

- a. Consultant shall obtain County's written consent prior to entering into any subcontracts for any of the Services required by the Contract, or in any manner assigning, selling or transferring any of its rights or interest under the Contract or delegate any of its duties or performance under the Contract. In addition to any other provisions County may require, Consultant shall include, in any permitted subcontract under the Contract, contractual provisions that shall require any subcontractor (which may also be referred to as "subconsultant") to comply with Sections 9, 10, 11, 12, 13, 16, 17, 18, 19, 23, 27 and 29 of these Contract provisions, the limitations of **Exhibit B**-Compensation, and the requirements and sanctions of ORS Chapter 656, Workers' Compensation, in the performance of the subcontractor's Services on the project that is the subject of the Contract, as if the subcontractor were the Consultant. County's consent to any subcontract shall not relieve Consultant of any of its duties or obligations under the Contract, including with respect to any Services, whether performed or to be performed by Consultant or a subcontractor.
- b. The provisions of the Contract shall be binding upon and shall inure to the benefit of the Parties hereto, and their respective successors and permitted assigns, if any.
- c. Any purported assignment, delegation or disposition in violation of subsection "a." above is void.

**8. Third Party Beneficiaries.** There are no third-party beneficiaries of the Contract.

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

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

**a. Professional Standard of Care.**

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

**b. Responsibility of Consultant.**

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

**c. Reserved.**

**11. Ownership of Work Product**

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

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

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

subsequent modifications. However, see Sections 11.c and 11.d immediately below, for provisions applicable to Consultant Intellectual Property, Third Party Intellectual Property, Consultant Intellectual Property derivative works and Third-Party Intellectual Property derivative works.

- c. **Consultant and Third-Party Intellectual Property.** In the event that any Work Product is Consultant Intellectual Property or Third Party Intellectual Property (Consultant Intellectual Property or Third Party Intellectual Property that is applicable to the Services being performed by Consultant under the Contract or included in Work Product deliverable to County under the Contract), or in the event any Consultant Intellectual Property or Third Party Intellectual Property is needed by County to reasonably enjoy and use any Work Product, Consultant hereby agrees that it will grant to, or obtain for, the County an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display Consultant Intellectual Property and or Third Party Intellectual Property, including the right of County to authorize contractors, consultants and others to do the same on County's behalf. This obligation of the Consultant does not apply to a situation involving a third party who enters a license agreement directly with the County. At the request of Consultant, County shall take reasonable steps to protect the confidentiality and proprietary interests of Consultant in any Consultant Intellectual Property licensed under this Section, within the limits of the Oregon Public Records Law (ORS 192.410 through 192.505) and the Oregon Uniform Trade Secrets Act (ORS 646.461 to 646.475).
- d. **Consultant and Third-Party Intellectual Property-Derivative Work.** In the event that Work Product created by Consultant under the Contract is a derivative work based on Consultant Intellectual Property or Third Party Intellectual Property, or is a compilation that includes Consultant Intellectual Property or Third Party Intellectual Property, Consultant hereby agrees to grant to, or obtain for, County an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of Consultant Intellectual Property or Third Party Intellectual Property employed in the Work Product, including the right of County to authorize others to do the same on County's behalf.
- e. **Consultant Use of Work Product.** Notwithstanding anything to the contrary in this Section 11, Consultant may refer to the Work Product in its brochures or other literature that Consultant utilizes for advertising purposes and, unless specified otherwise in Exhibit A – Statement of Work, County hereby grants to Consultant a non-exclusive, non-transferable, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display County-owned Work Product on other unrelated projects, except for any "Confidential Information" protected from disclosure under the provisions of Section 12 below, pertaining to Confidentiality and Non-Disclosure.

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

**13. Indemnity**

- a. **Claims for Other Than Professional Liability.** Consultant shall indemnify, defend, save, and hold harmless County, and its officers, agents, and employees, from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of whatsoever nature resulting from or arising out of the acts or omissions of Consultant or its sub-consultants, subcontractors, agents, or employees under this contract.
- b. **Claims for Professional Liability. To the fullest extent permitted by law, and except to the extent prohibited under 30.140(4),** Consultant shall indemnify, defend, save, and hold harmless County, and its officers, agents, and employees, from and against all claims, suits, actions, losses, damages,

liabilities, costs and expenses of whatsoever nature arising out of the professionally negligent acts, errors or omissions of Consultant or its sub-consultants, subcontractors, agents, or employees in the performance of professional services under this contract, if Consultant's liability or fault is determined by adjudication, alternative dispute resolution, or by settlement agreement in an amount not exceeding Consultant's proportionate liability or fault.

- c. **Indemnity for Infringement Claims.** *Without limiting the generality of section 13(a) or 13(b), Consultant expressly agrees to indemnify, defend, save and hold harmless the County and its officers, agents, and employees from any and all claims, suits, actions, losses, damages, liabilities, costs and expenses, including attorney fees, arising out of or relating to any claims that Consultant's services, the Work Product or any other tangible or intangible items delivered to the County by Consultant that may be the subject of protection under any state or federal intellectual property law or doctrine, or the County's use thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any third party; provided, County shall provide Consultant with prompt written notice of any infringement claim. Provided, however, Consultant shall not be obligated to indemnify, defend, save and hold harmless the County (or other entities identified above) under this section 13(c), based solely on the following: Consultant's compliance with County specifications or requirements, including, but not limited to the required use of tangible or intangible items provided by County.*
- d. **Defense Qualification.** *Neither Consultant nor any attorney engaged by Consultant shall defend or purport to defend a claim in the name of the County, without first receiving from the applicable entity, authority to act as legal counsel, nor shall Consultant settle any claim on behalf of the foregoing entities without the approval of these entities. The County may any time and at its election and expense, assume their own defense and settlement.*
- e. **County's Acts or Omissions.** *This section 13 does not include indemnification by Consultant of the County or its officers, agents and employees, for the acts or omissions of the County or its officers, agents and employees, whether within the scope of the Contract or otherwise.*

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

#### 15. **Termination**

- a. **Termination by Mutual Consent.** The Contract may be terminated at any time, in whole or in part, by mutual written consent of the Parties.
- b. **County's Right to Terminate for Convenience.** County may, at its sole discretion, terminate the Contract, in whole or in part, by written notice to Consultant specifying the termination date of the Contract.
- c. **County's Right to Terminate for Cause.** County may terminate the Contract, in whole or in part, immediately upon written notice to Consultant or at such later date as County may establish in such notice, upon the occurrence of any of the following events:
  - (i) In the event the Board of Commissioners of the COUNTY, in the exercise of its reasonable discretion, reduces, changes, eliminates, or otherwise modifies the funding for any of the services identified, the Consultant agrees to abide by any such decision including termination of service;
  - (ii) Federal, State or local laws, regulations or guidelines are modified or interpreted in such a way that either the Services under the Contract are prohibited or County is prohibited from paying for such Services from the planned funding source;
  - (iii) Consultant no longer holds any license or certificate that is required to perform the Services; or
  - (iv) Consultant commits any material breach or default of any covenant, warranty, obligation or agreement under the Contract, fails to perform the Services under the Contract within the time specified or any extension thereof, or so fails to perform the Services as to endanger Consultant's performance under the Contract in accordance with its terms, and such breach, default or failure is not cured within 10 calendar days after County's notice to Consultant, or such longer period as County may specify in such notice.
- d. **Cessation of Services.** Upon receiving a notice of termination of the Contract, Consultant shall immediately cease all activities under the Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of the Contract, Consultant shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract

been completed. Upon County's request, Consultant shall surrender to anyone County designates, all documents, information, research, works-in-progress, Work Product and other property, that are deliverables or would be deliverables had the Contract been completed, that are in Consultant's possession or control and may be needed by County to complete the Services.

**e. Consultant's Right to Terminate for Cause.**

- (i) Consultant may terminate the Contract by giving written notice to County if County fails to pay Consultant pursuant to the terms of the Contract and if County fails to cure within 15 calendar days after receipt of Consultant's written notice, or such longer period of cure as Consultant may specify in such notice.
- (ii) Consultant may terminate the Contract, for reasons other than nonpayment, if County commits any material breach or default of any covenant, warranty, obligation or agreement under the Contract, fails to perform under the Contract within the times specified, or so fails to perform as to endanger Consultant's performance under the Contract, and such breach, default or failure is not cured within 30 calendar days after Consultant's notice to County, or such longer period as Consultant may specify in such notice.

**f. 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 and accepted by County up to the time of termination, less previous amounts paid and any claim(s) which County 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 Fiscal Year. If previous amounts paid to Consultant exceed the amount due to Consultant under this subsection, Consultant shall pay all excess to County upon demand.
- (ii) In the event of termination pursuant to Section 15(c)(iii) or 15(c)(iv), County shall have any remedy available to it in law or equity. Such remedies may be pursued separately, collectively or in any order whatsoever. 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).

**16. Records Maintenance; Access.** For not less than ten (10) years after the Contract's expiration or termination, County, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Consultant and the Sub-consultants which pertain to the Contract for the purpose of making audits, examination, excerpts, and transcripts. If, for any reason, any part of this Contract, any Project-related consultant contract or any Project-related construction contract(s) is involved in litigation, Consultant shall retain all pertinent records for not less than seven (7) years or until all litigation is resolved, whichever is longer. Consultant shall provide County and the other entities referenced above with full access to these records in preparation for and during litigation.

**17. Performance Evaluations.** County will conduct performance evaluation(s) on the Consultant and its subconsultants during the term of the Contract, which will be compiled and maintained by County, and become a written record of Consultant's performance. Generally, the performance evaluations will include criteria related to, but not limited to, quality and technical performance, adherence to contract scope and budget, schedule performance, and business relations (including communications and negotiations performance). County will provide a copy of the performance evaluation results to Consultant within 14 calendar days following completion. Consultant may respond, in writing, or may request a meeting to address any or all findings contained in the completed performance evaluation within 30 calendar days following receipt. County may adjust evaluation score(s) upon County's finding of good cause. County may use performance evaluation findings and conclusions in any way deemed necessary, including, but not limited to, corrective action, requiring submittal of performance improvement plan by Consultant and withholding of retainage. County 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 laws, 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. County's performance under the Contract is conditioned upon Consultant's compliance with, and Consultant shall comply with, the obligations applicable to public contracts and intended for contractors under ORS 279C.505, 279C.515, 279C.520 and 279C.530, which are incorporated by reference herein. All rights and remedies available to County under applicable federal, state and local laws are also incorporated by reference herein and are cumulative with all rights and remedies under the Contract. If Consultant discovers a conflict among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Contract, Consultant shall in writing request County to resolve the conflict. Consultant shall specify if the conflict(s) create a problem for the design or other Services required under the Contract. If County concludes there is a conflict among the applicable laws, Federal laws shall govern among the others; State laws shall govern over the others except Federal. The resolution of the conflict of the applicable laws by County shall be final and not subject to further review or challenge.

## **19. Permits and Licenses**

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

**20. Foreign Contractor.** If Consultant is not domiciled in or registered to do business in the State of Oregon as of the Effective Date, 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. Consultant shall demonstrate its legal capacity to perform the Services under this Contract in the State of Oregon prior to executing this Contract.

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

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

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

**24. Notice.** Except as otherwise expressly provided in the Contract, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by e-mail, by personal delivery, facsimile, or mailing the same, postage prepaid, to Consultant or County at the e-mail address, the delivery address or

facsimile number set forth in the Contract, or to such other addresses or numbers as either Party may hereafter indicate in writing to the other. Any notice or day-to-day communication sent by e-mail shall be deemed received when it is sent. **The recipient of any notice sent by e-mail shall reply by e-mail to confirm receipt of such notice.** Any communication or notice made by personal delivery shall be deemed to be received when actually delivered. Any communication or notice properly addressed and mailed shall be deemed received 5 calendar days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received on the date of the notice of successful transmission generated by the transmitting machine. To be effective, such facsimile transmission must be confirmed by telephone notice to County's Contract Administrator or Consultant's representative, as applicable.

**25. Severability.** The Parties agree that if any term or provision of the Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

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

- a. **Errors & Omissions Related.** In the event those good faith efforts do not resolve disputes related to potential Errors and Omissions, the Parties agree to make good faith efforts to resolve the matter pursuant to **Exhibit E, 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.

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

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

**29. False Claims**

- a. Consultant understands and acknowledges it is subject to the Oregon False Claims Act ([ORS 180.750](#) to [180.785](#)) and to any liabilities or penalties associated with the making of a false claim under that Act. By its execution of the Contract, Consultant certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or cause to be made that pertains to the Contract or the Project for which the Services are being performed, including but not limited to Consultant's statement of proposal and any invoices, reports, or other deliverables.

- b. Consultant shall immediately disclose (in writing) to County whenever, in connection with the award, performance or closeout of the Contract, or any subcontract thereunder, Consultant has credible evidence that a principal, employee, agent, or subcontractor of Consultant has committed:
  - (i) A violation of the Oregon False Claims Act; or
  - (ii) A violation of State or Federal criminal or civil law involving fraud, conflict of interest, bribery, gratuity or similar misconduct.
- c. Consultant must include subsections (a) and (b) of this section in each subcontract Consultant may award in connection with the performance of the Contract. In doing so, Consultant may not modify the terms of those subsections, except to identify the subcontractors or sub grantee that will be subject to those provisions.

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

---

## CONSULTANT CERTIFICATIONS

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

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

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

- (1) **Consultant has read this Contract, understands it, and agrees to be bound by its terms and conditions.**
- (2) Consultant understands and agrees that various documents are not physically attached, but are incorporated by reference and have the same force and effect as if fully set forth herein.
- (3) Consultant understands and has provided to all Associates the COI Disclosure Form available at: <https://www.oregon.gov/ODOT/Business/Procurement/Pages/LPA.aspx>. Consultant and (to the best of the undersigned's information, knowledge and belief) Consultant's Associates are in compliance with the disclosure requirements of the COI Disclosure Form and have no conflicts of interest to disclose. If disclosures regarding this Contract or the related Project are required per the COI Disclosure Form, Consultant has made such disclosures to County on a properly prepared and submitted form and, if determined necessary by County, a mitigation plan has been approved by County.
- (4) Consultant is an independent contractor as defined in ORS 670.600 and as described in IRS Publication 1779.
- (5) 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 venture signing this Contract.

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

**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.

**MARION COUNTY SIGNATURES  
BOARD OF COMMISSIONERS:**

Chair \_\_\_\_\_ Date \_\_\_\_\_

Commissioner \_\_\_\_\_ Date \_\_\_\_\_

Commissioner \_\_\_\_\_ Date \_\_\_\_\_

Authorized Signature: Brian Nicholas 06/24/2026  
Brian Nicholas (Jun 24, 2026 10:05:47 PDT)  
Department Director or designee Date

Authorized Signature: Jan Fritz 06/26/2026  
Jan Fritz (Jun 26, 2026 16:41:08 PDT)  
Chief Administrative Officer Date

Reviewed by Signature: Andrew Wittendorf 06/25/2026  
Marion County Legal Counsel Date

Reviewed by Signature: [Signature] 06/24/2026  
Marion County Contracts & Procurement Date

**DAVID EVANS AND ASSOCIATES, INC. SIGNATURE**

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

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

## EXHIBIT A – STATEMENT OF WORK

### A. PROJECT DESCRIPTION and OVERVIEW of SERVICES

The Champoeg Creek Bridge #05492 is located on French Prairie Road NE, a minor collector in the Marion County 2005 Rural Transportation System Plan. The bridge is narrow and the timber substructure requires continual maintenance. The bridge was constructed in 1955 and is a single span concrete bridge on timber piles. With a sufficiency rating of 44.4, the bridge and approach rails are all substandard, and the deck geometry rating is 2-intolerable. The approach roadway alignment to the bridge is adequate.

This Project will replace the bridge with a new structure meeting current AASHTO and ODOT standards for load capacity, deck width, barrier and approach rail. The new structure will be raised to improve hydraulic capacity and lengthened to adequately clear span the inner channel. The new bridge will remain on the existing alignment, and traffic will be detoured during construction.

For this contract, the Consultant will provide full-time construction work zone monitoring and inspection services for all aspects of the Project.

Marion County will administer/manage the construction contract and will be responsible for all required tasks except those being contracted as described in this Exhibit A – Statement of Work

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

#### Project Phasing

This Project is divided into three phases:

- a) Preliminary Engineering
- b) Right-of-Way
- c) Construction

This Statement of Work addresses the Construction Phase of the project. Each subsequent phase is optional, at County's discretion, and may be added via amendment(s) to this Contract.

#### County Responsibilities

- a) Administer and manage all aspects of the construction contract except as described herein.
- b) Prepare final as-constructed drawings incorporating information from Consultant.
- c) Provide Consultant with copies of all construction contract documents including copies of environmental permits, approved construction schedule and approved submittal documents.
- d) Notify Consultant of any delays that are above and beyond the control of Consultant;
- e) Provide appropriate and timely review of Project deliverables supplied by Consultant.

## Acronyms and Definitions

ACRONYMS			
<b>CC</b>	Construction Contractor	<b>PM</b>	Consultant's Project Manager
<b>CCO</b>	Contract Change Order	<b>POR</b>	Professional of Record
<b>CE</b>	Construction Engineering	<b>PS&amp;E</b>	Plans, Specifications and Estimates
<b>CECI</b>	Certified Environmental Construction Inspector	<b>QA</b>	Quality Assurance
<b>County</b>	Marion County	<b>QAC</b>	Quality Assurance Coordinator
<b>CPM</b>	Marion County's Project Manager	<b>QC</b>	Quality Control
<b>FIR</b>	Field Inspection Report	<b>QCCS</b>	Quality Control Compliance Specialist
<b>IA</b>	Independent Assurance	<b>RFI</b>	Request for Information
<b>IQAP</b>	Inspection Quality Assurance Program		
<b>NTE</b>	Not to Exceed	<b>RFP</b>	Request for Proposal
<b>NTP</b>	Notice to Proceed	<b>ROW</b>	Right of Way
<b>ODOT</b>	Oregon Department of Transportation	<b>SOW</b>	Statement of Work
<b>ORS</b>	Oregon Revised Statutes		
<b>OSSC</b>	Oregon Standard Specifications for Construction		

## B. STANDARDS and GENERAL REQUIREMENTS

### 1. Standards

- a) **Preliminary Engineering and Design Phase Services** – Refer to Exhibit Statement of Work Item A. Project Description and Overview of Services, General Expectation.
- b) **Construction Phase Services** - Consultant shall complete Construction Engineering, Inspection and Construction Contract Administration (“CEI/CA”) Services Consultant's qualified staff shall diligently monitor the work of the construction contractor in order to determine whether the project is constructed in compliance with the construction contract documents and any applicable current standards and County manuals. Consultant shall immediately advise County of any construction which Consultant knows, or with the exercise of professional care should know, fails to conform to the Federal or State standards applicable to construction of the project.

### 2. Software and Format Requirements

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

- a) 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 County.
- b) Consultant shall submit draft and final deliverables in electronic format via e-mail (and hard copy if requested).
- c) Consultant shall also submit any graphic files accompanying reports separately in .jpg or .tif formats unless specified differently by County.

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

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

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

### **4. General Requirements**

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

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

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

### **D. PROJECT COOPERATION**

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

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

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

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

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

### **Task CE-1 PROJECT MANAGEMENT of CEI/CA SERVICES**

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

#### **Task CE-1.1 COORDINATION**

Consultant shall provide leadership, direction, and control of these CEI/CA Services.

##### **Consultant shall:**

- a) Direct Consultant's team regarding overall CEI/CA activities and team meetings.
- b) Maintain liaison, communication, and coordination between Consultant's staff, County's Project Manager (CPM) and Construction Contractor (CC) to facilitate timely, efficient operations for all involved.

##### **Deliverables and Schedule:**

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

#### **Task CE-1.2 STATUS REPORTS AND INVOICES**

Consultant shall complete up to 18 Monthly Status Reports throughout the duration of the CEI/CA Services. See Section E.2, Project Schedule.

The Monthly Status Report must:

- a) Describe the previous month's Consultant activities. The staffing used must be identified in the invoice backup documentation.
- b) Describe the planned activities for the next month.
- c) Identify any issues or concerns that may affect the CEI/CA Services and budget or the Project schedule and Project budget.

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

##### **Deliverables and Schedule:**

- i. Monthly Status Report – Submit to CPM with the monthly invoice no later than the 10<sup>th</sup> calendar day of the month following the reporting month.

### **Task CE-2 CONSTRUCTION INSPECTION**

Consultant shall support the Project's needs by providing CEI/CA Services required for the Consultant to verify that the portions of the Project the Consultant performed CEI/CA services for were completed according to the Contract Documents for the Project.

Consultant shall engage the Professional of Record ("POR") as required to provide engineering Services required to administer design changes that may become necessary during the construction phase of the work.

### **Task CE-2.1 PRE-CONSTRUCTION CONFERENCE**

Consultant shall attend the Pre-Construction Conference as referenced in the Standard Specifications in Section 00180.42, and the ODOT Construction Manual, Chapter 11 – Before On-Site Work Begins. Attendees will include the CC, CPM, and others as may be appropriate to discuss the construction schedule, utility involvement, permit concerns, required documentation submittals, materials, and other items relevant to the construction of the Project.

#### **Consultant shall:**

- a) Attend and participate in the Pre-Construction Conference.

#### **Deliverables and Schedule:**

- i. There are no tangible deliverables for this task

### **Task CE-2.2 COOPERATIVE ARRANGEMENT (PARTNERING) (RESERVED)**

### **Task CE-2.3 QUALITY ASSURANCE & CONTRACT ADMINISTRATION PLAN (RESERVED)**

### **Task CE-2.4 CONSTRUCTION CONTRACT ADMINISTRATION (RESERVED)**

### **Task CE-2.5 MONTHLY PRELIMINARY PROGRESS ESTIMATES**

Consultant shall prepare and enter all source documents as “pay notes” using the County’s Contract Payments System, RTVision for CC’s work performed through the last working day of the pay period. (Refer to the ODOT Construction Manual, Chapter 12D – Quantities).

After all the pay notes are entered, County will generate the Preliminary Progress Payment Report and send it to the CC and Consultant for concurrence on quantities being paid for the previous month’s work. Consultant shall enter all pay notes for the pay period by noon of the day following the day the pay period ends. Consultant shall then notify the County via e-mail that the progress estimate is ready to be generated. Following a review, the County will send out the progress estimate for review by the end of that day.

**ASSUMPTIONS FOR BUDGETING PURPOSES:** This task assumes up to 6 Monthly Preliminary Progress Estimates.

#### **Deliverables and Schedule:**

- i. Monthly Preliminary Progress Estimate – Pay notes entered by the by the end of day on which the pay period ends in which CC’s work was performed.

### **Task CE-2.6 PROJECT PROGRESS AND TECHNICAL MEETINGS**

Consultant shall attend periodic Project Progress Meetings with the CC, CPM and others as needed. The Project Progress Meetings are intended to promote Project progress, proper communications, effective working relationships, and timely issue resolution.

Consultant shall also attend additional activity-specific technical kick-off meetings (“Technical Meetings”) for various activities required by the construction contract. These activities may include, but are not limited to:

1. Pile Driving
2. Asphalt Concrete Pavement

#### **Consultant shall:**

- a) Attend and participate in Project Progress Meetings.
- b) Attend and participate in Technical Meetings

**ASSUMPTIONS FOR BUDGETING PURPOSES:** Project Progress Meetings are assumed to be held virtually or on-site as needed weekly (during active construction) with no more than 3 Consultant staff

attending and 24 meetings assumed. Activity-specific technical meetings are assumed to be held virtually or on-site, as needed, with no more than 3 Consultant staff attending and up to 2 meetings assumed.

**Deliverables and Schedule:**

- i. Ongoing attendance and participation in Project Progress Meetings (no tangible deliverables for this task).
- ii. Ongoing attendance and participation in Technical Meetings (no tangible deliverables for this task)

**Task CE-2.7 WORKING DRAWINGS, SHOP DRAWINGS, AND OTHER SUBMITTAL REVIEWS**

Consultant shall review construction Working Drawings, shop drawings, and other submittals relating to the items below submitted electronically by the CC. When electronic Working Drawings, shop drawings, and other submittals are received, according to the Standard Specifications in Sections 00150.35(c)(2), 00150.37, and 00170.08, Consultant shall ensure the review is complete and the Working Drawings, shop drawings, and other submittals are returned to the CC within the timeframes specified in the construction contract. Consultant shall conduct submittal review in accordance with the Standard Specifications in Sections 00150.35, 00150.37, and 00170.08, and the ODOT Construction Manual, Chapter 16 – Working Drawings and Submittals.

**Consultant shall:**

- a) Conduct review and prepare mark-up/comment copies of the Working Drawings, shop drawings, and other submittals as noted below. Stamped submittals must be marked as either AC = Accepted, CC = Accepted with Comment, or RC = Returned for Correction. Unstamped submittals shall be marked as either AP = Approved, AX = Approved as Noted, or RC = Returned for Correction.

Consultant shall review or coordinate review with County for the following submittals as required using the guidelines in ODOT’s Construction Manual, Chapter 16 – Working Drawings and Submittals, and the Standard Specifications in Sections 00150.35, 00150.37, and 00170.08:

- i. Erosion control plans
- ii. Pollution control plans
- iii. Work containment plans and systems
- iv. Bridge removal plans
- v. Pile and driving equipment submittal
- vi. Dynamic pile testing submittal
- vii. Others as required by construction contract specifications

**Deliverables and Schedule:**

- i. Return approved Working Drawings, shop drawings, and other submittals with comments (within time frame established in construction contract specifications):

Electronic Submittal – Submit 1 electronic PDF format mark-up/comment to the County as required by the construction contract.

**Task CE-2.8 CONSULTATION DURING CONSTRUCTION (RESERVED)**

**Task CE-2.9 DESIGN MODIFICATIONS (RESERVED)**

**Task CE-2.10 CLAIM(S) SUPPORT (CONTINGENCY TASK, SEE SECTION F)**

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

- a) Prepare memoranda and supporting documentation (photo logs, inspection reports, memos, drawings, etc.) related to claims.
- b) Provide consultation related to claims (in person, via telephone or email).
- c) Attend claim resolution meetings.

**ASSUMPTIONS FOR BUDGETING PURPOSES:** This task assumes no more than 96 hours for claim(s) support. Assume up to 2 claim submittal(s), each requiring 2 staff to perform 2 day(s) of preparation and attend up to 1 all-day meetings for each claim, plus Consultant Principal and PM reviews and clerical assistance.

**Deliverables and Schedule:**

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

- i. Memoranda and supporting documentation (photo logs, inspection reports, memos, drawings, etc.) related to claims.
- ii. Consultation related to claims (in person, via telephone or email).
- iii. Attendance and participation in claim resolution meetings.

**Task CE-2.11 PUBLIC RECORDS REQUEST SUPPORT (RESERVED)**

**Task CE-3 CONSTRUCTION, ENVIRONMENTAL COMPLIANCE and WORK ZONE MONITORING and INSPECTION**

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

Consultant shall have certified Inspector(s) on site during all critical times during the construction process as required by the Standard Specifications. Consultant shall monitor the CC’s quality control process for compliance with the construction contract requirements. All persons involved in performing inspection duties must be certified through the Agency’s Inspection Quality Assurance Program (“IQAP”) in the discipline for the work they will be inspecting. Consultant’s Inspectors must be certified prior to inspecting any work.

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

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

- i. Certified Bridge Construction Inspector (“CBCI”)
- ii. Certified Environmental Construction Inspector (“CECI”)
- iii. Certified Traffic Signal Inspector (“CTSI”)
- iv. Certified General Construction Inspector (“CGCI”)
- v. Certified Asphalt Concrete Pavement Inspector (“ACPI”)
- vi. Certified Drilled Shaft Inspector (“CDSI”)
- vii. Certified ADA Inspector (“ADA”)

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

- a) Permit compliance during construction,
- b) Temporary Traffic Control measures,
- c) Erosion and Sediment Control installation and maintenance,
- d) Turbidity Monitoring (if required).

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

- e) Traffic Control Inspection Reports (form 734-2474)
- f) Erosion and Sediment Control Monitoring Reports (form 734-2361)
- g) Turbidity Monitoring Reports (form 734-2755)

### **Task CE-3.1 ENVIRONMENTAL COMPLIANCE AND MITIGATION MONITORING**

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

Consultant's work under this task shall also follow protocol provided in Task CE-5.1 – Final Inspection(s) and Submittals, and Task CE-5.4. – Submittal of Final Project Documentation as applicable.

#### **Consultant shall:**

- a) Perform compliance and mitigation monitoring related to environmental conservation measures agreed upon with State and Federal regulatory agencies through permit conditions and as included in the construction contract.
- b) Conduct environmental inspection site visits to assist CC, and County in maintaining compliance with issued regulatory permits and the special provisions.
- c) Provide documentation of the construction process relative to this environmental compliance.
- d) Navigate and operate within the DEQ electronic portal, Your DEQ Online ("YDO"), sufficient to prepare and submit Permit compliant deliverables to DEQ.
- e) Coordinate and schedule monitoring visits periodically, as required by permits, and coincidentally with activities that have significant environmental components.
- f) Evaluate on-site conditions and construction techniques during environmental inspection site visits to assess compliance with Project permits, the Pollution Control Plan, the Erosion and Sediment Control Plan and incorporated Environmental Management Plan (when required), proposed site rehabilitation measures, and general environmental conservation measures.
- g) Identify deficiencies and potential permit compliance issues and provide guidance to County and CC to aid in avoiding potential regulatory agency involvement or violations.
- h) Provide input and clarifications during construction activities to facilitate biological functioning as outlined in Project permits, based on the Project's significant site rehabilitation measures (to offset Project impacts).

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

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

- i) Temporary Water Management Plan ("TWMP"),
- j) Work Containment Plan and System ("WCP/WCS"),

- k) Erosion and Sediment Control Plan (“ESCP”),
- l) Pollution Control Plan (“PCP”),

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

**Deliverables and Schedule:**

Deliverables submitted through RTVision:

- i. CC-submitted Erosion and Sediment Control Monitoring Reports (Form 734-2361) – Within RTVision review for compliance no later than 48 hours after each inspection site visit.  
(Note: CC is responsible for managing the ESC Monitoring Reports on the project site in compliance with 1200-CA Permit requirements.)
- ii. Environmental Construction Inspection Report (734-2902) – Submit 1 electronic copy each to CC and County no later than 14 calendar days after each inspection.
- iii. Consultant shall ensure completion of the following tasks for compliance with the 1200-CA Permit requirements:
  - a. Note: CC is responsible for revisions to ESCP within 7 calendar days of the project site changes to erosion and sediment control BMPs.
  - b. Review and approval of CC-submitted ESCP revisions by licensed engineer, landscape architect or licensed geologist, or consultant or Agency professional of record (POR) within 7 calendar days of project site changes.
  - c. Submittal of reviewed CC-submitted ESCP revisions to DEQ YDO no later than 30 calendar days after ESCP has been revised.
  - d. Review of CC-submitted corrective action notification with corrective action plan within 24 hours of identifying ESC non-compliance.
  - e. Review of CC-submitted corrective action report within 24 hours after making project site corrective actions.
  - f. Submittal of reviewed CC-submitted corrective action report to DEQ YDO within 48 hours of taking corrective actions to the project site.
- iv. General Daily Progress Reports (form 734-3474) / Project Diary – Complete daily when performing onsite visits. Submit at least weekly through RTVision as Project work progresses and sign.
- v. Project Photography / Photo Logs – Submit with applicable reports as project work progresses.

**Task CE 3.1.1      ENDANGERED SPECIES CONSULTATION FOR THE FEDERAL-AID HIGHWAY PROGRAM (“FAHP”) (RESERVED)**

**Task CE 3.1.2      RIPARIAN SITE RESTORATION REGULATORY MONITORING REPORT (RESERVED)**

**Task CE-3.1.3      ARCHAEOLOGICAL MONITORING AND REPORT (RESERVED)**

**Task CE-3.2      CONSTRUCTION ACTIVITY MONITORING**

Consultant shall monitor construction activities during construction of the Project utilizing ODOT-certified Inspectors and require compliance with the construction contract documents. Consultant shall provide inspection concurrently with the CC’s operation. Consultant shall coordinate closely with CC to ensure on-site inspections are coordinated with the construction schedule. Consultant shall perform inspections according to the [ODOT Construction Manual and the ODOT Inspector’s Manual](#).

Consultant’s work under this task shall also follow protocol provided in Task CE-2.5 – Monthly Preliminary Progress Estimates, Task CE-3.3 – Quality Control Monitoring, Task CE-5.1 – Final Inspection(s) and Submittals, and Task CE-5.4. – Submittal of Final Project Documentation as applicable.

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

- a) Consultant shall complete and sign General Daily Progress Reports (form 734-3474) of construction for days Consultant is on site. Consultant shall take photos of the various construction activities and keep a current digital photo-log of critical construction activities. The photo-log must be kept up to date throughout construction and available for review by Agency.
- b) Consultant shall determine and document all pay quantities for work and materials incorporated into the Project. As required by the ODOT Construction Manual, Chapter 12D – Quantities, Consultant shall complete and sign source documents (“pay notes” form 734-2605) for all pay items and include supporting documentation to support each payment. Consultant shall always keep quantity documentation current and available for Agency review upon request.
- c) Consultant shall document the work and Nonfield-tested materials (“NFTM”) incorporated into the Project by completing and signing Field Inspection Reports (“FIR” within form 734-2605) and other NFTM quality documentation required to be furnished by Field Personnel according to the [Nonfield-Tested Materials Acceptance Guide](#) and the ODOT Construction Manual, Chapter 12C – Quality.
- d) Perform the following Labor Compliance monitoring tasks as required by the construction contract and according to the ODOT Construction Manual – Chapter 19 Labor Compliance:
  1. Perform “spot checks” for the duration of the Project on all owner/operators performing Work on the Project to validate owner/operator status, document on Project Manager’s Owner-Operator Interview Summary Report (form 734-3581) and sign.
  2. Conduct random interviews of CC’s and subcontractors’ employees who have worked on the Project site during that time period at least once every six months, document on Employee Interview Report (form 734-3478) and sign.
- e) Track Force Account Work in the field using Daily Force Account Record (form 734-3428) according to the ODOT Construction Manual, Chapter 12-G – Extra Work Performed on a Force Account Basis.
- f) When the Standard Specifications, Section 01030 is included in the construction contract, and according to the ODOT Construction Manual, Chapter 39 Landscape Establishment Period, Consultant shall visit the site to collect data regarding seeding conditions, seeding survival, and to evaluate if corrective measures are necessary.
  - a. As part of this Establishment Period work, after Acceptance of initial seeding Consultant shall conduct periodic inspections for seeding establishment according to the Standard Specifications in Section 01030 and the construction contract.

**ASSUMPTIONS FOR BUDGETING PURPOSES:** This task assumes no more than 5 periodic planting monitoring site visits.

**Deliverables and Schedule:**

Deliverables submitted through RTVision:

- i. General Daily Progress Reports (form 734-3474) – Complete daily when is performing on-site visits. Submit at least weekly to RTVision as Project work progresses.
- ii. Current Digital Photo-log of construction activities – Submit at least weekly to RTVision with applicable reports as Project work progresses.
- iii. Source Documents – “pay notes” (form 734-2605), field notes, calculations, receipts, invoices, reports used to determine Project pay quantities, installation sheets, and other supporting documentation – according to the ODOT Construction Manual, Chapter 12D – Quantities. Submit to RTVision as work is performed and at least monthly within the pay period CC’s work was performed.
- iv. FIRs (within form 734-2605) and other NFTM quality documentation required to be furnished by Field Personnel – Submit to RTVision as work is performed and at least monthly.
- v. Project Manager’s Owner-Operator Interview Summary Report (form 734-3581) – Submit to RTVision as Project work progresses for the duration of the Project.
- vi. Employee Interview Report (form 734-3478) – Submit to RTVision as Project work progresses and at least every 6 months for random CC and subcontractor employees who have worked on the Project site during that time period.

- vii. Daily Force Account Record (form 734-3428) – Daily when applicable, submit originals to Party responsible for Task CE-2.4.
- viii. Establishment Period documentation:
  - a. Periodic Inspection Summaries – Submit 1 electronic copy (PDF format) to County within 15 calendar days of conducting the site visit.
  - b. Corrective Work Notices – Submit 1 electronic copy (PDF format) to CC and County within 15 calendar days of conducting the site visit.
  - c. Final Inspection Report – Submit 1 electronic copy (PDF format) to County within 30 calendar days of conducting the site visit.

**Task CE-3.3      QUALITY CONTROL MONITORING (NONFIELD-TESTED AND FIELD-TESTED MATERIALS) (RESERVED)**

**Task CE-3.4      ADA CURB RAMP AND PUSH BUTTON INSPECTION (RESERVED)**

**Task CE-3.5      GEOTECHNICAL MONITORING**

Consultant shall attend a project pre-pile construction meeting involving County and CC. Consultant attendees shall include Consultant’s geotechnical engineer and field representative. For budgeting purposes, it is assumed the project meeting will take no more than three (3) hours, including travel time, and will be located at the Project site.

Geotechnical engineer shall review and address geotechnical related construction submittals. Up to four (4) submittals are anticipated, including:

- a) Pile hammer and installation equipment
- b) Pile installation procedures and pile driving criteria
- c) Dynamic pile testing
- d) Sheet pile installation

Consultant shall review and respond to geotechnical related questions submitted by Agency’s construction contractor to provide clarification of the design and support the design and construction team to resolve construction issues. For budgeting purposes, it is assumed up to five (5) geotechnical related RFIs will be submitted and that each RFI response may take up to three (3) hours to complete.

Consultant shall perform the full-time pile driving observation for this project. For budgeting purposes, up to ten (10) days of staff time is assumed for up to 12 hours per day, including travel time and preparation of daily reports.

**ASSUMPTIONS FOR BUDGETING PURPOSES:** Dynamic pile testing will be performed by the Contractor.

**Task CE-3.6      FISH AND AQUATIC SPECIES INSPECTION AND SALVAGE**

Consultant shall complete fish and aquatic species inspections and salvage operations with all necessary fish salvage equipment, providing documentation and reporting according to NMFS and ODFW guidance, regulations and permitting requirements for the project. Aquatic species inspections and salvage work must be conducted by a qualified biologist with a Bachelor’s degree in biology, fisheries or equivalent, and with a minimum of two (2) years of experience identifying northwest fish and aquatic species. The lead biologist shall be competent with electrofishing procedures and have completed at least 100 hours of fish salvage following NMFS, ODFW, and USFWS, fish salvage/fish removal requirements.

Consultant shall:

- a) Attend one (1) preparatory meeting with appropriate County and construction personnel to ensure compliance with project’s regulatory permits; County (or other County representative will schedule and coordinate the meeting with the appropriate attendees.

- b) Provide staff and all equipment necessary for aquatic species salvage efforts (e.g., electrofishing equipment, thermometer, conductivity meter, multiple sizes of dip and hand nets, multiple buckets with appropriate aeration devices for species storage and transport, at least 1 beach seine, block nets, chest waders/hip boots, appropriate gloves, and other appropriate equipment).
- c) Be available upon request by County (or County representative) for up to two (2) fish salvage operations during in-water work activities; County will provide at least ten (10) days of notice for these services.
- d) Be available upon request by County (or County representative) for up to two (2) aquatic inspections or on-site consultations before or during in-water work activities; Agency will provide at least five (5) days of notice for these services.
- e) Complete the appropriate ODFW Rescue and Salvage reports and online reporting.
- f) Complete the required USACE Fish Salvage Report form.

**Consultant Deliverables:**

Consultant shall prepare and submit:

- i. ODFW Salvage Report (1 electronic PDF copy) within 15 days of fish salvage completion.
- ii. USACE Fish Salvage Report (1 electronic PDF copy) within 15 days of fish salvage completion.

**Task CE-3.7 PERMIT CLOSEOUT DOCUMENTATION**

Consultant shall complete all required construction documentation per US Army Corps of Engineers (USACE) Permit #NWP-2023-363 and Oregon Department of State Lands (DSL) Permit #64567-GP. This shall include the following:

- a) One (1) post-construction site visit to document permit compliance.
- b) Preparation and submittal of the required Action Completion Form and Compliance Certification Form once construction is completed.
- c) Preparation and submittal of a Post-Construction Report, as required by DSL, to demonstrate as-built conditions and discuss any variation from the approved plans. The report must be submitted to DSL within 90 days of construction completion. The post-construction report will include photos, from fixed photo points, and a scaled drawing, accurate to 1-foot elevation, clearly showing the following:
  - 1. Finished contours of the site.
  - 2. Current tax lot and right-of-way boundaries.
  - 3. Photo point locations.
  - 4. Permanently and temporarily impacted waterway boundaries identified separately, with square foot listed.

**Consultant Deliverables:**

Consultant shall prepare and submit:

- i. USACE Action Completion and Compliance Certification Forms (electronic PDF copies)
- ii. Draft DSL Post-Construction Report for County review (Word format)
- iii. Final DSL Post-Construction Report to County and DSL (electronic PDF copy)

**TASK CE-4 CONSTRUCTION SURVEYING**

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

- a) ORS Chapter 92 – Subdivisions and Partitions
- b) ORS Chapter 93 – Conveyancing and Recording
- c) ORS Chapter 209 – County Surveyors
- d) ORS Chapter 672 – Professional Engineers; Land Surveyors; Photogrammetrists; Geologists

Consultant's survey personnel shall perform all construction surveying tasks in accordance with the most recent version of the [ODOT Construction Surveying Manual for Contractors](#), as required to ensure conformance of the Project construction with the approved plans and specifications. Consultant shall provide qualified personnel to verify the Project is constructed to the lines and grades and cross sections as shown, specified, or established.

**Task CE-4.1 COORDINATION, CALCULATIONS & QUALITY ASSURANCE OF CONSTRUCTION CONTRACTOR'S SURVEY WORK (RESERVED)**

**Task CE-4.2 CONSTRUCTION SURVEY AND STAKING (RESERVED)**

**Task CE-4.3 PRE-CONSTRUCTION RECORD OF SURVEY**

Control, Recovery, Retracement Record of Survey

The destruction of found monuments necessitates a record of survey (ORS 209.150,155). Consultant shall create a Record of Survey ("ROS") which meets County and ORS requirements. The survey(s) must be prepared for 18-inch by 24-inch sheet plots. The "**Control**" survey must consist of Geodetic and Terrestrial points set for the Project. The "**Recovery**" is the documentation of the monuments recovered for the Project. The "**Retracement**" is a record of resolved R/W centerlines, R/W lines and/or property boundaries. These surveys may be combined or separate surveys as directed by the County.

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

**Consultant Deliverables:**

Consultant shall prepare and submit:

- a) Draft ROS to APM within 30 days of NTP.
- b) Final ROS to the appropriate County for filing within 2 weeks of receipt of comments from the Agency.
- c) Copy of Final ROS to APM upon acceptance by County for filing.

**Task CE-4.4 RIGHT OF WAY ("ROW") MONUMENTATION**

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 County, Consultant shall monument the new ROW using the Boundary Option in conformance with the [ODOT Survey Policy and Procedures Manual](#). Consultant may be assigned the method of monumentation, which could be the Network Option, Boundary Option, or a combination of both methods which are defined in the [ODOT Survey Policy and Procedures Manual](#).

**ASSUMPTIONS FOR BUDGETING PURPOSES:** This task assumes no more than two (2) 1-day site visit(s) by a 2-person survey crew for right of way monumentation.

**Deliverables and Schedule:**

- i. Consultant shall set control and ROW monuments, as applicable, within 30 calendar days after issuance of notification.

**Task CE-4.5 POST-CONSTRUCTION RECORD OF SURVEY**

Consultant shall create Record of Survey in accordance with County Survey Filing Map Standards and ORS 209 requirements.

Consultant shall submit the survey to the County for filing on archival Mylar or acceptable media per county requirements.

**Deliverables and Schedule:**

- i. Draft ROS to APM within 30 days of notification.

- ii. Final ROS to the appropriate County for filing within 2 weeks of receipt of comments from the Agency.
- iii. Copy of Final ROS to APM upon acceptance by County for filing.

**TASK CE-5 PROJECT CLOSE-OUT**

Consultant shall complete Project close-out tasks and submit all required Project records to the Agency within 30 calendar days of issuance of Third Notification to the CC.

**Task CE-5.1 FINAL INSPECTION(S) AND SUBMITTALS**

Consultant shall complete interim and final on-site inspections according to the Standard Specifications in Section 00150.90, ensure CC has satisfactorily completed all construction contract work and fulfilled its obligations concerning Project documentation, and prepare and submit Project close-out documentation according to the ODOT Construction Manual.

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

- a) Schedule and perform review of the Project at a time close to completion of on-site work according to the Standard Specifications in Sections 00150.90(a), documenting any corrective work on a punch list.
- b) Schedule and lead a Project Final Inspection with CC and County according to the Standard Specifications in Sections 00150.90(a) within 15 days after receiving notice from the CC that all punch list items, final trimming and cleanup according to the Standard Specifications in Section 00140.90 have been completed.
- c) If additional work is identified, again complete a punch-list of items to be corrected by the CC.
- d) Once all punch-list items have been corrected, schedule and meet at Project site with County for a follow-up to the Final Inspection.

**ASSUMPTIONS FOR BUDGETING PURPOSES:** This task assumes no more than 3 Consultant staff will attend on-site for Final Inspections. Final Inspections are assumed to be on 2 separate days.

**Deliverables and Schedule:**

Deliverables submitted to RTVision:

- i. Project Final Inspection punch list, if any - Issue to CC within 2 business days of completion of Project Final Inspection and submit to EDMS.
- ii. Final Prime Contractor Performance Evaluation (form 734-2884) –
  - a. Submit Consultant-signed evaluation via email to CC and County within 60 calendar days of issuance of Second Notification;
  - b. Upon receipt from CC, submit CC-signed evaluation to County.
  - c. (Note: If CC does not sign and return the evaluation, the Agency will automatically process it 15 calendar days after it was sent to CC.)

**Task CE-5.2 AS-CONSTRUCTED PLANS**

Throughout the duration of construction, Consultant shall maintain a clean set of construction plans with any field changes to those plans noted as “redlined” hand-written notations, comments or drawings. The “redlined” set of plans shall be updated within 24-hours of the occurrence of any field change.

County is responsible for preparing the final as-constructed plans for submittal to ODOT.

**Deliverables and Schedule:**

- i. One paper set of the “redlined” construction plans submitted to the CPM within one (1) week of the completion of all punch list items.

### **Task CE-5.3 STRUCTURE LOAD RATING**

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

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

The [ODOT LRFR Manual](#) and all resources and templates that must be used for LRFR load rating procedures, as described in the ODOT LRFR Manual, are available on the [Bridge FTP site](#), using the access instructions provided.

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

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

#### **Deliverables and Schedule:**

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

### **Task CE-5.4 SUBMITTAL OF FINAL PROJECT DOCUMENTATION**

Consultant shall:

- a) Organize and submit the final Project quality and quantity documentation as detailed in the ODOT Construction Manual, Chapter 37 – Submittal of Final Project Documentation.
- b) Organize and submit all documentation as noted in Task CE-3.2 above.
- c) Review documentation with a County representative.
- d) Upon issuance of Second Notification, perform a final review with the County representative of all Project quality and quantity documentation and mutually agree that all contractual requirements have been met and recommend Acceptance.
- e) Complete any quality and quantity documentation associated with plant establishment work completed after the final Project documentation has been submitted to the County for review and documentation Acceptance (within 14 calendar days after the plant establishment work has been completed).

#### **Deliverables and Schedule:**

- i. All final Project quality and quantity, excluding documentation related to plant establishment work. The original documents must be submitted to County within 30 calendar days after Second Notification.
- ii. All Project quality and quantity documentation related to plant establishment work. The original documents must be submitted to County within 14 calendar days after plant establishment work.
- iii. All deliverables noted in Task CE-3.2 above within 30 calendar days after Second Notification.

### **Task CE 5.5 ODOT HYDRAULIC ENGINEERING AS-CONSTRUCTED PACKAGE (RESERVED)**

**F. CONTINGENCY TASKS** [Projects may have work that can reasonably be anticipated but may or may not be needed, depending on conditions that arise or change during a project period. This condition

dependent work is considered to be contingency work and must be planned for in the SOW and budget. Any contingency tasks or deliverables in the SOW must be within the scope of Services of the RFP. In the SOW, each contingency item must clearly be labeled as “Contingency” and must include a defined task, deliverable(s) and a schedule (normally listed as a number of calendar days from NTP for the contingency task).

Delete if not applicable. If no Contingency Tasks, delete text and table below and mark Section F as “Reserved”. If contingency tasks are used, they must be detailed in section E – Tasks, Deliverables and Schedule (normally listed as a number of calendar days from NTP for the contingency task) with each labeled as a “Contingency Task”. Also enter contingency task headings and dollar amounts in the table below.

**Method of compensation for contingency tasks:**

- a) Can be different than the method identified in Exhibit B for non-contingency services.
- b) Does not have to be the same for all contingency tasks and must be identified in the table below for each task.
- c) Should normally be T&M or Fixed-Price and include an NTE for each iteration of the task with a total NTE for all iterations of each task. CPFF may be used if desired, provided the prime does not use fully loaded billing rates under the contract (and a sub using fully loaded rates isn't performing the task). The “Fixed Fee” fields in the table apply only to CPFF compensation method.

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

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

### Contingency Task Summary Table

Contingency Task Description	NTE for Each	Max Quantity	Method of Comp.	Total NTE Amount	Fixed Fee
CE-2.10 Claim(s) Support	\$ 19,683.33	1	T&M	\$ 19,683.33	N/A
<b>Total NTE For All Contingency Tasks:</b>				\$ 19,683.33	
<b>Total For Any Contingency Fixed-Fee Amounts:</b>					\$ N/A
<b>Total NTE for Contingency Cost (and Fixed-Fee Amounts, if any):</b>					\$ 19,683.33

## EXHIBIT B – COMPENSATION

### Definitions:

**CPFF** – Cost Plus Fixed Fee

**FCCM** – Facilities Capital Cost of Money

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

**NTE** – Not to Exceed Amount

**T&M** – Time and Materials

### A. METHOD of COMPENSATION 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 County's satisfaction without additional compensation.

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

- a) Reduce the NTE, Fixed-Price or Fixed-Fee amount associated with Tasks/Deliverables that were not authorized by County or not performed by Consultant;
- b) 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;
- c) 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. Time and Materials with Not-To-Exceed (T&M)**

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

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

<b>The dollar amount for T&amp;M non-contingency Services is: \$ 312,474.68</b>
---

### B. PAYMENT OPTIONS

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

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

## **C. TRAVEL**

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

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

## **D. INVOICES**

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

- a) The County's Contract number
- b) The County's project number

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

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

### **CPFF and T&M Compensation:**

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

#### **E. PAYMENT TERMS**

Payment will be made to Consultant no later than 30 calendar days from receipt of invoice completed in conformance with all contractual requirements. County will endeavor to notify Consultant within 10 business days of receipt of invoice regarding any necessary revisions or corrections to the invoice. If revisions are necessary, payment will be made no later than 30 calendar days from receipt of the revised invoice. Any interest for overdue payment will be in conformance with Oregon law.

#### **F. CORRECTIVE WORK**

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

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

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

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

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

#### **I. SPECIFIC LIMITATIONS and UNALLOWABLE CHARGES**

##### **Specific Limitations**

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

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

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

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

**Employee Discussions Regarding Compensation.** Consultant shall not prohibit any of its employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or

another person and may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits or other compensation with another employee or another person {see ORS 279C.520(1)}.

### **Unallowable Charges**

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

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

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

### **J. INDIRECT COSTS; SALARY and BILLING RATE SCHEDULES**

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

**2. Overhead Schedule** - If Consultant or subconsultants calculate overhead as part of their normal business practice, the overhead schedules shall be prepared and submitted in accordance with ODOT's Billing Rate Policy (as may be revised from time to time by ODOT) available at: <https://www.oregon.gov/ODOT/Business/Procurement/DocsPSK/brPolicy.pdf>. Consultant Certification of compliance with Federal Cost Principles is required per FHWA directive 4470.1a: <https://www.fhwa.dot.gov/legsregs/directives/orders/44701a.htm>. A signed [Certification of Final Indirect Costs form](#) must be submitted with the overhead schedule.

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

### **3. Salary and Billing Rate Schedules**

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

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

**Negotiated Billing Rate Schedule** - may be required for Consultants or subconsultants that do not have a cognizant or acceptable independent audit for overhead rates (or do not calculate overhead as part of their normal accounting practice) and County determines it is in the public's best interest to

negotiate specific billing rates. Instead of calculating a billing rate using a formula that applies overhead, profit, and FCCM to the direct salary rate, this schedule lists negotiated rates that are fully inclusive of profit, overhead and any cost of living or merit raises. The billing rates invoiced under the Contract must not exceed the rates per classifications listed in the schedule and may be no greater than the lowest rates charged to other public or private clients.

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

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

#### **K. RATE REVISIONS**

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

#### **L. BREAKDOWN OF COSTS (BOC)**

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

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

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

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

**EXHIBIT C**  
**INSURANCE PROVISIONS**

A. **REQUIRED INSURANCE.** Consultant or shall obtain at Consultant's expense the insurance specified in this section prior to performing under this Contract and shall maintain it in full force and at its own expense throughout the duration of this Contract and all warranty periods. Consultant shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in Oregon and that are acceptable to County:

i. **WORKERS COMPENSATION.** All employers, including Consultant, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Consultant shall require and ensure that each of its subconsultants complies with these requirements.

ii. **PROFESSIONAL LIABILITY.** Covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract. Consultant shall provide proof of insurance of not less than the following amounts as determined by the County:

- Required by County**    **Not required by County.**
- \$1,000,000 Per occurrence limit for any single claimant; and
- \$2,000,000 Per occurrence limit for multiple claimants
- Exclusion Approved by Risk Manager

iii. **COMMERCIAL GENERAL LIABILITY.** Covering bodily injury, death and property damage in a form and with coverages that are satisfactory to the County. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence basis. Consultant shall provide proof of insurance of not less than the following amounts as determined by the County:

- Required by County**    **Not required by County.**
- Bodily Injury/Death:**
- \$1,000,000 Per occurrence limit for any single claimant; and
- \$2,000,000 Per occurrence limit for multiple claimants
- Exclusion Approved by Risk Manager
- \$500,000 Per occurrence limit for any single claimant
- \$1,000,000 Per occurrence limit for multiple claimant

iv. **AUTOMOBILE LIABILITY INSURANCE.** Covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Consultant shall provide proof of insurance of not less than the following amounts as determined by the County:

- Required by County**    **Not required by County.**
- Bodily Injury/Death:**
- Oregon Financial Responsibility Law, ORS 806.060 (*\$25,000 property damage/\$50,000 bodily injury \$5,000 personal injury*).
- \$500,000 Per occurrence limit for any single claimant; and
- \$1,000,000 Per occurrence limit for multiple claimants
- Exclusion Approved by Risk Manager

B. **ADDITIONAL INSURED.** The Commercial General Liability insurance required under this Contract shall include Marion County, its officers, employees and agents as Additional Insureds but only with respect to Consultant's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

C. **NOTICE OF CANCELLATION OR CHANGE.** There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without 30 days written notice from this Consultant or its insurer(s) to County. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract by County.

D. **CERTIFICATE(S) OF INSURANCE.** Consultant shall provide to County Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) must specify all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees). Consultant shall pay for all deductibles, self-insured retention and self-insurance, if any.

## EXHIBIT D – SPECIAL TERMS AND CONDITIONS

### EXHIBIT E – ERRORS & OMISSIONS (E&O) CLAIMS PROCESS

#### ***E&O CLAIMS PROCESS***

The goals of the E&O claims process are to:

- a) Identify E&O issues and associated costs early
- b) Require timely notification to the Consultant of problem issues
- c) Establish a requirement to work together to correct, mitigate, or minimize the effects on the construction project's quality, schedule and budget and
- d) To identify associated costs when the standard of care has not been met and provide resolution of responsibility for "Premium" Costs incurred.

The process is focused on resolving issues at the lowest possible administrative levels in a spirit of collaboration. If the County Contract Administrator (CA) cannot reach resolution with the Consultant regarding E&O issues, however, the CA may request a standard of care determination from the Chief Engineer.

#### ***Procedure for resolution of disagreements***

##### **GENERAL**

When either Party discovers or determines actions, omissions, or deliverables by the other Party to be incorrect or outside the terms of the contract, the following steps shall be followed:

- a) Provide oral and written notice of the issue (email, fax, or hard copy) to the other Party,
- b) Consultant shall provide CA requested records and documents pertaining to the issue and will participate in a technical review committee to determine if standard of care was met, at the request of the Chief Engineer.
- c) Work together to correct, mitigate or minimize the effects of the issue
- d) When the standard of care has not been met, work together to determine responsibility for any Premium Costs incurred as a result of the issue

##### **INITIAL VERBAL NOTICE AND WRITTEN LETTER OF CONCERN**

When either Party discovers or determines actions, omissions, or work products by either Party to be incorrect or outside the terms of the Contract, the discovering Party shall give timely oral notice and a written Letter of Concern to the other Party.

If the Consultant disagrees with any written or oral order of the County that in the opinion of the Consultant would entitle the Consultant to additional compensation, the Consultant shall provide oral notice and written Letter of Concern to the CA within seven (7) days of receiving the order from the County. The Letter of Concern must include an explanation of why the Consultant believes the requirements of the oral or written order are outside of the agreed scope of services. The CA shall acknowledge in writing receipt of the Consultant Letter of Concern.

If the County believes the Consultant has not performed with the required Standard of Care, the County shall provide the Consultant oral notice and written Letter of Concern. The Consultant shall acknowledge in writing receipt of the County's Letter of Concern and provide to the County all project related requested information.

##### **INFORMATION EXCHANGE AND RESOLUTION MEETING**

**The Consultant and CA shall meet within seven (7) calendar days of sending or receiving a Letter of Concern, or on a mutually agreed, to discuss the issue of concern and provide to the CA all requested information pertaining to the issue.**

The primary purpose of this meeting is to determine how, at the County's sole discretion, to correct, mitigate, or minimize the effects of the issue, including impacts of the issue on the construction project's work quality,

schedule, and costs.

Following the County's determination of the appropriate corrective action, the Consultant and the CA shall work together to resolve responsibility and corresponding Premium Costs related to the issue.

If the CA is unable to reach satisfactory resolution of responsibility and corresponding Premium Costs with the Consultant, the CA will request the Chief Engineer to initiate an internal review.

### **CLAIMS PROCEDURE**

The County, upon request of the CA and at the discretion and direction of the Chief Engineer, will undertake an internal review for the purpose of determining if the standard of care was met. The Consultant will cooperate with the internal review as requested.

If the Chief Engineer determines that standard of care has been met, then all parties are to continue to work together to correct, minimize or mitigate effects of the issue and it is the County's responsibility to cover Premium Costs.

If the Chief Engineer determines that standard of care has not been met, then Cost Evaluation and Recovery will be pursued.

The County may, at any time during the course of this Contract, and up to the time allowable by law following the final payment for any work on the contract, present the Consultant with a Claim for actual damages incurred due to any disagreement concerning standard of care issues and all subsequent damages suffered by the County arising from such issues.

### **COST EVALUATION AND RECOVERY**

The Premium Costs incurred by the County and/or construction project resulting from the Consultant's failure to meet the standard of care will be evaluated and quantified. Any extenuating or mitigating factors in relation to cost recovery, such as limitations on fee and scope of services, time constraints for performance of services, unforeseen or changed conditions, third party requirements, responsibility and comparative fault of other parties, or other circumstances or constraints affecting the Consultant's performance will be considered.

Utilizing cost information generated by the County's internal investigation, the CA will meet with the Consultant in an attempt to reach agreement for resolution of responsibility and corresponding Premium Costs. If resolution is not reached, then the Chief Engineer or designee will meet with the Consultant and pursue one of all of the following actions:

- a. Negotiate a resolution with the Consultant
- b. Agree with the Consultant to share equally the cost to jointly present the issue to a creditable, neutral third party panel to obtain a non-binding recommendation
- c. Pursue other Alternate Dispute Resolution methods as agreed to with the Consultant, or
- d. Escalate the issue to litigation.

### **ALTERNATE METHODS OF RECOVERY**

When the parties reach agreement on cost recovery for a failure to meet the standard of care determination, the Consultant may make restitution to the County in the following methods as agreed to by both Parties:

- a) Making direct payments to the County
- b) Correcting the deficient services
- c) Re-performing the deficient services
- d) Forfeiting payments for other services on other County Contracts
- e) Providing in-kind services at no cost to County
- f) Utilizing other methods acceptable to both parties

### **Documentation**

The CA or designee shall document the contract file with all correspondence, notices, meeting notes and

Letters of Concern related to E&O issues, claims, or potential claims. The file must include a written statement summarizing the findings of the claims process and the outcome, including:

- i. The determination of whether or not the Consultant met Contract requirements and met the standard of care;
- ii. The determination of responsibility and whether there were mitigating circumstances beyond the reasonable control of the Consultant;
- iii. The determination of whether or not the work requested by the County was within the scope of services of the Contract;
- iv. If the Consultant was not required to correct deficiencies at no cost to the County, provide the reasons for that decision.
- v. A record of negotiation for any negotiated settlement subject to the rules regarding confidentiality of mediations in OAR 731 division 001.

## **DEFINITIONS**

**County** – Marion County, Oregon

**CA** – County’s Contract Administrator overseeing the consultant contract and deliverables.

**County TI** – County Technical Investigator. A County manager familiar with the technical discipline at issue who independently reviews records and interviews personnel pertinent to the claim to determine if the standard of care was met.

**Consultant** – Private Sector entity, which has entered into a Contract with the County to provide Architectural or Engineering services and which employs, or engages the services of, the Professional of Record.

**Contract** - The project specific Contract between County and Consultant.

**Error** – Plan or specification details or contract administration actions which are incorrect, conflicting, insufficient or ambiguous

**E&O** – Errors and Omissions

**Omission** – The plans or specifications or contract administration actions are silent on an issue that should otherwise be addressed in the documents

**Parties** – Refers to County and Consultant collectively

**Party** – Refers to County and Consultant separately

**Premium Costs** – The additional costs incurred by the County and/or a construction project which result from the Consultant’s failure to meet the Standard of Care. Premium Costs are dollar amounts paid for non-value added work. Premium costs are not reimbursed by the federal government on federal aid projects. Delays, inefficiencies, rework, or extra work as shown below, caused by the Consultant’s failure to meet the standard of care, will be considered as non-value added work. Non- value added work can occur in three distinct situations:

- a) Work delays or inefficiencies.
- b) The Premium Costs are the total delay/inefficiency damages paid to the construction contractor.
- c) Rework
- d) The Premium Costs are the dollar amount of the original items of work that have to be removed and the costs to remove these items.

- e) Extra Work
- f) The Premium Costs are computed as the net difference between the final agreed prices paid to the construction contractor and what the cost would have been had the extra work been included in the original bid at letting.

**Standard of Care** – For the standard of care that applies to your project, refer to the standard of care language included in the Contract for the project.

**TRC** – Technical Review Committee. A committee convened by the County Chief Engineer, chaired by the Agency TI and staffed by at least 3 technical experts chosen by the Agency TI from a list of Agency, ACEC and other technical experts. The committee is charged with reviewing records and interviewing personnel pertinent to the claim to determine if standard of care was met.

**EXHIBIT F – CONTACT INFORMATION and KEY PERSONS**

**1. Party Contact Information.**

**a.1 \* County’s Project Manager (CPM)**

<b>Name:</b>	Steven Preszler, PE
<b>Ph:</b>	(971) 375-8108
<b>E-mail:</b>	spreszler@co.marion.or.us

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

<b>Name:</b>	Traci Clarke
<b>Ph:</b>	(503) 365-3100
<b>E-mail:</b>	tclarke@co.marion.or.us

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

<b>Mailing Address:</b>	Marion County Public Works 5155 Silverton Road NE Salem, OR 97305 Attn: Steven Preszler
<b>E-mail:</b>	spreszler@co.marion.or.us

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

<b>Name:</b>	Makenzie Ellett, PE
<b>Ph:</b>	(541) 993-3714
<b>E-mail:</b>	Makenzie.Ellett@deainc.com

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

<b>Name:</b>	Heather Bennett
<b>Address:</b>	5121 Skyline Village LP, Suite 200 Salem, OR 97306
<b>Ph:</b>	503-480-1308
<b>E-mail:</b>	Heather.Bennett@deainc.com

\* County 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 County.