# Application: This template is used when the Certified LPA (Agency) owns the contract on a federal funded project.

**Version Date 2/8/2021**

**[INSTRUCTIONS]:**

* Yellow highlighted areas include instructions that should be deleted prior to release.
* Blue highlighted areas indicate text or fields that need information provided or revised.
* Delete any tasks or subtasks that do not apply to the Project. **Delete instructions throughout the document before executing Contract or amendment. This can be automated as follows:**
* From the “Edit” menu select “Replace”;
* With cursor in the “Find what” field, click “More” button, then “Format” then “Font” , then in the font field select “Times New Roman” text ;
* Leave the “Replace with” field blank;
* Click “Replace All”. This will delete all yellow highlighted text.

**PROJECT-SPECFIC INSTRUCTIONS:**

**Not all subtasks are needed for each project.  If a subtask is not needed, add the word RESERVED behind the subtask title. Delete all subtask narrative.**

**TASK 3 ENVIRONMENTAL SERVICES**

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

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

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

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

Consultant shall provide technical assistance and services necessary to meet FHWA NEPA classification documentation requirements for NEPA Categorical Exclusion projects (“Class 2 Projects”).

**3.1.1 Environmental Prospectus (Environmental Scoping Documentation) (RESERVED)**

# [The appropriate form for this task is called Environmental Prospectus (EP) Form. Check with the ODOT Region Environmental Coordinator (REC) for correct form. Check with REC to see if ODOT will be preparing the form or if it has been completed. If ODOT will be preparing the form or if the EP Form is completed, make Task 3.1.1 a Reserved Task]

The completed Environmental Prospectus Form demonstrates the best efforts to date and a snapshot in time of identifiable environmental considerations by documenting the potential environmental impacts of the Project on environmental resources within the project area of potential impact.

The Environmental Prospectus Form and the Project Vicinity Map are required by FHWA to meet NEPA requirements and determine the appropriate NEPA classification for the Project.

Consultant shall prepare a draft Environmental Prospectus Form meeting ODOT and FHWA requirements and standards by following ODOT’s CE/PCE Procedures (located in Chapter 420 of [**ODOT’s NEPA Manual**](https://www.oregon.gov/ODOT/GeoEnvironmental/Pages/NEPA-Manual.aspx)) and in coordination with the ODOT Region Environmental Coordinator (“REC”). The draft Environmental Prospectus Form will be reviewed by the REC and sent back to Consultant, with a copy to Agency, for revisions as relevant.

Consultant shall incorporate revisions, if any, to the draft Environmental Prospectus Form and submit the revised draft Environmental Prospectus Form to the REC for approval and signature with a copy to Agency.

Consultant shall:

* Research all available desktop information and databases necessary to sufficiently address every section of the Environmental Prospectus Form. The draft Environmental Prospectus Form must be developed in compliance with the CE/PCE Procedures (located in Chapter 420 of [**ODOT’s NEPA Manual**](https://www.oregon.gov/ODOT/GeoEnvironmental/Pages/NEPA-Manual.aspx)) which are found on ODOT’s Geo-Environmental Services (“GES”) website here: <https://www.oregon.gov/ODOT/GeoEnvironmental/Pages/NEPA.aspx>. Incorporate the relevant information obtained from the research into the draft Environmental Prospectus Form as appropriate.
* Organize and attend one site visit to the Project area making sure to visit all areas of the Project to more clearly develop the draft Environmental Prospectus Form. A representative from Agency with sufficient Project information must be in attendance to describe the Project in full. Agency will provide a written description of the Project and conceptual design for inclusion in the draft Environmental Prospectus Form.
* Prepare the draft Environmental Prospectus Form and Project Vicinity Map using the information obtained from research and the Project description.
* Prepare draft Environmental Prospectus Form that describes the potential environmental impacts of the Project. The draft Environmental Prospectus Form must be completed using the most current ODOT template.
* Consult with ODOT and Agency staff, as needed and to determine if scoping notes are available from the ODOT REC, to complete the draft Environmental Prospectus Form.
* Environmental documentation in the draft Environmental Prospectus Form will cover the following disciplines if/as they are applicable to the Project.

|  |  |
| --- | --- |
| * Aesthetics / Visual Resources
 | * Air Quality
 |
| * Biological Resources (Fish, Birds, Wildlife, Plants/Habitat)
 | * Environment and Archaeological Resources)
 |
| * Economic and Social Impact Considerations
 | * Energy Resources
 |
| * Environmental Justice Considerations
 | * Hazardous Materials and Sites
 |
| * Land Use Compatibility / Permits Needed
 | * Noise Study / Mitigation
 |
| * Public Parks / Recreation Resources
 | * Right-of-Way Needs (Permanent and Temporary)
 |
| * Section 4(f) evaluation and documentation
 | * Section 6(f) identification and coordination with Oregon Parks and Recreation documentation
 |
| * Traffic Analysis and Study Report
 | * Wetlands and Waters of the State/US
 |
| * Water Resources / Water Quality / Stormwater
 |  |

* Draft Environmental Prospectus Form will include a recommended NEPA category (checkbox) for the Project (i.e., PCE, CE).

ODOT will be responsible for finalizing the Environmental Prospectus Form and any coordination that might be needed with FHWA.

**3.1.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

* One electronic copy of the Draft Environmental Prospectus Form and Project Vicinity Map to ODOT and Agency for review per Task 1 Project Design Schedule.
* One electronic copy (PDF) of the Final Environmental Prospectus Form and Project Vicinity Map to ODOT and Agency 2 weeks following receipt of draft review comments.

**3.1.2 PCE Determination (Draft Only) (CONTINGENCY TASK** (Requires separate NTP from APM)OR **(RESERVED)**

# [Only at the approval of the ODOT Region Environmental Coordinator (REC) will this task be needed. Check with the REC to determine if ODOT will be preparing the form or the task is needed to be performed by Consultant. If ODOT will be preparing the form, make Task 3.1.2 a Reserve Task]

For PCEs, the PCE Determination Form is completed after the Environmental Prospectus Form has been prepared (and approved by ODOT) and prior to the start of preparing the PCE Approval in 3.1.3.

If ODOT and Agency deems the task is necessary for Consultant to perform, Consultant shall prepare (only) a draft PCE Determination fillable form and submit it to Agency and REC to approve and sign. No further work on this task is needed by Consultant.

Consultant shall:

* Prepare a draft PCE Determination Form using the appropriate fillable form provided by the REC, in compliance with the CE/PCE Procedures which are found on ODOT’s GES website here: <https://www.oregon.gov/ODOT/GeoEnvironmental/Pages/NEPA.aspx>.
* Submit draft PCE Determination Form to Agency and REC.

**3.1.2 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

* One electronic copy of draft PCE Determination fillable form to Agency and REC for review and approval per Task 1 Project Design Schedule.

**3.1.3 Final NEPA CE and PCE Documentation**

[Check with REC to see if the PCE Approval or CE Closeout documents will be completed by ODOT. If so, make Task 3.1.2 a RESERVED TASK] Consultant shall compile data completed in tasks X through X [Modify to include all the subtasks detailed under Task 3] to complete a draft PCE Approval or CE Closeout Document and submit to ODOT and Agency for review and approval. Consultant shall coordinate with ODOT and Agency on compiling data completed during Project development to deliver the draft PCE Approval or CE Closeout Document to ODOT and Agency to finalize and approve.

Only after all relevant tasks X through X have been completed and approved by ODOT can this task be completed. In the draft PCE Approval or CE Closeout Document, Consultant shall follow the specific protocols in the CE/PCE Procedures (located in Chapter 420 of [**ODOT’s NEPA Manual**](https://www.oregon.gov/ODOT/GeoEnvironmental/Pages/NEPA-Manual.aspx)) to complete drafts of the following:

* After ODOT and Agency has accepted tasks X through X, complete each of the resource narrative sections using protocols and standard language contained in the CE/PCE Procedures (located in Chapter 426 of [**ODOT’s NEPA Manual**](https://www.oregon.gov/ODOT/GeoEnvironmental/Pages/NEPA-Manual.aspx)).
* Include the supporting documents required as per the CE/PCE Procedures (located in Chapter 420 of [**ODOT’s NEPA Manual**](https://www.oregon.gov/ODOT/GeoEnvironmental/Pages/NEPA-Manual.aspx)), as applicable to the Project (e.g. Endangered Species Act (“ESA”) approvals, cultural resources documentation, hazardous materials, etc.). If submittal of the draft PCE or CE document requires supporting documentation not developed under this SOW, it will be provided by ODOT or APM.

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

**3.1.3 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

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

**3.2 Archaeological Resources**

All archaeological sub tasks must be completed by registered professional archaeologists who meet the Secretary of the Interior's professional standards for Archaeology ([36 CFR 61, Appendix A](http://www.nps.gov/history/local-law/arch_stnds_9.htm)) and who have been “qualified” through the [ODOT Cultural Resources Consultant Qualification Training Program.](http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/pages/cultural_resources.aspx%20-%20%E2%80%8BCultural_Resources_Consultant_Qualification_Program)[If the Area of Potential Effect (APE) differs from the Project area described in Section A of this SOW, add the description of the APE here.]

**3.2.1 Literature Review/Field Reconnaissance/Baseline Report**

The purpose of this task is for Consultant to conduct archival and background research in combination with field reconnaissance to determine the presence or absence of high probability landforms or archaeological sites within the Area of Potential Effect (“APE”) and to make recommendations for further archaeological review*.*

Consultant shall conduct a Literature Review for the APE, and include a description of the APE, detailed historic context and ethno-historic information, methodology, recommendations for future work, detailed bibliography, maps, and photos. Consultant shall provide the ODOT Archaeologist with a minimum of 5 days advance notice prior to Field Reconnaissance.

Consultant shall examine the following:

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

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

Pedestrian survey methods must be consistent with the latest updated [SHPO guidelines.](http://www.oregon.gov/oprd/HCD/ARCH/docs/Master_Final_FieldGuidelines_June2015.pdf) The recommended maximum spacing of transects is 20 meters apart and may vary depending on terrain features or ground visibility. Consultant shall determine transect spacing based on professional judgment to ensure that all probable site locations are discovered. All cultural resources observable on the surface and in exposed subsurface profiles must be identified and recorded. Field Reconnaissance must enable Consultant to identify areas of high and low probability for archaeological resources and to determine the appropriate level of survey or subsurface exploratory probing.

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

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

**3.2.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

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

**3.2.2 Phase I Archaeological Investigation with Technical Report (CONTENGENCY)**

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

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

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

Consultant shall conduct pedestrian field surveys within the APE and must include areas where ground will be disturbed by Project construction including temporary access roads, as well as staging areas, material sources, disposal sites, detours, etc. Consultant shall provide the ODOT Archaeologist with a minimum of 5 days advance notice prior to conducting a pedestrian survey. Pedestrian survey methods must be consistent with the latest updated SHPO guidelines. The recommended maximum spacing of transects is 20 meters apart and no more than 30 meters apart; and may be as close as 10 meters apart vary depending on terrain features or ground visibility. Consultant shall determine transect spacing based on professional judgment to ensure that all probable sites are discovered. All cultural resources observable on the surface and in exposed subsurface profiles during the inventory must be identified and recorded.

Consultant shall obtain all required excavation permits and conduct subsurface exploratory probing in the APE. Copies of the draft excavation permits must be provided to the ODOT Archaeologist prior to submittal to SHPO. Consultant shall provide the ODOT Archaeologist with a minimum of 5 days advance notice of exploratory probing. Subsurface Exploratory Probing field methodology must be consistent with the latest updated SHPO guidelines.

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

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

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

* + - A purpose statement and full Project description including:
1. ODOT Key Number and Federal Aid Number
2. Location and legal description
3. General environmental description
4. Historic context
5. Proposed construction activities
6. Defined APE and APE map
7. Total acreage of impact
8. Anticipated direct, indirect and cumulative impacts
	* + Results of SHPO/THPO data base searches including:
9. Brief summary of previous archaeological research completed within one mile of APE with eligibility description if available.
10. Brief summary of recorded archaeological features within one mile of APE with an eligibility description if available.
	* + Results of GLO and Sanborn map review including:
11. Brief summary of features (trails, buildings, etc.) depicted on maps and within APE
	* + Discussion of ethno-historic information and historic context of APE and surrounding environment
		+ Description of pedestrian survey methods including date(s) of survey, types of transects used, and names and duties of personnel conducting the survey
		+ Results of pedestrian survey including ground conditions (percent visibility) and difficulties encountered, if any; descriptions of any archaeological artifacts encountered and other pertinent information
		+ Description of subsurface exploratory probing methodology including date(s) of probing, and names and duties of personnel completing probes
		+ Results of subsurface exploratory probing, including descriptions of soil conditions and any archaeological artifacts encountered and other pertinent information. Negative findings must be reported also
		+ Summary of Tribal consultation(s), to be provided by ODOT or Agency
		+ A summary with recommendations that must include a discussion of the site(s) identified and whether or not they meet NRHP criteria and maintain integrity
		+ List of references cited
		+ Location map at 1:24,000 scale; aerial image (Google map acceptable) showing APE; and representative digital images of current conditions within APE
		+ Site forms and isolate forms (hard copies) for newly discovered archaeological sites and isolates. Consultant shall also complete the SHPO Online Site Form
		+ Site update forms for previously identified archaeological sites
		+ A modified [Determination of Eligibility (DOE),](http://www.oregon.gov/ODOT/GeoEnvironmental/Docs_CulturalResource/DOE_Consultant_Guidelines.pdf) a maximum of 2-3 pages long, must be included in the Appendix for historic sites with no subsurface component. This Appendix must include a short discussion on Boundaries (vertical and horizontal), Integrity as well as Statement of Significance and discussion of the NRHP Criteria. Consultant shall provide enough information to write a detailed DOE.
		+ Maps, photos and an artifact catalogue

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

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

**3.2.2 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

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

**3.2.3 Phase II Archaeological FIELD Investigation (CONTINGENCY TASK** (Requires separate NTP from APM**)**

Note: If cultural sites have been identified during the Phase I study, Phase II investigation may be required. Phase II investigations must be used to establish NRHP eligibility, which includes establishing vertical and horizontal site boundaries. Investigations under this task must comply with the latest updated [SHPO guidelines](http://www.oregon.gov/oprd/HCD/ARCH/docs/Master_Final_FieldGuidelines_January2016.pdf) for conducting field archaeology in Oregon and the latest updated SHPO guidelines for [Reporting on Archaeological Investigations](http://www.oregon.gov/oprd/HCD/ARCH/docs/Master_Final_FieldGuidelines_January2016.pdf).

Consultant shall:

* Review information from the Phase I investigations.
* Develop a draft investigation plan showing:
	+ APE
	+ Areas of previous disturbance;
	+ Previously recorded site(s);
	+ Areas where cultural materials were discovered (Phase I investigation);
	+ Probable boundary of new sites;
	+ Proposed locations of each Shovel Test Unit (“STU”), Excavation Unit (“EU”) or other subsurface investigation;
	+ Proposed locations of remote sensing;
	+ Location of additional transects; and
	+ [A comprehensive research design](http://www.oregon.gov/oprd/HCD/ARCH/docs/RESEARCH%20DESIGN.pdf)

Consultant shall submit the draft investigation plan to ODOT Archaeologist for approval before starting fieldwork.

Consultant shall obtain all required permits (i.e. SHPO) for subsurface investigations and submit draft copies to the ODOT Archaeologist for review. Consultant shall provide the ODOT Archaeologist with a minimum of 5 days advance notice prior to Phase II testing. Consultant shall conduct subsurface investigations within the APE.

**Subsurface Investigation**

Consultant shall conduct an intensive inventory and subsurface testing program to identify site boundaries and assess site significance. STUs must be based on the approved investigation plan.

At a minimum, the subsurface testing program must include STUs excavated at 10-meter intervals, or less as appropriate, across identified archaeological sites to help determine the presence or absence of subsurface cultural materials, as well as to help define site boundaries.

STUs must measure 50x50cm square and must be excavated to a minimum of 50cm in depth (and two levels below sterile where possible). Larger or deeper STUs composed of abutting 50x50 cm units may be required and must be identified in the investigation plan. STUs must be excavated in arbitrary 10-cm levels and all sediments screened through 1/8-inch mesh hardware cloth. Special studies, such as obsidian sourcing and hydration analyses, can be conducted as part of the preliminary evaluation effort, only if previously agreed to with the ODOT Archaeologist. Collected materials must be curated at the State Museum of Anthropology, University of Oregon upon conclusion of laboratory analyses, unless other arrangements have been made and agreed to by SHPO. Consultant shall coordinate with the ODOT Archaeologist prior to shipment of artifacts.

Consultant shall/Agency will [choose responsible party, or delete this sentence if not applicable to the Project.] identify/fence all No Work Zones with orange plastic mesh fencing or lath and flagging, as shown prior to construction.

Consultant shall map the archaeological site using GPS equipment, with reference to existing benchmarks or existing bridges for survey control. Consultant shall provide a technical report summarizing all identified archaeological materials and results of the record search and field studies. If significant cultural materials are recorded, recommendations for mitigation must be provided in the Report.

The Phase II Technical Report must include:

● A purpose statement and full Project description, including APE map, anticipated direct, indirect and cumulative impacts, location and total acreage, map reference, legal description, general environmental description, and the historic context by which sites shall be evaluated.

* Background information, including ethno-historic information and previous archaeological studies.
* A summary of previous archaeological research in the general area.
* Description of soils encountered, along with description of all features.
* Inventory and general analysis of artifacts.
* GPS datum(s).
* A thorough description of the field methods used, including types of transects used, difficulties encountered during the Project, and other pertinent information.
* A section on field methodology with maps showing placement of STUs.
* A section on findings, artifact descriptions, recommendations and a summary includes a discussion of the site(s) tested and whether or not it/they meet(s) the NRHP criteria and maintains integrity, and recommendations.
* A [modified DOE](http://www.oregon.gov/ODOT/GeoEnvironmental/Docs_CulturalResource/DOE_Consultant_Guidelines.pdf), not to exceed 3 pages, must be included in the Appendix, for each site when attempting to establish eligibility. The DOE must include a short discussion on the Statement of Significance, as well as a discussion on Integrity, and discussion of each the NRHP Criteria.
* An artifact catalogue must be provided.
* Site forms and isolate forms for newly discovered archaeological sites and isolates and site update forms for previously recorded sites. Consultant shall also complete the SHPO Online Site Form.
* Names and duties of personnel conducting the inventory and dates of fieldwork.

Consultant shall provide the final report and site forms in \*.pdf format, digital images of each photo and illustration, raw GPS files (\*ssf and \*.cor), and edited GIS files (\*shp, \*.shx, and \*.dbf).

**3.2.3 Consultant Deliverables and Schedule** (Electronic and Hard Copy):

Consultant shall prepare and submit (in WORD Format):

* Draft investigation plan, one hard copy, due ##.
* Final investigation plan, one hard copy, due ##.
* Subsurface investigation permits (i.e. SHPO), one hard copy, due before fieldwork starts.
* Draft Phase II Technical Report, one hard copy, due ##.

**3.3 Historic Resources**

All historic sub tasks must be completed by professional historians who meet the Secretary of the Interior's professional standards for architectural history or history ([36 CFR 61, Appendix A](http://www.nps.gov/history/local-law/arch_stnds_9.htm)) and who have been “qualified” through the [ODOT Cultural Resources Consultant Qualification Training Program.](http://www.oregon.gov/ODOT/GeoEnvironmental/Pages/Cultural-resources.aspx) [If the Area of Potential Effect (APE) differs from the Project area described in Section A of this SOW, add the description of the APE here.]

**3.3.1 Historic Resources Baseline Report**

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

Consultant shall prepare the Historic Resources Baseline Report which must include, but is not limited to:

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

It is anticipated that up to X [Add amount of anticipated resources]] resources will be identified in the baseline report.

**3.3.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

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

**3.3.2 Section 106 Determination of Eligibility (“DOE”) CONTINGENCY TASK** (Requires separate NTP from APM)[Keep as contingency if there are known resources in the Project area over 45 years old. Make RESERVED if no known resources in the Project area over 45 years old]

A DOE is a finding that a property meets the eligibility criteria (A-D) for inclusion in the NRHP. If requested by ODOT and Agency staff, then Consultant shall prepare draft and final DOE Reports for each historic resource that is considered potentially eligible for the NRHP. For authorized DOE Report(s), Consultant shall also prepare a Project Submittal Letter in ODOT-approved format.

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

The DOE must include but is not limited to:

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

Consultant shall prepare DOE(s) for up to X [Add amount of anticipated resources]] resources. ODOT Cultural/Historic Resource Specialist will transmit the final DOE(s) to SHPO and will obtain the necessary concurrence documentation from SHPO.

**3.3.2 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

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

**3.3.3 Section 106 Finding of Effect (“FOE”) CONTINGENCY TASK** (Requires separate NTP from APM)[Keep as contingency if there are known resources in the Project area over 45 years old that have the potential to be affected. Make RESERVED if no known resources in the Project area over 45 years old are expected to be impacted]

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

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

Consultant shall prepare FOE using the most current ODOT form. The FOE(s) must include:

* Narrative assessment of the Project’s potential effects of the Project to the historic resource’s qualities that make it significant and/or eligible or listed, including: physical destruction or damage; alteration or rehabilitation; removal; change of setting; introduction of visual, atmospheric or audible elements; neglect of a property; or transfer or sale of ownership; and
* Discuss alternatives to avoid or minimize adverse effects to the resource.

Consultant shall prepare FOE(s) for up to X [Add amount of anticipated resources]] resources. ODOT Historic Resource Specialist will transmit the final FOE(s) to SHPO and will obtain the necessary concurrence documentation from SHPO.

**3.3.3 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

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

**3.4 Hazardous Materials**

Per request from ODOT HazMat staff, please refer to the Standard SOW templates on the [**Environmental & Hydraulic Engineering Section (EHES) site**](https://www.oregon.gov/ODOT/GeoEnvironmental/Pages/Guidance.aspx)for HazMat task language. (Please note the EHES SOWs have not been vetted through OPO for conformance with the [**SOW Writing Guide**](https://www.oregon.gov/ODOT/Business/Procurement/DocsSOW/SOWGuideAE.pdf)**.)**

**3.5 Biological Resources Compliance and Permitting**

[The following subtasks comprise the full range of biological services for typical Projects operating under the FAHP ESA Programmatic when there could be impacts to ESA listed species and the No Effects Memorandum when no impacts to ESA listed species are expected. Edit and re-number tasks below as applicable to the Project. Some tasks may be more relevant as Contingency tasks.]

Consultant shall complete the appropriate biological resources tasks presented below based on the [select one or modify:] 60% work session construction plans or Design Acceptance Plans. General biological work must be executed by a qualified biologist who meets the following minimum qualifications: 3 full years of environmental analysis or resource Project management experience and a Bachelor’s degree that included 30-quarter or 20-semester hours in biology, environmental science, natural science, or closely related field. An individual who makes determinations of effect under the ESA and prepares ESA documentation must also be an ESA qualified biologist as per ODOT Technical Services Bulletin GE14-03(B) or most current (<http://www.oregon.gov/ODOT/Engineering/Doc_TechnicalGuidance/GE14-03b.pdf>).

**3.5.1 Endangered Species Act (ESA) No Effect Memorandum**

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

Consultant shall:

* Use a qualified ESA biologist(s) to conduct 1 field survey of the area of API at the appropriate time for each ESA listed plant, fish and wildlife species with the potential to be present in the API and their potential suitable habitats following standard/appropriate field survey techniques. [If a species is being covered under an ESA document other than the NE Memo, edit above list accordingly. For example, if fish are being covered with the FAHP Programmatic, remove “fish” from the list above.]
* Conduct Oregon Department of Agriculture (“ODA”), Oregon Department of Fish and Wildlife (“ODFW”), National Marine Fisheries Service (“NMFS”), and U.S. Fish and Wildlife Service (“USFWS”) database searches to acquire ESA information for the Project area.
* Contact ODOT or Oregon Biodiversity Information Center (“ORBIC”) or both, as needed, to obtain data regarding listed threatened and endangered species as well as those proposed for listing under the federal and state ESA that may occur within the API. Consultant shall determine if Federally-listed species and their habitat will be affected by the Project.
* Communicate with local ODA, ODFW, NMFS and USFWS staff via phone or email to acquire additional specific ESA information for the Project area. [Delete if not needed.]
* Make ESA effects determinations following the analysis of gathered ESA information. If a determination is No Effect for at least one listed or proposed species, obtain ODOT concurrence on the No Effects determination.
* Coordinate with design staff, ODOT and APM to develop appropriate measures (i.e., construction special provisions) to avoid impacting listed species proposed for coverage in the NE Memo if avoidance measures are necessary to obtain the No Effect determination.
* Prepare draft NE Memo for the Project area using the most recent ODOT provided form; provide to ODOT and APM for review and comment.
* Prepare final NE Memo for ODOT and Agency acceptance.

[If it is later determined by ODOT and Agency that the Project has the potential to affect ESA-listed species in the NE Memo, then a written amendment must be prepared for Consultant to provide additional biological services.]

* Notify ODOT and Agency immediately if Consultant determines that an ESA determination of No Effect is no longer appropriate.

**3.5.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

* One electronic PDF copy of the Draft No Effect Memo to ODOT and Agency for review per Task 1 Project Design Schedule.
* One electronic PDF copy of the Final No Effect Memo to ODOT and Agency within 2 weeks following receipt of draft review comments.
	+ One electronic PDF copy of the Draft construction special provisions relevant to NE determination to ODOT and Agency for review per Task 1 Project Design Schedule.
* Final construction special provisions relevant to NE determination to ODOT and Agency within 2 weeks following receipt of draft review comments.

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

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

[In the uncommon circumstance that a Consultant will be used to produce ESA documentation for the U.S. Army Corps of Engineers Standard Local Operating Procedures for Endangered Species (“SLOPES”) or an individual Biological Assessment (“BA”), additional Tasks will be required specific to the Project.]

Consultant shall:

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

[Modify based on Project specific requirements.]

[In the uncommon circumstance that mitigation will be required under the FAHP Programmatic, additional Tasks will be required specific to the Project.]

**3.5.2 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

* Draft Site Visit Meeting Notes within 1 week of the meeting to APM and REC
* Final Site Visit Meeting Notes within 1 week of receiving comments to APM and REC
* Draft FAHP Programmatic Project Initiation Form within 2 weeks of Kickoff Meeting to APM and REC
* Final FAHP Programmatic Project Initiation Form within 1 week of receiving comments to APM and REC
* Draft FAHP Programmatic Project Notification documents per Task 1 Project Design Schedule to APM and REC
* Final FAHP Programmatic Project Notification documents 2 weeks of receiving comment to APM and REC

[Include additional FAHP Programmatic forms that the Project may require.]

**3.5.3 Scope to Determine if Project Must Address the Oregon Fish Passage Law (OARs 635-412-0005 to 625-412-0040)**

[Use this section only if Consultant will scope to determine if the Project is required to address fish passage.]

If the Project area is within current or historic Native Migratory Fish (“NMF”) habitat and if a fish passage trigger identified in the law (OAR 635-412-0005(9) (d)) will occur, then the Project must address fish passage. Consultant shall scope to determine whether or not the proposed Project must address the Oregon Fish Passage Law.

Consultant shall:

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

**3.5.3 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

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

**3.5.4 Fish Passage Scoping Field Visit (CONTENGENCY)**

Consultant shall conduct 1 field visit(s) to gather information missing from desk scoping that is necessary to determine whether or not the Project will trigger the Oregon Fish Passage Law.

**3.5.4 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

* Draft Fish Passage Scoping Field Visit Notes to ODOT and Agency for review per Task 1 Project Design Schedule
* Final Fish Passage Scoping Field Visit Notes to ODOT and Agency within 2 weeks of receiving comments

**3.5.5 Determine Appropriate Approach to Meet Fish Passage Requirements**

[Use this Task if the Project must meet the Oregon Fish Passage Law and Consultant will determine the most appropriate approach to address fish passage (i.e., exemption, waiver, or meet fish passage criteria). If ODOT determines the appropriate approach to address fish passage, Consultant may only be tasked with providing the supporting documentation.]

Consultant shall collect necessary data to determine the appropriate approach to meet fish passage requirements.

Consultant shall:

* Conduct up to       visits to the Project area to document existing site conditions and, if applicable, confirm background information.
* Field work to complete this task shall be accomplished by a qualified fish biologist with a Bachelor’s degree in biology, fisheries or equivalent, and a minimum of 2 years of experience in the Pacific Northwest evaluating fish passage conditions, fish presence and habitat use by species and life stage, and fish habitat quality.
* If available, Consultant shall utilize maps with existing NMF fish distribution and fish passage barrier information and confirm this information in the field.
* If existing maps are incomplete or inaccurate, Consultant shall collect information on locations of fish passage barriers, potential NMF fish distributions, and habitat quantity and quality as described below.
* If necessary to collect the above information, Consultant shall obtain right of entry to private property to walk the watercourse over suitable distances upstream and downstream of the Project site.
* Determine the number and locations of artificial obstructions and natural barriers above and below the Project site.
* Consultant shall map locations and document distances of all natural and artificial barriers upstream of the Project site to the first full barrier or to the end of fish use.
* Consultant shall map locations and document distances of all natural and artificial barriers downstream of the Project site to the first full barrier or to the location of documented fish use downstream of the Project area, whichever is closer.
* A qualified fish biologist, as described above, shall determine the level of barrier to NMF according to the definitions in the ODFW Fish Passage Priority List (Loffink 2013 or current version).
* Determine the amount and quality of habitat and potential NMF species use above the artificial obstruction occurring at the Project site.
* Consultant shall determine the distance and map the amount of suitable habitat to the next full fish passage barrier or the end of fish use upstream of the Project site.
* Consultant shall take average active channel widths above and below the road crossing outside of the influence of the crossing.
* A qualified fish biologist shall evaluate the amount and quality of the habitat to support the life stages and life cycle needs of NMF that would use the habitat if they had full access to area between the Project site and the next full fish passage barrier (including spawning, rearing, sheltering and feeding, migration).
* Consultant shall document the species and life stages of NMF that would use the habitat above the Project area if full volitional access were provided.
* Incorporate analysis of the field assessment data and conclusions into the Fish Passage Scoping Memo.
* Consultant shall evaluate the field information in the context of meeting fish passage requirements and amend the analyses to the Fish Passage Scoping Memo
* In consultation with ODFW and ODOT, Consultant will develop a recommendation on the appropriate way to meet fish passage requirements at each site with a fish passage trigger in the Project location and include the recommendation(s) in the Fish Passage Scoping Memo using the following guidelines:
* If the habitat for NMF upstream of the Project site is limited and poor quality or NMF cannot currently access the Project area, then there may be no appreciable benefit to providing fish passage at the Project site and a Fish Passage Exemption may be appropriate.
* If there would be a benefit to NMF if passage was provided at the Project location, but the cost of providing passage outweighs the benefits to NMF, then a Fish Passage Waiver may be appropriate. Fish Passage Waivers require that the Project mitigate for lack of passage at the Project site by providing a net benefit to NMF elsewhere that exceed the benefits of providing passage at the Project location.
* If providing passage at the Project site would provide a significant or cost effective benefit to NMF, or there is no appropriate mitigation option, then meeting Fish Passage Criteria at the Project site may be appropriate.
* Coordinate and attend 1 on-site visit with the ODFW District Fish Biologist (or their designated representative), NMFS Liaison (if appropriate), and ODOT Biologist to discuss the Project and the appropriate strategy to address fish passage (i.e., exemption, waiver, or fish passage plan).
* If fish passage will be provided on site, Consultant shall discuss the appropriate fish passage design methodology with ODFW and ODOT, including whether “Larger-Scale Crossing Design,” “Hydraulic Design,” or “Stream Simulation Design” will be used to meet passage requirements. [Note: Stream channels within or adjacent to crossing structures with gradients above 3%, or with a grade break of more than 1.25 times the upstream and downstream gradients will require special consideration and design work.]
* If the passage standard can be met with Project modifications or design exceptions, Consultant shall discuss applicable fish passage standards, Project challenges, and possible modifications to the Project to meet Oregon Fish Passage Law and ODFW/NMFS fish passage standards.
* If the Project contains a culvert that could be repaired under the conditions of the ODOT-ODFW Culvert Repair Programmatic Agreement, Consultant shall discuss this approach to address the culvert deficiencies.
* Consultant shall prepare site visit meeting notes that include topics discussed and recommendations from ODFW/NMFS for the Project to address fish passage requirements.
* Following the site visit and dissemination of meeting notes, Consultant shall coordinate with ODFW/NMFS via email and phone to verify ODFW/NMFS Project design requirements, expectations and documentation necessary to address fish passage to the approval of ODOT and ODFW.
* Consultant shall document the fish passage approach recommendation in the Fish Passage Scoping Memo with inclusion of the following information:
* Description of the Project location and proposed in-water work activity(s) triggering fish passage requirements
* Confirmation of current or historic NMF presence or absence at the Project site and if present, a map identifying existing or historic NMF distribution above and below the Project area
* Description of evaluation methods, including any field survey dates, field personnel and qualifications, background information reviewed, and summary of meetings or other communications with ODFW and ODOT and Agency
* Summary of amount and quality of stream habitat types and conditions upstream of the Project area to the next full barrier, if appropriate
* A map and quantification of potential NMF distribution upstream of the Project area to the next full barrier, if appropriate
* A table with fish passage barriers upstream of the Project to the first full barrier and fish passage barriers downstream of the Project to the first full barrier or to documented fish presence. The table shall contain:
	+ Barrier location (latitude and longitude)
	+ Distance upstream or downstream from the triggering action in the Project area
	+ Barrier description and status
	+ Level of passage provided at the barrier
* A map of barriers identified in the above table
* An analysis and recommendation of appropriate fish passage approach

**3.5.5 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

* Draft Fish Passage Scoping Memo containing findings from Tasks 2.5.1 and 2.5.2 (1 electronic MS Word copy) to ODOT and Agency for review per Task 1 Project Design Schedule
* Final Fish Passage Scoping Memo containing findings from Tasks 2.5.1 and 2.5.2 (1 electronic PDF copy) to ODOT and Agency within 2 weeks of receiving comments.

**3.5.6 Fish Passage Exemption Application**

[If the analysis of Fish Passage Scoping Memo by Consultant with input from ODFW and ODOT indicates that the Project would qualify for a fish passage exemption, a Fish Passage Exemption Application needs to be prepared.]

Consultant shall prepare 1 [Modify as necessary based on the number of crossings qualifying for a Fish Passage Exemption on the Project.] Fish Passage Exemption Application. A Project qualifies for an ODFW fish passage exemption, and this determination is documented in the Fish Passage Scoping Memo, when:

* There was historic NMF present at the Project site.
	+ Oregon’s fish passage law will be triggered (OARs 635-412-0005 to 625-412-0040).
	+ The existing condition or proposed Project does not meet fish passage criteria.
	+ There is limited and/or poor quality habitat for NMF upstream of the Project site.
	+ The Project will not trigger the need for fish passage mitigation or a fish passage waiver.

Consultant shall:

* Prepare 1 draft exemption application in ODFW’s form format and provide to ODOT and Agency for review.
* Revise the draft exemption application and prepare the final document for submittal to ODOT and Agency, Department of State Lands (“DSL”) and ODFW.
* Submit final exemption application to ODOT, Agency and DSL.
* Submit final exemption application to ODFW a minimum of 1 month prior to a scheduled ODFW Fish Passage Task Force (“FPTF”) meeting for required review by the Task Force; the FPTF meeting must occur prior to the triggering action; currently the FPTF meets 3 times per year.
* Attend the FPTF meeting to present the fish passage exemption application; provide ODOT and Agency with advance notification of the meeting.

**3.5.6 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

* Draft Fish Passage Exemption Application (1 electronic MS Word copy) to ODOT and Agency for review per Task 1 Project Design Schedule
* Final Fish Passage Exemption Application (1 electronic PDF copy) to ODOT and Agency within 2 weeks of receiving comments.

**3.5.7 Fish Passage Waiver**

[If the analysis of Fish Passage Scoping Memo by Consultant with input from ODFW and ODOT indicates that the Project would qualify for a fish passage waiver, a Fish Passage Waiver Application needs to be prepared.]

Consultant shall prepare 1 [Modify as necessary based on the number of crossings qualifying for a fish passage waiver on the Project.] Fish Passage Waiver Application. A fish passage waiver is the most appropriate and practical way to address fish passage at the Project site because:

* There are current or were historic NMF present at the Project site.
	+ Oregon’s fish passage law will be triggered (OARs 635-412-0005 to 625-412-0040).
	+ There is some habitat for NMF upstream of the Project site and providing passage at the Project location would provide a benefit to NMF; however, the cost of providing passage at the Project location outweighs the benefits to NMF.
	+ There is mitigation available that would provide a net benefit to NMF in excess of providing passage at the Project location.

Consultant shall:

* Document the amount and quality of habitat above the Project area by species and life stage that would access the habitat if full volitional passage were provided at the Project site based on information in the Fish Passage Scoping Memo.
* Identify a suitable mitigation Project(s) to offset the lack of passage at the waiver location.
* The amount and quality of habitat at the mitigation site must be greater than at the waiver site for the species affected at the waiver site.
* The mitigation site must be within the same Oregon Water Resources Department drainage basin as the waiver site.
* Alternative mitigation proposals (besides just addressing passage elsewhere) are acceptable but must provide a net benefit to NMF over providing passage at the Project location.
* Scope the mitigation Project and collect all of the information required for the Fish Passage Scoping Memo in Task 5.2.2 above if the mitigation proposal is a barrier removal.
* Consult with ODFW and ODOT on the proposed mitigation strategy.
* Document mitigation strategy findings in draft Mitigation Scoping Reports that contain documentation of the net benefit of the mitigation strategy in excess of providing mitigation at the Project waiver location.
* Coordinate and attend one in-person meeting with ODOT to discuss the fish passage waiver mitigation strategy and to review the draft Mitigation Scoping Report.
* Revise and produce the final Mitigation Scoping Report.
* Incorporate habitat information at the waiver site and the mitigation strategy into the Fish Passage Waiver Application.
* Prepare 1 draft Fish Passage Waiver Application in ODFW’s form format and provide to ODOT and Agency for review.
* Revise the draft Fish Passage Waiver Application and provide the final document to ODOT and Agency for confirmation of requested changes.
* Following ODOT and Agency acceptance of the changes, submit final Fish Passage Waiver Application to DSL.
* Also submit the ODOT and Agency accepted final Fish Passage Waiver Application to ODFW a minimum of 1 month prior to a scheduled ODFW FPTF meeting for required review by the Task Force; the FPTF meeting must occur prior to the triggering action; currently the FPTF meets 3 times per year.
* Attend the FPTF meeting to present the Fish Passage Waiver Application; provide ODOT and Agency with advance notification of the meeting. Note: If there is more than 1 mile of habitat above the waiver site, the application will be reviewed by the Oregon Fish and Wildlife Commission for approval after the FPTF meeting.

**3.5.7 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

* + Draft Fish Passage Mitigation Scoping Report (1 electronic MS Word copy) to APM and the ODOT Fish Passage Program Lead for review per Task 1 Project Design Schedule
* Final Fish Passage Mitigation Scoping Report (1 electronic PDF copy) to ODOT and Agency within 2 weeks of receiving comments.
	+ Draft Fish Passage Waiver Application (1 electronic MS Word copy) to ODOT and Agency for review per Task 1 Project Design Schedule
* Final Fish Passage Waiver Application (1 electronic PDF copy) to ODOT and Agency within 2 weeks of receiving comments.

[Final Application must be submitted to FPTF at least 1 month prior to the target FPTF meeting to allow 3 week public comment period. FPTF meeting and associated recommendation must occur prior to construction of the triggering action. If there is more than 1 mile of habitat above the waiver site the application will be reviewed by the Oregon Fish and Wildlife Commission for approval after the FPTF meeting.]

**3.5.8 Fish Passage Plan**

[If the analysis of Fish Passage Scoping Memo by Consultant with input from ODFW and ODOT indicates that the Project should meet fish passage criteria, a Fish Passage Plan needs to be prepared.]

Consultant shall prepare 1 [Modify as necessary based on the number of crossings meeting fish passage criteria on the Project.]Fish Passage Plan. Meeting fish passage criteria is required at the Project site when:

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

Consultant shall:

* Determine and document [pick one of the following design methodologies based on input from Agency, ODOT and ODFW] (“Larger-Scale Crossing Design,” “Hydraulic Design,” or “Stream Simulation Design”) fish passage criteria in the Fish Passage Plan.
* Prepare 1 draft fish passage plan in ODFW’s form format and submit to ODOT and Agency for review.
* Revise the draft plan and submit the final fish passage plan to ODOT and Agency for approval of changes.
* Submit ODOT approved final fish passage plan to ODFW for review and concurrence; also submit plan to DSL.
* If ODFW requests changes to the plan, revise plan, get ODOT and Agency’s approval to changes, and resubmit plan to ODFW and DSL.
* Provide ODFW concurrence documentation to ODOT and Agency.
* Incorporate fish passage requirements and ODFW concurrence documentation into permit documents and Project PS&E as applicable.

**3.5.8 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

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

**3.5.9 Scientific Take Permit for Fish Salvage Operations**

Consultant shall obtain a Scientific Take Permit (“STP”) from ODFW) for fish salvage operations during Project construction. This task assumes no more than 1 STP and 1 fish salvage operation. [If there is in-water work for the Project and fish salvage will be necessary to facilitate the in-water work a Scientific Take Permit is required for the Fish Salvage Operations. Use this task if consultant will be obtaining STP for the Project.]

Consultant shall:

* Submit the application for 1 STP to ODFW.
* Obtain and provide to ODOT and Agency a copy of the approved STP for the fish salvage associated with the in-stream isolation area.
* Coordinate as necessary with ODFW and other regulatory agencies to comply with terms of the STP.
* Provide to ODOT and Agency required documentation in accordance with NMFS and ODFW guidance and regulations to conduct the fish salvage operations at the Project site.

**3.5.9 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

* + Copy of STP application (1 electronic MS Word copy) to ODOT and Agency for review per Task 1 Project Design Schedule
* Copy of the ODFW approved STP (1 electronic PDF copy) to ODOT and Agency within 14 calendar days of receipt from ODFW and prior to salvage operation.

## 3.5.9 Bird Protection

[This task is to ensure that Consultant work outlined in this SOW will be performed in compliance with laws that protect birds; this task does not cover bird management activities. In the uncommon event that a Consultant will be hired to manage birds under a Local Government Migratory Bird Permit, additional tasks are required. Note that it is an ODOT expectation, with the exception of the Local Government situation mentioned above, that active bird management will be performed by USDA APHIS Wildlife Services or ODOT biological staff on all Projects. If an exception to this expectation will be sought, contact the Migratory Bird Permit lead in the Geo-Environmental Section as soon as possible to discuss necessary actions.]

Consultant shall comply with laws that protect birds including the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, and state and federal ESA.

Consultant shall:

* Alert ODOT and Agency environmental staff and United States Department of Agriculture (“USDA”) Animal and Plant Health Inspection Service (“APHIS”) Wildlife Services personnel [if they are assisting on the Project] as soon as possible whenever an active bird nest is observed in the Project area.
* Avoid disturbing, relocating or removing active bird nests, the eggs, or chicks; if avoidance is not possible, stop all actions that may disrupt the nest and contact the APM. Do not resume work that may disrupt nesting until approved by the APM.
* Avoid prolonged activity near any active nest that might prevent parent birds from adequately caring for eggs and chicks, and that might negatively impact successful fledging; if avoidance is not possible, stop all actions that may disrupt the nest and contact the APM. Do not resume work that may disrupt nesting until approved by the APM.
* Avoid disturbing or removing vegetation from March 1 through August 31.

**3.6 Wetland and Water Resources**

Consultant shall research and prepare documentation necessary to satisfy the requirements of Section 404 of the Clean Water Act and Oregon’s Removal Fill Law (ORS 196.795-196.990).[If the Project Study Area (PSA) differs from the Project area described in Section A of this SOW, add the description of the PSA here.]

[Task 3.6.1 should always be a base task. Assess the following options to determine what tasks should be included in your Project:

**OPTION 1:** If you are certain that there are no wetlands or waters in or adjacent to your Project area, or they are present but you are certain they will not be impacted, make 3.6.1 base task and 3.6.2, 3.6.3, and 3.6.4 RESERVE tasks.

**OPTION 2:** If you are unsure if wetlands or waters are present in your Project area or unsure if they will be impacted, make 3.6.1 base task and 3.6.2, 3.6.3, and 3.6.4 CONTINGENCY tasks.

**OPTION 3:** If you are sure wetlands and waters are present in your Project area and will be impacted, make all tasks (3.6.1 through 3.6.4) BASE tasks]

**3.6.1 Wetland/Waters of the U.S./State Fieldwork and Determination Memo** [Delete “and Determination Memo” if OPTION 3 is selected].

Consultant shall complete a wetland field determination and ordinary high water mark “(OHWM”) demarcation for the Project Study Area (“PSA”).

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

Consultant shall:

* Determine wetland boundaries within the PSA in accordance with the criteria and methods described in the *1987 Corps of Engineers Wetland Delineation Manual (Environmental Laboratory Technical Report Y-87-1)* and appropriate Regional Supplements.
* Place flags in the field to show wetland and upland sample plot locations, and the wetland boundaries. Label and number the flags to identify their function. Consultant shall collect the flag locations with a GPS unit and provide data point locations to City/County/Survey Consultant. [Choose. Only use above sentence if someone other than Consultant responsible for this task is doing the survey work].
* Prepare sketch maps of approximate wetland boundaries with numbering of flags or stakes.
* Ensure that field methods used and data collected meet the U.S. Army Corps of Engineers (“USACE”) and DSL technical requirements for wetland delineations and ordinary high water demarcations. Collect and record wetland delineation data on approved wetland determination data sheets for possible inclusion with a wetland delineation report.
* Place flags in the field to show the OHWM elevation of all jurisdictional surface waters. Assess the OHWM elevation using ODOT accepted field indicators. The 2 year flood event elevation (calculated) may be used in the absence of field indicators. [This bullet will need to be modified if tidally influenced waters and estuary are present within the Project area. Included proper terminology to describe jurisdictional limits of tidal waters, the various estuary habitats, and a statement that tidal gages may be used in place of field indicators for the various jurisdictional tide elevations].
* Prepare sketch map of approximate OHWM boundaries concurrently with the wetland and OHWM field work with sequential numbering of flags or stakes to be provided prior to site survey for Project base mapping. [Verify that the Survey Task includes the scope language necessary to cover this effort. Modify terminology as necessary for tidally influenced areas].
* Consultant shall notify ODOT and Agency if wetlands are present and will be impacted.

If wetland(s) or waters(s) are impacted, Consultant shall collect field data during this task and use it for, and submit it with, the deliverables for Tasks 3.6.2, 3.6.3, or 3.6.4 as applicable.

[If **OPTION 1** is selected, use the following text and delete all text for Options 2 and 3. If Option 1 was not selected, delete this text and go on to Option 2 or 3].Consultant shall prepare one Wetland Determination Technical Memo. The memo must include:

* Description of the PSA;
* Summary of existing available information, noting the standard information that is not available (i.e., if no County soil survey coverage exists for the area, then it must be stated);
* Field reconnaissance methods;
* Results of field reconnaissance;
* Data Sheets;
* Color photographic record depicting on-the-ground conditions; and
* Sketch mapping depicting locations of wetlands or waterways within the study area.

**3.6.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

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

[If **OPTION 2** is selected, use the following text and delete all text for Options 1 and 3. If Option 2 was not selected, delete this text and go on to Option 3].Upon completion of the wetland and waters determination field work, Consultant shall assess bullets 1 through 4 below and determine which numbered bullet is the most appropriate for the Project based on the results of the wetland and waters field work. Consultant shall contact ODOT and Agency for concurrence on which of the four numbered bullets below to proceed with. Upon email concurrence from the ODOT and Agency, Consultant shall complete the deliverables described for the agreed upon numbered bullet below.

1. If **both wetlands and waters *are not present***, or, they are present and it has been determined by the design team and concurred with by ODOT and Agency that **both the wetland(s) and water(s) *will not* be impacted by the Project**, Consultant shall prepare one (1) Wetland Determination Technical Memo. The memo must include:
	* Description of the PSA;
	* Summary of existing available information, noting the standard information that is not available (i.e., if no County soil survey coverage exists for the area, then it must be stated);
	* Field reconnaissance methods;
	* Results of field reconnaissance;
	* Data Sheets;
	* Color photographic record depicting on-the-ground conditions; and
	* Sketch mapping depicting locations of wetlands or waterways within the study area.
2. If both wetlands and waters are present and it has been determined by the design team and concurred with by ODOT and Agency that the **wetland(s) *will be* impacted** by the Project and the **water(s) *will not* be impacted** by the Project, Consultant shall request that CONTINGENCY TASKS 3.6.2 and 3.6.3 be released. No Determination Memorandum is required; Task 3.6.2 and 3.6.3 will address wetlands and waters.
3. If both wetlands and waters are present and it has been determined by the design team and concurred with by ODOT and Agency that **the wetland(s) *will not be* impacted by the Project and the water(s) *will be* impacted by the Project**, Consultant shall request that CONTINGENCY TASK 3.6.4 be released.

Consultant shall prepare a Wetland Determination Technical Memo. The memo must include:

* + Description of the PSA;
	+ Summary of existing available information, noting the standard information that is not available (i.e., if no County soil survey coverage exists for the area, then it must be stated);
	+ Field reconnaissance methods;
	+ Results of field reconnaissance;
	+ Data Sheets;
	+ Color photographic record depicting on-the-ground conditions; and
	+ Sketch mapping depicting locations of wetlands or waterways within the study area.
1. If both wetlands and waters are present and it has been determined by the design team and concurred with by ODOT and Agency that **both the wetland(s) and the water(s) *will be* impacted by the Project**, Consultant shall request that CONTINGENCY TASKS 3.6.2, 3.6.3, and 3.6.4 be released. No Determination Memorandum is required; Task 3.6.2, 3.6.3, and 3.6.4 will address wetlands and waters.

**3.6.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

* Sketch map of approximate wetland and waters boundaries to ODOT and Agency (if present).
* Notification to ODOT and Agency (via email) if wetlands are present and will be impacted.
* Electronic copy (Word) of the draft Wetland Determination Technical Memo to ODOT and Agency for review. [TO BE COMPLETED ONLY IF CONTINGENCY TASKS 3.6.2 AND 3.6.3 ARE NOT RELEASED].
* Electronic copy (PDF) of the Final Wetland Determination Technical Memo to ODOT and Agency 2 weeks following receipt of draft review comments. [TO BE COMPLETED ONLY IF CONTINGENCY TASKS 3.6.2 AND 3.6.3 ARE NOT RELEASED].

[If **OPTION 3** is selected, use the following text and delete all text for Options 1 and 2. If Option 3 was not selected, delete this text and select either Option 1 or 2].

**3.6.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

* Flag the boundaries of wetlands and waters inside the PSA (if present).

**3.6.2 Wetland/Waters of the U.S./State Delineation Report CONTINGENCY TASK** (Requires separate NTP from APM)

[In Task 3.6.1, if OPTION 1 was selected, make this task RESERVED. If OPTION 2 was selected, make this task CONTINGENCY. If OPTION 3 was selected, make this task BASE TASK].Consultant shall prepare a Wetland/Waters of the U.S./Delineation Report (Wetland Delineation Report) in accordance with DSL and USACE requirements and standards. The Wetland Delineation Report must include all required information outlined in Oregon Administrative Rules (OAR) 141-090-035, as well as all wetland data sheets obtained in the field under Task 3.6.1.

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

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

 Agency will /Consultant shall [Choose] submit the Wetland Delineation Report to DSL and USACE. Agency will/Consultant shall [Choose] sign the wetland delineation report cover page. Agency will/Consultant shall [Choose] make payment of any associated fees. ODOT and Agency will review the draft Wetland Delineation Report and will provide comments to Consultant within 2 weeks [Change as needed] of receipt of the draft. Consultant shall make appropriate modifications to the draft Wetland Delineation Report in response to the comments and shall prepare the final for submittal.

**3.6.2 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

* Electronic copy (Word) of the Draft Wetland Delineation Report to ODOT and Agency for review per the schedule in Task 1.
* Electronic copy (PDF) of the Final Wetland Delineation Report to ODOT and Agency 2 weeks following receipt of draft review comments per the schedule in Task 1.
* Final Wetland Delineation Report to DSL and the USACE per the schedule in Task 1. [Delete if ODOT or Agency is submitting to DSL and USACE].

**3.6.3 Wetland Functional Assessment Report CONTINGENCY TASK** (Requires separate NTP from APM)

[In Task 3.6.1, if OPTION 1 is selected, make this task RESERVED. If OPTION 2 is selected, make this task CONTINGENCY. If OPTION 3 is selected, make this task BASE TASK].Consultant shall prepare a Wetland Functional Assessment Report if wetland impacts are unavoidable. The report must be submitted as a component of the Joint Permit Application to both USACE and DSL.

Consultant shall calculate wetland impact areas by wetland type, including permanent and temporary impacts, based on the wetland survey and Project design. If the impacted wetlands are classified under the Hydro geomorphic (“HGM”) classification as tidal or riverine impounding wetlands, or are within the slopes/flats subclass, the assessment must be conducted in accordance with the methodologies outlined in the appropriate guidebook for HGM-based assessments. Consultant shall assess all other wetlands using the methodologies outlined in the Oregon Rapid Wetland Assessment Protocol (“ORWAP”). The Best Professional Judgment method (“BPJ”) may be used if impacts to non-tidal wetlands do not exceed 0.2 acre.

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

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

ODOT and Agency will review the draft Wetland Functional Assessment Report and provide comments to Consultant within 2 weeks of receipt of the draft. Consultant shall make appropriate modifications to the draft report in response to the draft document comments.

**3.6.3 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

* Electronic copy (Word) of the draft Wetland Functional Assessment Report to ODOT and Agency for review per the schedule in Task 1.
* Electronic copy (PDF) of the final Wetland Functional Assessment Report to ODOT and Agency 2 weeks following receipt of draft review comments.

**3.6.4 Stream Functional Assessment CONTINGENCY TASK** (Requires separate NTP from APM)

[In Task 3.6.1, if OPTION 1 is selected, make this task RESERVED. If OPTION 2 is selected, make this task CONTINGENCY. If OPTION 3 selected, make this task BASE TASK].Consultant shall complete a Stream Functional Assessment if impacts to non-wetland waters are unavoidable. The assessment must be function-based per the current DSL requirements outlined in OAR 141-085-0765(3). This must include an assessment of the current hydrologic, geomorphic, biological, and chemical and nutrient functions and values provided by all on-site non-wetland waters that will be impacted. The assessment must be subjective and qualitative, and must include a discussion of the anticipated changes in stream function and value post-construction to determine if a net gain, net loss, or no net change in the assessed functions and values will occur as a result of the Project. The results of the assessment must be included in the Joint Permit Application document prepared under Task 3.7.1.

**3.6.4 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

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

**3.7 Environmental Permits and Clearances**

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

**3.7.1 USACE/DSL Joint Permit Application (“JPA”) and DEQ Section 401 Certification**

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

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

Consultant shall:

* Prepare JPA for a USACE Section 404 Nationwide Permit or Individual Permit [Choose] and a DSL Individual Permit or General Permit or General Authorization [Choose], to authorize work within the jurisdictional waters and any wetlands found in the Project area.
* Provide pre submittal coordination with DEQ to inform them of the Project and verify requirements and documentation necessary to apply for Section 401 Water Quality Certification.
* Provide pre-submittal coordination with representatives of the USACE and DSL to confirm permitting requirements and application procedures. Conduct pre-submittal coordination by phone and email. No pre-submittal site visit will be required.[If a pre-submittal site visit is required due to complexity, delete the previous sentence and add the following] Consultant shall coordinate and attend one pre-submittal site visit with DSL and the USACE to discuss the Project and address the resource agencies concerns.
* Verify that features and impacts are correctly identified for the permit application.
* Prepare all JPA required drawings, maps, photographs, site descriptions, and any additional information required by DSL or the USACE for inclusion in the JPA. [Modify accordingly if Agency or other Consultant will provide figures for the JPA. It is anticipated that the APM and Consultant will provide more clarity if this is required. Add more Project specific information if required.]
* Prepare narratives and descriptions on Project purpose and need and Project alternatives using Project development information provided by Agency as necessary to complete the JPA.
* Respond to questions or comments raised by the USACE and DSL following the submission of the JPA. This task may include correspondence and clarification of the JPA in the form of telephone calls, letters, or e-mails, to clarify regulatory Agency concerns and to facilitate the issuance of the USACE and DSL permits for this Project. No regulatory Agency site visit or in person meetings will be required.[Modify accordingly if an in person meeting with the permitting agencies is expected following submittal of the JPA]
* Submit the complete JPA package to the DSL and USACE on behalf of Agency. [Delete if Agency will be submitting the JPA to the permitting agencies.]
* Submit to DEQ a copy of the complete Joint Permit Application, Stormwater Management Plan, and provide a transmittal letter to DEQ requesting Section 401 Water Quality Certification for the Project. If the Stormwater Management Plan is being developed by others, it will be provided by City/County [Choose between City/County, or delete sentence if consultant is developing the Stormwater Management Plan].

All required wetland and waters mitigation will be satisfied with Payment-to-Provide or purchase of mitigation bank credits. On-site or off-site compensatory wetland/waters mitigation coordination and planning will not be required. [If on-site mitigation is required (unlikely), delete the above two sentences and work with Consultant, ODOT and Agency to develop a separate task for a Compensatory Wetland Mitigation Plan]

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

**3.7.1 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

* Electronic copy of the Draft JPA Submittal Package to ODOT and Agency for review per Task 1 Project Design Schedule.
* Electronic copy (PDF) of the Final JPA Submittal Package to ODOT and Agency 2 weeks following receipt of draft review comments.
* Paper copy of the Final JPA Submittal Package to both the DSL and USACE 2 weeks following receipt of draft review comments. [Delete if Agency or ODOT will be submitting to the DSL and USACE]
* Paper copy of the Final JPA and Final Stormwater Management Plan to DEQ 2 weeks following receipt of draft review comments on the JPA. [Delete if Agency or ODOT will be submitting to the DEQ]

**3.7.2 Oregon Department of Environmental Quality (DEQ) 1200-C Permit Application**

[If you are certain the Project will have less than 1-acre of ground disturbance, make this a RESERVED task. If you are not sure, make this a CONTINGENCY task. If it is likely that ground disturbance will be over 1-acre, make this a BASE TASK. If your Agency has a 1200-CA Permit, then reserve this task].If the Project design results in an overall ground disturbance that is greater than one acre, a DEQ 1200-C Permit will be required.

Consultant shall provide pre-submittal coordination with representatives of the DEQ and Agency to confirm permitting requirements and application procedures. Consultant coordination includes correspondence in the form of telephone calls, e-mail, letters, and memos to document permit needs. Consultant shall assemble permit application materials including the application forms, plans, drawings, memos, details, and specifications to support the permit application.[Modify list above as necessary if Agency, ODOT or other consultant is responsible for some of the deliverables above]

Consultant shall provide support to successfully transfer the 1200-C permit to the eventual construction contractor by providing a detailed technical memorandum to Agency fully describing all steps, processes, and timeline to transfer the Permit to the Contractor.

Agency will/Consultant shall [Choose] be responsible for payment of any associated fees. Agency/Consultant [Choose] will acquire Agency’s Planning Department signature. Agency must be listed as applicant on the 1200-C application. [One visit to the local Agency’s Planning Department office is required to obtain Agency’s Planning Department signature if electronic signatures are not available. Delete if Agency is obtaining planning department signature]

**3.7.2 Consultant Deliverables and Schedule**

Consultant shall prepare and submit:

* Electronic copy of the Draft 1200-C Permit Application Package to ODOT and Agency for review per Task 1 Project Design Schedule.
* Electronic copy (PDF) of the Final 1200-C Permit Application Package to ODOT and Agency 2 weeks following receipt of draft review comments.
* 1200-C Permit Transfer Technical Memorandum to Agency per Task 1 Project Design Schedule