

SAMPLE WORK ORDER TEMPLATE - A&E

Revision History/Summary

(Click “Enable Content” if prompted when opening document to allow use of macros).

This WOC form is for use with PAs labeled “Architectural, Engineering and Land Surveying and Related Services” and PAs labeled “Professional Services and Related Services”.

- **Text highlighted in yellow provides instructions or guidance. Delete all highlighted instruction language prior to WOC execution.**
- **Areas with blue highlight should be reviewed and revised or deleted as necessary for this WOC.**
- The expiration date on page 1 should be 6 months beyond last due date for deliverables and include Project construction, if any, through completion of post-construction and warranty work, if required for the Project.
- The SOW must be created within the scope of services identified in the PA/RFP. Use a standardized, DOJ approved SOW template if one is available for the Services needed (check here: <https://www.oregon.gov/ODOT/Business/Procurement/Pages/SOW.aspx>) and include a schedule for delivery. If using a DOJ approved SOW template, keep in mind that inclusion of tasks that have not been reviewed and approved by DOJ or substantive revisions to the task and deliverable descriptions as contained in the template, will remove the WOC from the class exemption and the WOC will require legal sufficiency approval if it exceeds thresholds stated in OARs. **If standardized templates are used, do not revise the task numbering used in the template.**
- **Standardized Section Headings.** The section headings throughout the WOC are standardized. Please do not change order or Section heading names (including the assigned alpha-formatting). For example, Section H should always be “Compensation”, even if it is determined that some of the earlier sections are not needed. If there are sections that are not applicable to your WOC, delete the provisions of the section but leave the main section heading and enter “RESERVED” following the heading. Subheadings in sections may be deleted or revised per -specific needs.
- **DBE Goals** - For FHWA-funded A&E and Related Services over \$100,000, DBE goals will be determined per the goal assignment methodology included on the PSK Request form (completed by business partner).
- **Aspirational Targets (see Exhibit K):** The standard Certified Small Business Aspirational Target (AT) for all non-A&E PSK and A&E and Related Services contracts/WOCs over \$100,000 (**that do not include federal funding**) is 12%. This percentage is entered by the PCS in the RFP and in the table on page 1 of the contract/WOC. It does not require submittal to OCR for concurrence/approval. However, **an email with a hyperlink to the final contract or WOC must be sent to OCR’s PSK goals and info email box (ocr.psk@odot.state.or.us)** notifying them of the AT assignment. **Include the Contract or PA and WOC number on the subject line of the email.** [To hyperlink to a document on G:drive, select Insert, Hyperlink, Existing File or Webpage, then use dropdown to browse and select correct file. Links to G:drive docs will not work for recipients that do not have G:drive access permissions. OCR does have access permission]. **Amendments:** If the initial NTE is under \$100,000 and it’s not expected to increase over \$100,000, no AT will be assigned initially, and if for some reason the NTE does grow to be over \$100,000, still no target will be assigned because AT assignment is a determination based on initial NTE and expectations for increases.
- **Small Purchases/Direct Appointments.** If FHWA funds are involved, follow Small Purchases process in [DP-OPO-037](#).

DELETE INSTRUCTIONS

- **Click button to** Deletes all Arial font instructions throughout the document. **Ensure Track Changes are turned on so the instructions will still be viewable after they are deleted** (until Track Changes are accepted).
 - **Note that macro buttons, like deleted text, will continue to appear** in the document until Track Changes are accepted, or they can be deleted with Track Changes turned off.
 - **After running macro, save the document as a “.docx”** (click on “File”, select “Save As”, select “.docx” from the “Save as type” dropdown menu). This disables macros before posting the document on ORPIN or emailing. Macros are for internal use to automate editing for routine changes in documents. They should always be disabled after use so firewall and antivirus apps on web and email servers do not block posting or transmission of the document. If you prefer to make all the edits manually and not run macros, just do the save-as “.docx” first and the macros will be disabled.

WORK ORDER CONTRACT # _____

PRICE AGREEMENT (“PA”) # _____

Project Name/Location: _____

This Work Order Contract (“WOC”) is entered into by and between the State of Oregon, by and through its Oregon Department of Transportation (“Agency” or “ODOT”), and _____ an [Enter the state of incorporation if consultant is a corporation] _____ corporation (“Consultant” or “Contractor”). This WOC incorporates by this reference:

- a. all of the Terms and Conditions contained in **Part II of** the above referenced PA;
- b. the provisions from the PA Exhibits with the exception of: **E, E.1, K, L;** [Leave “K” listed here as an exception if WOC includes any fed funding.] [Leave “L” listed here as an exception if PA includes Exhibit L and use of ProjectWise will not be required for this Project.]
- c. the attached Statement of Work and Delivery Schedule;
- d. **Attachment A - Acronyms & Definitions;** [Delete if not included as attachment at end of SOW]
- e. Attachment B - Breakdown of Costs (“BOC”) {except for Fixed-Price, file copy only};
- f. **Attachment C - DBE Provisions;** [Delete if no Federal Funding]
- g. **Attachment C.1 - Committed DBE Breakdown and Certification Form(s);** [If DBE goal is assigned to WOC, otherwise delete]
- h. **Attachment D - ProjectWise Network;** [Confirm applicability of ProjectWise for the Project with APM. If applicable and the ProjectWise Exhibit is not part of the PA, leave in this reference and insert the PW Exhibit attached to the WOC. Otherwise delete exhibit and references to PW.]
- i. **Attachment E – AASHTOWare Project Application** [Confirm applicability of AWP for the Project with APM. If applicable and the AWP Exhibit is not part of the PA, leave in this reference and insert the AWP Exhibit attached to the WOC. Otherwise delete exhibit and references to AWP.]

WOC EXPIRATION DATE: [Enter expiration date that is 6 months (or more) beyond the latest due date for deliverables. This does not change the performance schedule or due dates for deliverables. What it does is avoid unwanted expiration by allowing time for: 1) unexpected delays; 2) Agency review of deliverables [and Consultant revision if needed]; and 3) non-emergency processing of amendments for time extensions and statement of work revisions as needed.] _____. The required schedule for performance under the WOC is specified in the Statement of Work and Delivery Schedule.

DBE (WOC includes federal funds? Y <input type="checkbox"/> N <input type="checkbox"/>)	No DBE Goal [OR] DBE Goal: _____ %
Certified Small Business Aspirational Target (for State-only funded WOCs over \$100,000, including as amended; see PA Exhibit K): 12 % [Use 12% for all State-funded WOCs over \$100,000; Use “N/A” for WOCs with Fed funding] N/A	
Expenditure Account (“EA”) # _____	Fed Aid #: _____ [OR] N/A _____
ODOT Key # _____ [OR] N/A _____	
The Total Not-to-Exceed (“NTE”) amount for this WOC. This total includes: all allowable costs, profit, and fixed-fee amount (if any), shown in section H.4; and \$ _____ for contingency tasks, each of which must be separately authorized by Agency.	

This WOC is effective on the date it has been signed by the Parties and all required State of Oregon approvals have been obtained. No Payment shall be made for Services that are performed before: i) the WOC effective date and ii) a Notice-To-Proceed has been issued by Agency.

Certification:

- A. Any individual (the undersigned) signing on behalf of Consultant hereby certifies under penalty of perjury:**
- (1) Consultant has provided its correct taxpayer identification number to Agency for the above-referenced PA.
 - (2) Consultant is not subject to backup withholding because (a) Consultant is exempt from backup withholding, (b) Consultant has not been notified by the IRS that Consultant is subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified Consultant that Consultant is no longer subject to backup withholding.

(3) The undersigned is authorized to act on behalf of Consultant, the undersigned has authority and knowledge regarding Consultant's payment of taxes, and to the best of the undersigned's knowledge, Consultant is not in violation of any Oregon tax laws. For purposes of this certification, "Oregon tax laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321 and 323; and local taxes administered by the Oregon Department of Revenue under ORS 305.620.

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

- (1) Consultant has read, understands and agrees to comply with the requirements set forth in the PA and in all Exhibits and other documents incorporated by reference in the PA.
 - (2) Consultant understands and agrees that any exhibits or other documents not physically attached to the PA that are incorporated by reference have the same force and effect as if fully set forth herein.
 - (3) **[Check one of the following two certifications as applicable (the COI Guidelines and COI Disclosure Form are available at: <https://www.oregon.gov/ODOT/Business/Procurement/Pages/PSK.aspx>):**
 - (a) Consultant understands and has provided to all Associates the ODOT COI Guidelines and COI Disclosure Form. Consultant and (to the best of the undersigned's information, knowledge and belief) Consultant's Associates are in compliance with the COI Guidelines and have no conflicts of interest, no ODOT employees hired within the last two-year period, and no other disclosures required per the COI Guidelines and COI Disclosure Form. "Associate" has the meaning provided in the COI Guidelines.
 - (b) All disclosures required, per the COI Guidelines and COI Disclosure Form, for Consultant and (to the best of the undersigned's information, knowledge and belief) Consultant's Associates (as defined in the COI Guidelines) have been indicated on the Conflict of Interest Disclosure Form(s) submitted regarding this WOC, and if determined necessary by Agency, a mitigation plan has been approved by Agency.
- [Item (4) is required if any federal funding and if WOC, including as may be amended, will exceed \$100,000]**
- (4) (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this WOC, the undersigned shall complete and submit [Standard Form-LLL, "Disclosure Form to Report Lobbying,"](#) in accordance with its instructions.
 - (c) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
 - (d) Consultant shall require that the language of this certification be included in all subcontracts in excess of \$100,000 at all tiers and that all such subcontractors shall certify and disclose accordingly.
- [Item (5) is required for WOCs that will exceed \$150,000, including as may be amended, except as provided in 2017 HB3060.]**
- (5) Consultant has, and gives employees a written notice of, a policy and practice that meets the requirements described in ORS 279A.112. Such policy both prohibits, and prescribes disciplinary measures for, conduct that constitutes sexual harassment, sexual assault and discrimination against employees who are members of a protected class. Consultant agrees, as a material term of the WOC, to maintain the policy and practice in force during the entire WOC term (see [additional information and sample policy template](#)).
 - (6) Consultant has no undisclosed liquidated and delinquent debt owed to the State or any department or agency of the State.
 - (7) Consultant is an independent contractor as defined in ORS 670.600 and as described in [IRS Publication 1779](#).
 - (8) In the event that Consultant is a general partnership or joint venture, Consultant signature(s) on this WOC constitutes certifications to the above statements pertaining to the partnership or joint venture, as well as certifications of the above statements as to any general partner or joint venturer signing this WOC.

Electronic Signatures. The Parties agree that signatures showing on PDF documents, including but not limited to PDF copies of the PA, WOC and amendments, submitted or exchanged via email are "Electronic Signatures" under ORS Chapter 84 and bind the signing Party and are intended to be and can be relied upon by the Parties. Agency reserves the right at any time to require the submission of the hard copy originals of any documents.

[Revise signature lines as necessary for this WOC. Delete Deputy Director signature line if not required. Expenditure authority signature was provided on PSK request form.]

CONSULTANT: _____

Signature & Title

Date

DOJ LEGALREVIEW for ODOT: (Approved by _____ via email dated _____) or (Not required per _____)

ODOT (Procurement Authority)

Signature

Print Name

Date

STATEMENT of WORK and DELIVERY SCHEDULE

for

WOC # _____ under PA # _____

Project Name

Name: Address: Phone: Fax: Email:	Agency’s Project Manager (“APM”) for the WOC [Enter name of APM for the WOC. The APM is responsible for the day-to-day oversight and review of Consultant Services/Deliverables. The APM may or may not also be named as the WOC Administrator.] _____@odot.state.or.us	Name: Address: Phone: Fax: Email:	Consultant’s Project Manager (“PM”) for the WOC _____@_____.com
Name: Phone: Email:	Agency’s Contract Administrator for the WOC [The ODOT individual responsible for administration of the WOC must be identified.]	Name: Phone: Email:	Alternate Contact for Consultant [this information is optional]

Agency may change the APM designation, Agency’s address for invoicing (section H.5), or both by promptly sending written notice (e-mail notice or electronic amendment acceptable) to Consultant, with a copy to ODOT Procurement Office. Changes to Agency's Contract Administrator for the WOC must be done by amendment or electronic amendment. Any changes to Consultant’s Project Manager must be approved in writing (e-mail acceptable) by Agency. Consultant shall provide written notice (email acceptable) to Agency of any changes to Consultant’s other contacts for this WOC.

A. PROJECT DESCRIPTION and OVERVIEW of SERVICES

Agency is contracting with Consultant for Services in connection with the following public improvement or public works project (the “Project”):

[Insert a detailed description of the Project with which Consultant's Services are connected. State the purpose/scope of the services Consultant will be performing (not the specific tasks and deliverables), Project objectives and Project background information. If it will help the reader or parties to better understand the Project, include brief background information such as how the Project came about, why it is needed, who is involved, and what is to be achieved through this Project.]

Phases of Services [Revise as necessary or delete if not applicable.]

The contracted Services will be a phased development as follows:

- Phase I – Design Acceptance
- Phase II – Final Design
- Phase III - Construction Contract Administration, Construction Engineering and Inspection

Following completion of a given phase, Agency may, at its discretion:

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

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

Construction Budget [Agency's budget for the construction contract must be entered below if this WOC includes, or will include in future phases, preparation of design plans. If not applicable, delete this Construction Budget subsection. See Price Agreement Part II, Section 6.c – Design Within Funding Limit for Consultant requirements for design and notification of budget deficiencies. If Consultant believes construction budget is insufficient, they must demonstrate this to Agency prior to significant development of design.]

The estimated construction contract price for the Project described in this WOC is \$ _____.

Agency Responsibilities

[Enter items provided or completed by Agency, if any – delete if none.]

Acronyms and Definitions

[Include here (or at the end of SOW as Attachment A) a table of definitions for acronyms and technical terms if many are used throughout SOW. Delete whichever is not used (this subsection or the Attachment A section for acronyms and definitions).]

B. STANDARDS and GENERAL REQUIREMENTS

- The provisions in section B are approved by Tech Services. **Do not replace applicable provisions with outdated Standards and General Requirements copied from previous contracts/WOCs or SOW "templates"**.
- Revise or delete blue highlighted provisions in sections 1.a through 7 per the instructions in each subsection.
- If only the caption is highlighted in blue, do not revise the provision; however the entire provision may be deleted if not applicable.

1. Standards

The standards, manuals, directives and other guidance applicable to Professional Services and Related Services are referenced below or available on Agency's webpages linked below and are incorporated by this reference with the same force and effect as though fully set forth herein.

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

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

a. Planning, Survey, Preliminary Engineering and Design Manuals, Standards and Guidance:

[Revise or add to the following list as needed for applicable ref standards/manuals; delete list and enter "RESERVED" if not applicable.]

- **Technical Manuals - alphabetical list** (<https://www.oregon.gov/ODOT/Engineering/Pages/Manuals.aspx>)
- **Planning Guidance and Resources** (<https://www.oregon.gov/ODOT/Planning/Pages/Guidance.aspx>)
- **Planning Analysis** (<https://www.oregon.gov/ODOT/Planning/Pages/Technical-Tools.aspx>)

- **Geo-Environmental Guidance** (<https://www.oregon.gov/ODOT/GeoEnvironmental/Pages/Guidance.aspx>)
- **Geometronics Resources & Guidance** (<https://www.oregon.gov/ODOT/ETA/Pages/OCRS.aspx>)
- **Surveying Manuals & Resources** (<https://www.oregon.gov/ODOT/ETA/Pages/Surveying.aspx>)
- **Bridge Standards & Manuals** (<https://www.oregon.gov/odot/bridge/pages/index.aspx>)
- **Engineering Guidance** (<https://www.oregon.gov/ODOT/Engineering/Pages/Eng-Guidance.aspx>)
- **Standard Drawings and Details** (<https://www.oregon.gov/ODOT/Engineering/Pages/Standards.aspx>)
- **Technical Guidance** (<https://www.oregon.gov/ODOT/Engineering/Pages/Technical-Guidance.aspx>)
- **Access Management Manual & Guidance** (<https://www.oregon.gov/odot/engineering/pages/access-management.aspx>)
- **Project Delivery Guide & Forms** (<https://www.oregon.gov/ODOT/ProjectDel/Pages/Project-Delivery-Guide.aspx>)
- **Oregon Standard Specifications for Construction** (https://www.oregon.gov/ODOT/Business/Pages/Standard_Specifications.aspx)
- **ODOT Forms Library** (<https://www.oregon.gov/ODOT/Forms/Pages/default.aspx>)

[Include the following ADA language, three paragraphs, in all contracts/PAs. Additionally, environmental/cultural-resources compliance is critical when making/modifying ramps. Tasks or contingency tasks should be included in the statement of work if there will be ground disturbance with the potential to unearth archaeological/cultural artifacts. This needs to be considered prior to the initiation of construction, not after.]

- **ADA Compliance – Assessment, Design, Inspection.** When the Services under this WOC include **assessment or design (or both)** for curb ramps, sidewalks or pedestrian-activated signals (new, modifications or upgrades), Consultant shall:
 - a. Use ODOT standards to assess and ensure Project compliance with the Americans with Disabilities Act of 1990 (“ADA”), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards; and
 - b. Follow ODOT’s processes for design, modification, upgrade, or construction of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form.

When the Services under this WOC include inspection of curb ramps, sidewalks or pedestrian-activated signals (new, modifications or upgrades), all such inspections shall include inspection for compliance with the standards and requirements in a. and b. above. Inspections must be performed by ODOT certified inspectors (which must include certified environmental inspectors when appropriate). In addition, at Project completion, Consultant shall complete the applicable ramp-specific ODOT Curb Ramp Inspection Form 734-5020(A-G) for each curb ramp constructed, modified, upgraded, or improved as part of the Project. Each completed form must be submitted electronically by clicking the “Submit by E-mail” button on the form (and cc APM). The forms are documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT’s fillable Curb Ramp Inspection Forms and instructions are available at the following address: <https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>

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

[Delete the following if not applicable:]

- **Green Energy Technology:** For public buildings, if green energy technology is determined to be appropriate, designs must include green technologies based on at least 1.5% of the construction costs (see ORS 279C.527 and 279C.528 for applicability and reporting requirements).

[List here any other applicable standards for planning, PE or design Services.]

[Include the following ODOT Web Standards language whenever an ODOT WOC includes consultant tasks for development or maintenance of websites or web content related to ODOT projects or programs; otherwise delete. Contact Sally Ridenour if an exception to the ODOT Web Standards is necessary for the Project.]

b. Website or Web Content Development and Maintenance Standards

Consultant shall perform all required web-related Services in conformance with the **ODOT Web Standards** (available at: <https://www.oregon.gov/ODOT/Pages/Web-Toolkit.aspx>), which is incorporated into this PA with the same force and effect as though fully set forth herein. ODOT shall have ownership and control of Work Products developed by Consultant as set forth in the terms and conditions of the PA, Part II, Section 7 - Ownership of Work Product.

[Leave in the following if SOW includes any tasks for public involvement/outreach or communications on behalf of ODOT.]

c. ODOT Communications Standards

For any Consultant tasks that require communications functions on behalf of Agency, Consultant shall comply with the ODOT Communications Standards (available at: <https://www.oregon.gov/ODOT/Pages/Web-Toolkit.aspx>) which is incorporated into this WOC with the same force and effect as though fully set forth herein.

2. Design Criteria and Project Assumptions/Conditions.

[List any design criteria and Project assumptions/conditions not included in the SOW tasks.]

3. Software Requirements

In addition to the software requirements set forth in the PA, the following shall apply to this WOC:

- **ProjectWise.** Use of ODOT’s ProjectWise network is required for this Project (see Attachment D). [Confirm applicability with APM. If not applicable, delete this requirement, Attachment D and reference to ProjectWise Provisions on page 1.]
- [List other software/apps required]

4. Professional Licenses, Registrations and Qualifications

[List any professional licenses, registrations and qualifications requirements applicable to the WOC that are not set forth in the PA; otherwise delete this section].

5. General Requirements

[Quality Plan is required for all design and related services performed by Consultant]

- **Quality Plan for Professional Services and Related Services-** A Quality Plan (“QP”) must be approved and on file with Agency before design and related Services may be provided under the WOC. The QP must be “consistent with requirements of Agency’s “Guidance/Template for Consultants” available online at: https://www.oregon.gov/ODOT/Business/Documents/Consultant_Quality_Plan_Model.doc. Consultant shall ensure quality assurance and quality control is performed in conformance with the approved QP on all Services and deliverables provided under the WOC.
- **Endorsement of Data.** Consultant shall place their official Oregon Registered Engineer seal and signature on all engineering design drawings and specifications furnished to ODOT, as well as any

other materials specified in ORS 671.025, 671.379, 672.020(2), 672.025(2), 672.028(2) and 672.605, as applicable, that require such seal and signature.

- **Electronic Documents, Digital Seal and Signature.** If required under the WOC, Consultant shall use ODOT's ProjectWise Network (see Exhibit L) for electronic submittal and receipt of files as necessary for the Project. All final documents identified in ORS 671.025, 671.379, 672.020(2), 672.025(2), 672.028(2) and 672.605, as applicable, must bear the digital seal and signature of the Oregon registered professional under whose supervision and control they were prepared. Documents must be submitted in the format specified in the WOC for each deliverable and must comply with OAR 804-030, OAR 806-010, OAR 809-050 and OAR 820-025 requirements, as applicable, for digital seal and signature capable of independent verification, final and draft documents, modifications to designs, and dual stamping of documents.
- **Safety Equipment.** Consultant shall provide and use all safety equipment including (but not limited to) hard hats, safety vests and clothing if required by State and federal regulations and ODOT policies and procedures for the Services under the WOC.
- **Personnel, Materials, and Equipment.** Consultant shall provide competent personnel and shall furnish all supplies, equipment, tools, and incidentals required to accomplish the work. All equipment and tools must be in good operating condition and shall be kept in proper adjustment throughout the duration of the WOC. All materials and supplies must be of good quality and suitable for the assigned work.
- **Access to ODOT Right-Of-Way.** Consultant shall notify and coordinate with Agency District Manager, or Assistant District Manager, having jurisdiction over the Project area at least 48 hours in advance of needing to be on-site. Consultant shall not begin on-site work until approval is received from the district. Consultant shall reschedule the on-site work if requested by the district.

Oregon Department of Transportation
District 3
885 Airport Road SE, Building P
Salem OR 97301
District Manager – Cole Mullis
Assistant District Manager – Tim Swift
503-986-2900

[Include the following if this language is not included in the PA and if it's applicable to the Project.]

- **Temporary Protection and Direction of Traffic.** When a field crew is working on (or within 30 feet of) a travel lane, Consultant shall protect the crew and warn approaching traffic by providing safety equipment and temporary traffic controls conforming to a stamped and approved traffic control plan or the 2011 Oregon Temporary Traffic Control Handbook (https://www.oregon.gov/ODOT/Engineering/Docs_TrafficEng/OTTCH-v2011.pdf), for operations of 3 days or less. Consultant shall plan, coordinate and get approval of all work zone activity as outlined in the Mobility Procedures Manual. (<https://www.oregon.gov/ODOT/MCT/Documents/MobilityProcedureManual.pdf>).

[Include the following in all WOCs]

- **State Owned Assets.** All State owned assets, if any, in Consultant's possession must be promptly returned to Agency when the Services are complete, when the WOC is terminated, or when requested by Agency, whichever occurs first.

6. **Compliance with Applicable Law** (in addition to those identified elsewhere in the PA.)

[If there are any applicable federal, state or local laws with respect to the Services in addition to the laws identified elsewhere in the PA, identify them here. If none, delete this section.]

7. NEPA Related Requirements [This language is required for all FHWA-funded contracts/WOCs that include:

- o preliminary and final design services in a single contract for a project with pending NEPA decision documents;
- o NEPA Document preparation, preliminary engineering, final design and/or CA/CEI services in a single contract; or
- o final design services under a single contract for which the final design solicitation will be published prior to the NEPA decision date.]

a. NEPA Decision Documents and Final Design

Agency is not obligated to proceed with final design for any alternative; all reasonable alternatives will be evaluated and given appropriate consideration, and Consultant may not proceed with final design until the relevant NEPA decision documents have been issued.

The following provision is required if NEPA Document preparation is combined with preliminary engineering, final design and/or CA/CEI services:

b. NEPA Document Objectivity

If Agency concludes, at any time during the term of the WOC, that the Environmental Impact Statement, Environmental Assessment or Categorical Exclusion (as applicable) was not prepared with objectivity in accordance with 23 USC 112 (f), Consultant and its Affiliates shall not be eligible to complete the remaining tasks associated with the WOC.

The following applies if the WOC includes preparation of EIS, EA or Cat-Ex.

c. Preparation of EA, EIS or Categorical Exclusion

If a consultant is awarded a contract to prepare an Environmental Impact Statement, Environmental Assessment or Categorical Exclusion for a project, that consultant and its Affiliates may prepare the designs/plans/specifications for the project or may propose under a separate solicitation to prepare designs/plans/specifications for the project only if Agency concludes that the NEPA document was prepared with objectivity. Agency is not obligated to proceed with final design for any alternative. All reasonable alternatives will be evaluated and given appropriate consideration, and consultant may not proceed with final design until the relevant NEPA decision documents have been issued (e.g., Categorical Exclusion, Finding of No Significant Impact, or Record of Decision).

C. REVIEW, COMMENT and SCHEDULE OVERVIEW

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

D. FORMAT REQUIREMENTS

- Consultant shall use ProjectWise for electronic submittal and receipt of files as necessary for the Project (see PA Exhibit L [OR] WOC Attachment D).
- Consultant shall submit draft deliverables in electronic format via email (and hard copy if requested).
- Consultant shall also submit all graphic files accompanying reports separately in .jpg or .tif formats unless specified differently by Agency.
- Each draft and final text-based or spreadsheet-based deliverable shall be provided in MS Office file formats (i.e., MS Word, Excel, etc.) and must be fully compatible with version used by Agency.
- Additional format requirements may be listed with specific tasks/deliverables in the SOW or in the PA.

E. TASKS, DELIVERABLES and SCHEDULE

Unless the WOC is terminated or suspended, Consultant shall complete all tasks and provide all deliverables (collectively, the “Services”) included in this WOC and in accordance with the performance requirements and delivery schedules included in this WOC. For purposes of standardization, the task numbering in this SOW may be non-sequential. [Recommended standardized task numbering is available [here](#).]

The delivery schedule is listed under each task. [OR] The delivery schedule is consolidated in a table at the end of Section E.

[The delivery schedule for each deliverable may either be listed under each task or consolidated along with a summary list of Tasks/Deliverables in table at the end of the task section (shouldn't be in both places due to potential inconsistencies). Generally, it is helpful for contract administration purposes to have one consolidated delivery schedule that can be used as a checklist, especially if the SOW is more than 5 or 10 pages long.]

Invoice Preparation - may be listed as a task and/or deliverable (and may include costs in BOC) only if ODOT has on a file a signed [Certification of Invoicing and ODC Billing Practices](#) from Consultant that indicates invoice preparation is charged to each project and is not included in the firm's overhead. Firm's approved for invoice prep charges are identified in the [Billing Rate Share Drive](#) maintained by OPO. The invoice limitation does not apply to project status reports, which are a required deliverable to be submitted with monthly invoices.]

Quality Plans - Quality Plans for design phase must be approved by ODOT and on file for prime prior to providing design services under work orders. Preparation of Quality Plans is an overhead item applicable to all consultant design services for ODOT projects and not compensated as a task/deliverable in Work Orders.

1 _____

1.1 _____

Deliverables:

F. CONTINGENCY TASKS [Projects may have work that can reasonably be anticipated but may or may not be needed, depending on conditions that arise or change during a project period. This condition dependent work is considered to be contingency work and must be planned for in the SOW and budget.]

Any contingency tasks or deliverables in the SOW must be within the scope of Services of the PA. In the SOW, each contingency item must clearly be labeled as “Contingency” and must include a defined task, deliverable(s) and a schedule (normally listed as a number of calendar days from NTP for the contingency task). Enter contingency task headings and dollar amounts in the table below.

[If no Contingency Tasks, delete text and table below.]

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

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

Each contingency task is billable (up to the NTE amount identified for the task) only if specifically authorized per NTP. In the table below, the “NTE for Each” amount for a contingency task includes all

labor, overhead, profit, and expenses for the task. The funds budgeted for contingency tasks may not be applied to non-contingency tasks without an amendment to the WOC. The total amount for all contingency tasks authorized shall not exceed the maximum identified in the table below. Each authorized contingency task must be billed as a separate line item on Consultant's invoice.

Contingency Task Summary Table

Contingency Task Description	NTE for Each	Max Quantity	Method of Comp.	Total NTE Amount
1.3 Project Meetings	\$	3	FP	\$
1.4 Public Involvement Meeting(s)	\$	2	T&M	\$
3.2 Surface and Subsurface Soil Samples	\$	1	T&M	\$
Total for contingency tasks:				\$

G. ADDITIONAL PROVISIONS FOR WOCs

[Delete this section and mark as "RESERVED" if it does not apply. Otherwise, delete any individual provisions that do not apply and add any provisions (such as special insurance requirements not covered in Exhibit C of the PA). If the PA does not have the referenced Attachment 1 to Exhibit F, you will need to include the full text of the referenced provisions in the WOC.]

1. Project Cooperation. All Project Cooperation provisions, as detailed in Attachment 1 to PA Exhibit F, shall apply to this WOC.

2. Key Persons. All Key Persons provisions, as detailed in Attachment 1 to PA Exhibit F, shall apply to this WOC. Consultant acknowledges and agrees that Agency selected Consultant, and is entering into the WOC because of the special qualifications of Consultant's key personnel. In particular, Agency, through the WOC is engaging the expertise, experience, judgment and personal attention of the following Key Persons: [At minimum, Consultant's PM should be identified as a Key Person.]

Name	Role

In the event Consultant requests that Agency approve a re-assignment or transfer of a Key Person:

- Consultant shall provide a resume for the proposed substitute demonstrating that the proposed replacement has qualifications that are equal to or better than the qualifications of the person being replaced.
- Agency shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for the Key Person.
- Any substitute or replacement for a Key Person must be approved in writing (email acceptable) and shall be deemed to be a Key Person under the WOC.

Consultant agrees that the time/costs associated with the transfer of knowledge and information for a Key Person replacement is not a cost borne by Agency and shall not be billed to Agency. This includes labor hours spent reviewing Project and Services documentation, participation in meetings with personnel associated with the WOC/Project/Services, and participating in site visits to become familiar with the Project.

3. Staffing Adjustments. Consultant may make necessary staffing adjustments (other than Key Personnel) to the proposed staff (as shown in Consultant's BOC) provided:

- the alternate staff are appropriately qualified to complete the assigned tasks,
- any changes do not exceed approved billing rate maximums for the classification, and
- the Services can be completed without exceeding WOC (or task, if applicable) NTEs.
- Consultant shall email notice to APM prior to implementing needed changes to staffing assignments.

4. (Does not apply to fixed price or fixed price per unit type WOCs.) **Task Budget Monitoring.** The budget shown for each task is the best estimate at time of WOC (and Amendment, if applicable) execution. However, as work under the WOC progresses it may dictate that more funding be applied to some tasks and less to others. Consultant shall identify task budget refinements (within the limits of the not-to-exceed amount established for this WOC) on a monthly basis as part of the invoicing and status report.

[Include the following in WOCs unless the provisions are already set forth in the parent PA.]

5. Liquidated and Delinquent Debt Owed to State. In the event Consultant has liquidated and delinquent debt owed to the State of Oregon or any department or agency of the State, Agency may:

- Undertake collection by administrative offset, or garnishment if applicable, of all monies due for Services and Deliverables to recover liquidated and delinquent debt owed to the State of Oregon or any department or agency of the State. Offsets or garnishment may be initiated after Consultant has been given notice if required by law;
- Terminate the WOC, in whole or in part, immediately upon written notice to Consultant or at such later date as Agency may establish in such notice; or
- Pursue any or all of the remedies available under the PA, at law, or in equity.

These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever, to the extent the remedies are not inconsistent.

[Include the following Pay Equity provisions in all WOCs executed after 1/1/19 unless the PA (Exhibit B, section J) includes the provisions exactly as set forth below:]

6. Pay Equity Compliance

- **Discriminatory Wage Rates.** As required by ORS 279C.520, Consultant must comply with ORS 652.220 and shall not unlawfully discriminate against any of Consultant’s employees in the payment of wages or other compensation for work of comparable character on the basis of an employee’s membership in a protected class. “Protected class” means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, or age. Consultant’s compliance with this section constitutes a material element of the WOC and a failure to comply constitutes a breach that entitles Agency to terminate the WOC and the PA for cause.
- **Employee Discussions Regarding Compensation.** As required by ORS 279C.520, Consultant may not prohibit any of its employees from discussing the employee’s rate of wage, salary, benefits or other compensation with another employee or another person and may not retaliate against an employee who discusses the employee’s rate of wage, salary, benefits or other compensation with another employee or another person.

[**Special Insurance Requirements:** If there are any insurance requirements necessary for the project that are not listed in Exhibit C of the PA, include them here.]

H. COMPENSATION

Guidelines for selecting appropriate method of compensation, see Exhibit C of Negotiations Guide:
<\\scdata2\oponet\ProcurementManual\pmn01.pdf>

The method(s) of compensation and payment option(s) selected below (**and as specified for any Contingency Tasks in the table in Section F**) are incorporated from Exhibit B to the PA. For additional detail and requirements regarding compensation methods, payment options, or Agency’s right to withhold retainage, see PA - Exhibit B, Compensation. No compensation is provided to Consultant for negotiations, preparing or revising cost estimate for Services, or negotiating contracts with subcontractors. [The following sentence normally applies to phased development projects where each phase is done with a standalone SOW; delete if not applicable.] Note: Some tasks (e.g., Project Management for Services) will be ongoing throughout the performance of the WOC; however, all tasks are only budgeted for the level of effort applicable to the current phase of the WOC.

H.1 Non-Contingency Tasks [Unused options may be deleted]

The method(s) of compensation for non-contingency tasks in this WOC is:

- [Note: CPFF does not apply to non-A&E WOCs.] -Cost-Plus-Fixed-Fee with not-to-exceed (“CPFF”) see Section H.3
- Fixed Price (includes all labor costs, overhead, profit, travel and other expenses)
- Fixed Price (including all expenses except travel). Approved travel expenses will be reimbursed at the rates provided in PA Exhibit B, Section B (Travel) up to the Travel NTE Amount identified in Section H.4, Compensation Summary Table)
- Fixed Price Per Deliverable (includes all labor costs, overhead, profit, travel and other expenses)
- Fixed Price per Milestone for all non-contingency Services (includes all labor costs, overhead, profit, travel and other expenses)

[For Fixed Price per Deliverable or Milestone, complete the following table and add rows as needed. For multiple iteration deliverables, such as meetings for example, include the fixed unit prices and quantity.]

Fixed Price Per Deliverable/Milestone Table [Delete table if not applicable]

Task	Deliverable	Fixed unit price	Max Quantity	Total
1.2	Monthly Status Report	\$ 150	14	\$ 2100
1.3	Project Meetings	\$ 300	10	\$ 3,000
1.4	Public Involvement Meetings	\$ 1250	3	\$ 3750
2.1	Draft Detailed Noise Mitigation Analysis			\$ 4,150
2.2	Final Detailed Noise Mitigation Analysis			\$ 850

- Fixed Price per other [Describe alternate method of fixed price compensation.]
- Time and Materials with Not-To-Exceed (“T&M”)
- Price Per Unit Price Per Unit detail is provided in the following table:

Price Per Unit Table [Delete table if not applicable]

Task No. and Unit Description	Price Per Unit	Max Quantity	NTE per item
Total NTE			

(Enter this amount in section H.4, Line 5 of the Compensation Summary Table):	
---	--

[Fill in fields in next paragraph if using more than one compensation method. Delete "Mixed Method of Compensation" paragraph (blue highlighted text) if using only one method.]

Mixed Method of Compensation

The methods of compensation for non-contingency tasks in this WOC are:

- CPFF for the following tasks: _____
- Fixed Price for the following tasks: _____
- T&M for the following tasks: _____
- Cost reimbursement for allowable travel expenses. The NTE amount for travel expenses is entered in section H.4, Compensation Summary Table
- Price Per Unit detail is provided in the above Price Per Unit Table.

The dollar amount(s) for non-contingency tasks is entered in Section H.4, Compensation Summary Table.
--

H. 2 Payment Options (Except for Fixed Fee on CPFF WOCs - see H.3).

[For all WOCs, select the payment option below. If Cost-Plus-Fixed-Fee method is checked in H.1 (CPFF does not apply to non-A&E), select the progress payment option for reimbursement of the "Cost" portion of the budget below and identify "Fixed-Fee" payment option in Section H.3. If not using CPFF, delete blue highlighted text on heading of this section H.2.]

The payment option for the Services in the attached SOW is:

- Monthly Progress Payments for acceptable and verifiable progress (For costs on CPFF or T&M);
- Monthly progress payments for percentage of Services completed (For Fixed Price);
- Payment upon Milestone, Deliverable or other Unit completion;
- Single Payment for Full Completion of Services.

H.3 Fixed Fee (for CPFF). [Delete text and table below and mark Section H.3 as "Reserved" if not using cost-plus-fixed-fee method of compensation.]

The total Fixed Fee amount is entered in section H.4, Compensation Summary Table, line 2.
--

The Method for Payment of Fixed Fee is:

- Partial Payments** – the Fixed-Fee will be paid incrementally for completed deliverables or milestones. Identify milestones and dollar amounts in the following table:

Milestones/Deliverables	Milestone 1	Milestone 2	Milestone 3	Milestone 4
Fixed-Fee Increments	\$	\$	\$	\$

- Progress Payments** – the Fixed-Fee will be paid for accepted and verified progress based on an estimated percentage of completion of the Services and deliverables required under the WOC.
- Single Payment (Lump Sum)** - the Fixed-Fee will be one payment following completion and Agency acceptance of all required Services and deliverables.

Other – (Describe alternate method of fixed fee payment here.)

H.4 Total WOC NTE Amount

[The table below is used to show a summary of costs. Enter “N/A” on any of the line-items that are not applicable. If this is a Fixed Price WOC, travel costs are entered on line 4 only if travel is reimbursed at cost (up the travel NTE) and travel is not in the fixed price amount.]

	Compensation Summary Table	Amount
1. CPFF NTE Amount (not including Fixed-Fee or contingencies)	NTE Amount for allowable costs of non-contingency Services in this WOC. [This is the total amount for all allowable costs, not including the fixed-fee/profit amount.]	\$81,000
2. Fixed-Fee Amount	Total of non-contingency Fixed-Fee amount(s) (for CPFF only). [Basis for Fixed-Fee calculation: CPFF NTE amount (line 1 above) minus ODCs, labor costs for firms using NBRs (these rates already include profit), FCCM and costs for contingency tasks, if any, multiplied by profit rate negotiated using Agency’s Profit worksheet = Fixed-Fee Amount.]	4,000
3. Fixed Price Amount	Total of non-contingency Fixed Price amount(s)	N/A
4. T&M NTE Amount (or) Travel NTE Amount	Total for any non-contingency Services	N/A
5. Price Per Unit NTE Amount	Total NTE for non-contingency Price Per Unit Costs	N/A
6. Total Non-Contingency Amount (line 15 of BOC Summary tab):		\$85,000
7. Total for Contingency Tasks (if any) per Section F above:		\$0
TOTAL NTE (line 6 plus line 7) This amount includes all direct and indirect costs, profit, Fixed Fee amount (if any) and contingency task costs (if any).		\$85,000

[Also enter this amount on row A in the table on page 1 of the WOC.]

H.5 Invoices

Invoices must be in conformance with the ODOT Invoice Requirements and any other PA requirements. The Invoice Requirements is available on the Internet at:

<https://www.oregon.gov/ODOT/Business/Procurement/Pages/PSK.aspx>

Enter the correct email box address(es) in the blue highlighted field below -

- For Region 1 projects submit invoices to Region1ContractInvoices@odot.state.or.us and APM/LAL.
- For Region 2 projects submit invoices to: CIR2HQ@odot.state.or.us and APM/LAL.
- For projects in all other regions submit invoices to APM/LAL.

Consultant shall submit invoices electronically via email to _____.

[OCR has asked that the following language be included in all WOCs that include subcontractors. The form is already required in Exhibits E and K of the PA, but some firms are not submitting the form.]

H.6 Subcontractors “Paid Summary Report”

Consultant shall complete and submit to APM initial, interim and final [Paid Summary Reports](#) [form 734-2882] per the instructions on the form. Consultant must report payment information for all

subcontractors and suppliers used under the WOC throughout the period of performance. **This reporting is required for all projects that include subs, regardless of funding source or whether or not a DBE goal or Certified Small Business Aspirational Target is assigned.**

WOC ATTACHMENTS

ATTACHMENT A – ACRONYMS & DEFINITIONS

[Revise table as needed for acronyms and technical terms if many are used throughout SOW. If a definitions table is included elsewhere in the SOW, the following list can be deleted and Attachment A labeled as RESERVED.]

Agency – Oregon Dept. of Transportation	NTP – Notice to Proceed
APM – Agency’s Project Manager for WOC	ODOT – Oregon Department of Transportation
BOC – Breakdown of Costs	ORS – Oregon Revised Statute
CPFF – Cost Plus Fixed Fee	PA – Price Agreement
DBE – Disadvantaged Business Enterprise	PM – Consultant’s Project Manager for WOC
FP – Fixed Price	SOW – Statement of Work
	T&M – Time and Materials
NTE – Not to Exceed	WOC – Work Order Contract

ATTACHMENT B - BREAKDOWN OF COSTS FOR SERVICES (BOC)

- For T&M and CPFF, use option 1 below to incorporate, option 2 to insert files as objects, or option 3 to paste rate schedules and BOC in WOC (overhead schedules should never be inserted in WOC). **Note: When emailing for fax signatures on CPFF or T&M WOCs, the BOC is not required to be pasted into the WOC and may be sent in the email as a separate attachment.**
- If Option 2 is used, also place a copy of the BOC and rate schedules used in the cost data folder for the WOC. This option may be suitable for small WOC without multiple rate schedules or where only NBRs are used.
- For Fixed-Price, rate schedules and BOC are kept in WOC file but not incorporated in WOC.
- Delete whichever optional paragraph below is not used.

[Option 1] The Breakdown of Costs (BOC) dated _____ is not physically attached but incorporated into this WOC by this reference with the same force and effect as though fully set forth herein. A copy of the final BOC has been provided to Consultant prior to WOC execution.

[Option 2] The BOC approved for this WOC is inserted below.

[Instructions re BOC:

BOC, BOC-CPFF or BOC-NBR?

- If the estimate includes labor costs based on ESR rate schedules (or a mix of ESRs and NBRs), then prepare cost estimate using Agency’s standard BOC or BOC-CPFF spreadsheet, as applicable;
- If the estimate is based solely on NBR schedules, then prepare the cost estimate using Agency’s “BOC-NBR” spreadsheet.

The above templates are available at the following link: available at the following link:

<https://www.oregon.gov/ODOT/Business/Procurement/Pages/PSK.aspx>

The Breakdown of Costs (BOC) from Consultant **must be submitted for all methods of compensation** and must identify:

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

- b) an itemization with documentation (estimates from vendors shall be provided upon request) to support rental equipment, flaggers, travel and other direct non-labor expenses; and
- c) the estimate for services as provided by each subcontractor that shows the assigned staff (classifications, and names if requested) and hours per task and sub-task and itemized direct non-labor costs. Agency may ask for qualifications of any staff assigned to work on a project if they were not included in Statement of Proposal originally submitted for solicitation.
- d) classification averages, direct salary rate, Escalated Salary Rate (ESR) or Negotiated Billing Rate (NBR) and current accepted multipliers of OH, FCCM and Profit Fee as appropriate.
- e) Certification status of any disadvantaged business enterprise, minority-owned business, woman-owned business, service-disabled veteran-owned business or emerging small business subcontractors included in the estimate.
- f) **Contingency Task Costs.** Amounts for any contingency tasks must be shown as a separate line-item for each task. The amount for a contingency task must include all labor, overhead, profit, and expenses for the task. Expenses for contingency tasks must not be included in an overall amount for ODCs applied to the budget for the non-contingency tasks. Enter the agreed to unit and extended amounts for contingency tasks in the Contingency Task Summary table.

Notes:

- Provide to Consultant [BOC, BOC-CPFF or BOC-NBR](#) form as applicable for the Services.
- The BOC must be submitted without profit included (profit will be negotiated following agreement on the SOW, labor costs and expenses; except when using NBRs).
- Cost estimates must be developed using approved labor rates and allowable expenses as described in the PA, Exhibit B.
- No mark-up is permitted on subcontractors (unless Agency's Procurement Office notifies Consultant otherwise in writing).
- No mark-up is permitted on ODCs.

[DBE Provisions: If WOC includes FHWA funding, include either the "Goal" or "No Goal" DBE Provisions as applicable and delete the other. **Note: DBE goals are not set for FRA or FTA funded contracts, but the standard "no goal" DBE provisions must be included.**

If no federal funding, delete both sets of DBE provisions and mark as "RESERVED".]

[No-Goal: Applicable to federally funded WOCs when no goal is assigned for DBE participation]

ATTACHMENT C - DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROVISIONS (No Goal)

For purposes of these DBE Provisions, "Contract" means any project-specific contract, Price Agreement ("PA"), Work Order Contract ("WOC"), Task Order, or any other contract entered into with ODOT (or local agency when applicable). "Consultant" and "Contractor" are hereinafter referred to as "Contractor". See **section e for specific reporting requirements of Contractor.**

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

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

- b. **DBE Goals:** ODOT's overall goal for DBE participation is 15.37% for FHWA funded Contracts and 6% (proposed) for FTA funded Contracts. For FHWA funded contracting, ODOT may assign DBE Contract goals to increase participation by DBEs. For any Contract with an assigned DBE goal, Contractor shall select a portion of work available under the Contract for DBE participation. Contractor

may use DBE subcontractors, suppliers, manufacturers, or Professional Services and Related Services providers to fulfill the assigned DBE Contract goal as long as the DBE is certified in the types of work selected. The assigned DBE Contract goal remains in effect throughout the life of the Contract. Dollar values of participation shall be credited toward meeting the assigned DBE Contract goal based on DBE gross earnings.

A DBE participation goal has not been established for this procurement.

- c. Nondiscrimination Requirement:** Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this USDOT-assisted Contract. Failure by Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as ODOT deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- d. Prompt Payment and Retainage:** Contractor shall pay each subcontractor for satisfactory performance of its contract no later than 10 calendar days from receipt of each payment Consultant receives from ODOT (or local agency when applicable). In addition, Contractor shall return any retainage payments to each subcontractor within 10 calendar days after the subcontractor's work is satisfactorily completed.
- e. Reporting Requirements:** Contractor shall complete and submit initial, interim and final Paid Summary Reports [form 734-2882] per the instructions on the form. Contractor must report payment information for all subcontractors and suppliers used under the Contract throughout the period of performance.
- f. Commercially Useful Function:** For Contracts with no DBE goal assigned, ODOT may count race-neutral DBE participation toward its overall goal, provided the DBE is performing a commercially useful function ("CUF") as set forth in 49CFR § 26.55. A DBE performs a commercially useful function when it is responsible for execution of the work of the Contract/subcontract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. Additional detail regarding CUF requirements and other conditions for counting participation by DBE contractors is set forth in 49CFR § 26.55. ODOT may perform a CUF review at any time during the performance of the Contract.
- g. Termination of DBE Notification Requirement:** Contractor must promptly notify ODOT whenever a DBE subcontractor performing work related to this Contract is terminated or fails to complete its work. See additional requirements of 49 CFR § 26.53(f) regarding termination of a DBE.
- h. Remedies:** Contractor's failure to comply with these DBE Provisions and the requirements of 49 CFR Part 26 may result in one or more of the following administrative actions as deemed appropriate by ODOT: non-compliance documented in ODOT evaluation of Contractor performance, a corrective action plan prepared by Contractor, ODOT (or local agency when applicable) withholding of retainage, suspension of work, reporting of non-compliance to the federal System for Award Management ("SAM") available at <https://sam.gov/SAM/>, any other remedies provided under the Contract.
- i. Information/Questions:** The DBE program is administered by the ODOT Office of Civil Rights ("OCR"). Questions related to the DBE Program may be sent via email to ocrinforequest@odot.state.or.us or otherwise directed to: Oregon Department of Transportation Office of Civil Rights 3930 Fairview Industrial Drive SE (MS 23), Salem, OR 97302; Phone: 503-986-4350 Fax: 503-986-6382.
- j. Directory of Certified Firms:** A searchable database for active certified firms (by NAICS code, NIGP code, ODOT code, certification type, location or project ethnicity goals) is available on line at: <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>.

Related Web Sites:

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

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

Acronyms & Definitions for DBE Provisions

[If SOW section includes a definitions table and that table includes all of the following acronyms, then the following list can be deleted.]

APM	ODOT's or local agency's Project Manager for the WOC
CFR	Code of Federal Regulations
CUF	Commercially useful function
DBE	Disadvantaged Business Enterprise
OCR	ODOT Office of Civil Rights
ODOT	Oregon Dept. of Transportation
PA	Price Agreement
RFP	Request for Proposals
SSUR	Subcontractor Solicitation and Utilization Report
USDOT	United States Department of Transportation
WOC	Work Order Contract

[Goal: Applicable to federally funded WOCs with assigned DBE goals greater than zero]

ATTACHMENT C - DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROVISIONS A&E and Related Services (Goal)

For purposes of these DBE Provisions, "Contract" means any project-specific contract, Price Agreement ("PA"), Work Order Contract ("WOC"), Task Order, or any other contract entered into with ODOT (or local agency when applicable). "Consultant" and "Contractor" are hereinafter referred to as "Contractor". See sections d and i for specific documentation and reporting requirements of Contractor.

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

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

- b. **DBE Goals:** ODOT's overall goal for DBE participation is 15.37% for FHWA funded contracting and 6% (proposed) for FTA funded contracting. For FHWA funded contracting, ODOT may assign DBE Contract goals to increase participation by DBEs. For any Contract with an assigned DBE goal, Contractor shall select a portion of work available under the Contract for DBE participation. Contractor may use DBE subcontractors, suppliers, manufacturers, or Professional Services and Related Services providers to fulfill the assigned DBE Contract goal as long as the DBE is certified in the types of work

selected. The assigned DBE Contract goal remains in effect throughout the life of the Contract. Dollar values of participation shall be credited toward meeting the assigned DBE Contract goal based on DBE gross earnings.

- **A separate DBE Contract goal, as set forth on page 1 of the WOC or project-specific Contract (as applicable), has been assigned for this procurement.**

- c. **Nondiscrimination Requirement:** Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Contract. Failure by Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as ODOT deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR § 26.13(b)).
- d. **Documentation of Proposed Participation:** Contractor shall document sufficient DBE participation to meet an assigned Contract goal or, alternatively, document adequate good faith efforts to do so (see 49 CFR § 26.53). All work committed to a DBE firm toward meeting the assigned participation goal must be performed under a written subcontract. The subcontract must fully describe any work committed to be performed by the DBE and shall include all required flow-down provisions of the primary Contract. Contractor must complete and submit the following documentation, as applicable:
 - 1. **Subcontractor Solicitation and Utilization Report (SSUR)** – submitted with proposal in response to formal and informal Requests for Proposals (RFPs).
 - 2. **Breakdown of Costs (“BOC”), BOC-NBR or BOC-CPFF, as applicable** - submitted prior to negotiation and execution of the Contract and each amendment that changes the scope of work and costs under the Contract. The BOC forms and BOC Requirements are available from the Internet at: <https://www.oregon.gov/ODOT/Business/Procurement/Pages/PSK.aspx>. The BOC must clearly list any tasks or subtasks to be performed by subcontractors (DBEs and non-DBEs), each subcontractor’s Federal Tax ID and identification of any required personnel. Include in the Expense Detail tab any required equipment and supplies furnished by the DBE, any of the prime contractor’s resources that will be provided for the DBE’s use, and identification of any second or lower tier subcontractors with the dollar amounts for each.
 - 3. **Committed DBE Breakdown and Certification Form(s)-AE.** Required for all Contracts with assigned goals and completed prior to Contract execution and any proposed substitution. See submittal instructions on the form.
 - 4. **Subcontractor Reporting:** Complete and submit an initial **Paid Summary Report** [form 734-2882] per the instructions on the form.
- e. **Good Faith Efforts:** Contractor shall make good faith efforts, as set forth in 49 CFR § 26.53, Appendix A to Part 26, and ODOT DBE Program Plan, to obtain and support DBE participation that could reasonably be expected to produce and maintain a level of DBE participation sufficient to meet the Contract goal. Good faith efforts are required during solicitation, upon Contract award, and continue throughout the performance of the Contract to maximize DBE participation. The Agency (or local agency when applicable) Project Manager (“APM”) may request Contractor to submit evidence of good faith efforts prior to Contract execution or at any time during the course of the Contract and Contractor shall promptly submit such evidence. Contractor shall use the specific DBEs listed in the Committed DBE Breakdown and Certification form(s) to perform the work and supply the materials for which each is listed unless Contractor obtains ODOT’s prior written consent to terminate and replace a DBE as provided in section j. below. Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBEs as required by this provision.
- f. **Commercially Useful Function (“CUF”):** Contractor is responsible to ensure the DBE performs a commercially useful function on the Contract. A DBE performs a CUF when it is responsible for execution of the work of the Contract/subcontract and is carrying out its responsibilities by actually

performing, managing, and supervising the work involved. Additional detail regarding CUF requirements and other conditions for counting participation by DBE contractors is set forth in 49CFR § 26.55. The APM will review the proposed DBE participation and may provide written comments as to whether the activities and type of work identified for DBEs complies with program regulations. In those instances where proposed activity and type of work violates applicable regulations, written comments will be offered as to corrective action required in order to comply with the regulations. ODOT may perform a CUF review at any time during the performance of the Contract.

- g. Changes in Work Committed to DBE:** ODOT will consider the impact on DBE participation in instances where the prime Contract is amended to reduce, or delete work committed to the DBE. In such instances, Contractor shall not be required to replace the work but is encouraged to do so to the maximum extent practicable.
- h. Prompt Payment and Retainage:** Contractor shall pay each subcontractor for satisfactory performance under its contract no later than 10 calendar days from receipt of each payment Contractor receives from ODOT (or local agency when applicable) for the subcontracted work. In addition, within 10 calendar days of receipt of retainage from ODOT (or local agency when applicable), Contractor shall pay to each subcontractor the retainage that pertains to the work of that subcontractor.
- i. Reporting Requirements:** Contractor must report payment information for all subcontractors and suppliers used under the Contract throughout the period of performance. Contractor shall complete and submit initial, interim and final Paid Summary Report(s) [form 734-2882] per the instructions included on the form.
- j. Termination of DBE Notification Requirement:** Contractor shall comply with all requirements set forth in 49 CFR § 26.53 regarding termination of DBEs including, without limitation, documentation of good cause, 5-day notice to the DBE subcontractor and ODOT, DBE responses, ODOT's prior written consent of DBE termination, and replacement of DBEs. ODOT will provide such written consent only if it agrees the prime contractor has good cause to terminate the DBE in accordance with 49 CFR 26.53(f)(3).
- k. Remedies:** Contractor's failure to comply with these DBE Provisions and the requirements of 49 CFR Part 26 may result in one or more of the following administrative actions as deemed appropriate by ODOT: non-compliance documented in ODOT evaluation of Contractor performance, a corrective action plan prepared by Contractor, ODOT (or local agency when applicable) withholding of retainage, suspension of work, reporting of non-compliance to the federal System for Award Management ("SAM") available at <https://sam.gov>, any other remedies provided under the Contract.
- l. Information/Questions:** The DBE program is administered by the ODOT Office of Civil Rights ("OCR"). Questions related to the DBE Program may be sent via email to ocrinforequest@odot.state.or.us or otherwise directed to: Oregon Department of Transportation Office of Civil Rights 3930 Fairview Industrial Drive SE (MS 23), Salem, OR 97302; Phone: 503-986-4350 Fax: 503-986-6382.
- m. Directory of Certified Firms:** A searchable database for active certified firms (by NAICS code, NIGP code, ODOT code, certification type, location or project ethnicity goals) is available on line at: <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>.

Related Web Sites:

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

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

Acronyms & Definitions for DBE Provisions

[If SOW section includes a definitions table and that table includes all of the following acronyms, then the following list can be deleted.]

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

ATTACHMENT C.1 - COMMITTED DBE BREAKDOWN and CERTIFICATION FORM(s)-AE

[This section is required if DBE Goal is above zero; otherwise delete.]

- Include the above heading,
- Consultant completes a Committed DBE Breakdown and Certification Form-AE for each DBE subcontractor;
- Consultant signs and obtains DBE signature (a separate form is required for each DBE sub) and emails PDF of signed form(s) to recipients required per instructions on the form.);
- PCS confirms signed form(s) are placed in OCR folder per [DBE Goal Setting Process](#), and includes in the WOC the language below to incorporate the signed forms.

The signed Committed DBE Breakdown and Certification Form(s)-AE is not physically attached, but is incorporated into this WOC by this reference with the same force and effect as though fully set forth herein. Prior to WOC execution, Consultant shall email (per the submittal instructions on the form) a separate, signed Committed DBE Breakdown and Certification Form(s)-AE for each DBE subcontractor that will provide Services under the WOC.

**ATTACHMENT D - ODOT's ProjectWise Network
(December 2019)**

1. ProjectWise Access and General Requirements

Consultant shall include the provisions set forth in this Exhibit in any subcontract that will require subcontractor access to ODOT's ProjectWise network.

Consultant shall use ProjectWise for electronic submittal and receipt of files as necessary for the Project. Consultant employees, subcontractor employees, or other agents that will need access to ODOT's ProjectWise network must have an ODOT-approved ProjectWise account. Each individual that needs access must agree to the Terms and Conditions of Use set forth in the [External User Access Agreement – ODOT's ProjectWise Network form](#) as a condition of access to the ProjectWise Network.

Consultant shall submit a completed and signed form for every individual requiring access to ODOT for review and approval. Individuals with approved accounts will be provided access only to appropriate folders specific to the Project that they have been contracted to work on. Consultant, its subcontractors and each individual seeking or having access to ODOT's ProjectWise network shall follow the procedures provided in the [Contract Consultant and External User Roles, Responsibilities and Security Requirements – ODOT's ProjectWise Network](#) (as may be revised from time to time by ODOT).

Consultant shall promptly send notice to ODOT at ProjectWiseAdmin@odot.state.or.us to remove ProjectWise access for individuals that are no longer employed or that are reassigned or that otherwise no longer need access to ProjectWise for the Project. ODOT will send an attestation request to Consultant every 30 days (or such other period ODOT deems appropriate) to validate the list of individuals (including employees, subcontractor employees or other agents) with access to ODOT's ProjectWise network. Consultant shall respond in writing to ODOT within 3 business days of any such validation request.

2. Correct Use of ProjectWise

Any person approved for accessing and using ODOT's ProjectWise network on behalf of Consultant acquires the status of an "Account Holder". Consultant shall ensure each Account Holder: a) complies with the Terms and Conditions of Use set forth or incorporated in the External User Access Agreement – ODOT's ProjectWise Network form, and b) has appropriate training in the proper use of ProjectWise and follows the Contract Consultant and External User Roles, Responsibilities and Security Requirements – ODOT's ProjectWise Network. ODOT reserves the right to monitor Account Holder activity within ODOT's ProjectWise network and may suspend or terminate any Account Holder ODOT, in its sole discretion, determines to be in violation of the Terms and Conditions of Use.

3. Responsibility for ProjectWise Functioning

ODOT provides use of ODOT's ProjectWise Network "as is". ODOT does not warrant that the information or access thereto will be error free, uninterrupted or meet Consultant's needs, nor does ODOT make any representation or warranty regarding the accuracy or completeness of the information. ODOT is not responsible for any damage that may occur due to error, omission, lack of timeliness or any other cause, of the information contained on ODOT's ProjectWise network or other sites accessible from it. ODOT does not assume any responsibility for information added to the site by Account Holders. ODOT disclaims any liability arising from interferences or interruptions, viruses, telephone faults, malicious damage by third parties, electronic system downtime, overloading of the Internet or any cause beyond the

control of ODOT. ODOT reserves the right to temporarily suspend access to ProjectWise, without notice, because of maintenance, repair, or any other reason deemed necessary for the proper functioning of ODOT's ProjectWise network.

4. Liability

In no event shall the State of Oregon, the Oregon Transportation Commission and its members, ODOT, or their officers, agents and employees be liable for any claims, suits, actions, losses, liabilities, damages, costs and expenses, including attorney fees, of whatsoever nature, resulting from or arising out of Consultant's use of ODOT's ProjectWise network.

Consultant's indemnification, defense and hold harmless obligations under its Contract or Price Agreement with ODOT shall apply to the terms, conditions and requirements of this ProjectWise Exhibit and the acts and omissions of Consultant or its subcontractors, or their respective agents or employees, respecting ProjectWise.

5. Firewall, Virus and Malware

Consultant will at all times maintain an active and current firewall protection in place for Account Holders who are accessing and using ODOT's ProjectWise application. Consultant will at all times maintain an active and current Virus and Malware protection on the individual machines and network being used by Consultant to access ODOT's ProjectWise and shall ensure that such active and current Virus and Malware protection is maintained on machines and networks used for access to ProjectWise but not owned or controlled by Consultant. Whether external users are accessing ODOT's ProjectWise data through a company-owned or personally-owned machine, ODOT reserves the right to quarantine any infected files, documents or other items that are found to contain a virus, malware, adware or otherwise harmful component. Consultant shall immediately notify ODOT in the event of a breach or security concern at their company. ODOT reserves the right to suspend user accounts, consultant accounts, or both, if they contain harmful software. ODOT also reserves the right to require Consultant to clean devices of harmful software. In the event of chronic infections ODOT reserves the right to deny future access to ODOT's ProjectWise network.

6. Optional ProjectWise Add-on

Bentley Systems, Inc. ("Bentley") has developed an add-on for ODOT's ProjectWise network. The add-on is available for use by Consultant's employees, subcontractor employees, or other agents and users that have access to ODOT's ProjectWise network, but installation and use of the add-on is not mandatory. The add-on creates a hook for ODOT's required document name and description conventions, which eliminates the need for copying and pasting. The add-on is located between the Attributes and General tab of the document properties. By downloading or using this add-on, and as a condition of its use, Consultant understands and agrees that this add-on is provided for use "as is". Neither Bentley nor ODOT represents or warrants that access to or use of the add-on will be error free, uninterrupted or meet the user's needs. Neither Bentley nor ODOT is responsible or liable for any damage to any person or party that may occur due to error, omission, lack of timeliness or any other cause related to use of the add-on. Bentley and ODOT each expressly disclaim all responsibility and liability arising from interference or interruptions, viruses, telephone faults, malicious damage by third parties, electronic system downtime, overloading of the Internet or any other cause related to use of the add-on. Bentley and ODOT reserve the right to temporarily or permanently suspend access to this add-on, without notice. This add-on is not supported by Bentley or ODOT and users should consult their IT department before installing.

ATTACHMENT E - AASHTOWare Project Application

(March 2021)

1. AASHTOWare Project Application Access and General Requirements

Consultant shall include the provisions set forth in this Exhibit in any subcontract that will require subcontractor access to AASHTOWare Project Application (“AWProject”).

Consultant shall use AWProject for electronic submittal and receipt of data as necessary for the Project. As a precondition for access to AWProject, Consultant employees, subcontractor employees, or other agents must have an ODOT-approved ProjectWise account. For a ProjectWise account, follow processes under “Request Access” at <https://www.oregon.gov/odot/Business/Pages/ProjectWise.aspx>.

Each individual that requires access to AWProject must:

- Agree to the Terms and Conditions set forth in the [External User Access Agreement – AASHTOWare Project Application](#) (“EUAA”) and click the “SUBMIT” button to electronically submit a completed EUAA to ODOT (at AWPAdmin@odot.state.or.us) for review and approval, and
- Complete ODOT’s online training and certification requirements specified at <https://www.oregon.gov/odot/Business/Pages/AW-Estimation.aspx>.

Individuals with approved accounts will be provided access only to appropriate data and user screens specific to the Project that they have been contracted to work on. Consultant, its subcontractors and each individual seeking or having access to AWProject shall follow the procedures provided in the [External User Roles, Responsibilities and Security Requirements –AWProject Application](#) (“EURR”) (as may be revised from time to time by ODOT).

Consultant shall promptly send notice to ODOT at AWPAdmin@odot.state.or.us to remove AWProject access for individuals (including employees, subcontractor employees, or other agents) that are no longer employed or that are reassigned or that otherwise no longer need access to AWProject for the Project. ODOT will send an attestation request to Consultant every 30 days (or such other period ODOT deems appropriate) to validate the list of individuals (including employees, subcontractor employees or other agents) with access to AWProject. Consultant shall respond in writing to ODOT within 3 business days of any such validation request.

2. Correct Use of AWProject

Any person approved for accessing and using AWProject on behalf of Consultant acquires the status of an “Account Holder”. Consultant shall ensure each Account Holder: a) complies with the Terms and Conditions of Use set forth or incorporated in the EUAA, and b) has appropriate training in the proper use of AWProject and follows the EURR. ODOT reserves the right to monitor Account Holder activity within AWProject and may suspend or terminate any Account Holder ODOT, in its sole discretion, determines to be in violation of the Terms and Conditions of Use.

3. Responsibility for AWProject Functioning

ODOT provides use of AWProject “as is”. ODOT does not warrant that the information or access thereto will be error free, uninterrupted or meet Consultant’s needs, nor does ODOT make any representation or

warranty regarding the accuracy or completeness of the information. ODOT is not responsible for any damage that may occur due to error, omission, lack of timeliness or any other cause, of the information contained on AWProject or other sites accessible from it. ODOT does not assume any responsibility for information added to the site by Account Holders. ODOT disclaims any liability arising from interferences or interruptions, viruses, telephone faults, malicious damage by third parties, electronic system downtime, overloading of the Internet or any cause beyond the control of ODOT. ODOT reserves the right to temporarily suspend access to AWProject, without notice, because of maintenance, repair, or any other reason deemed necessary for the proper functioning of AWProject.

4. Liability

Consultant shall be liable for any damage caused by AWProject use, intrusion or illegal or unauthorized access by Consultant or its subcontractors, or their respective agents or employees. In no event shall the State of Oregon, the Oregon Transportation Commission and its members, ODOT, or their officers, agents and employees be liable for any claims, suits, actions, losses, liabilities, damages, costs and expenses, including attorney fees, of whatsoever nature, resulting from or arising out of Consultant's use of AWProject. Consultant's indemnification, defense and hold harmless obligations under the standard terms and conditions of the Contract or Price Agreement shall apply to the terms, conditions and requirements of this AWProject Exhibit and the acts and omissions of Consultant or its subcontractors, or their respective agents or employees, respecting AWProject.

5. Firewall, Virus and Malware

Consultant will at all times maintain an active and current firewall protection in place for Account Holders who are accessing and using AWProject. Consultant will at all times maintain an active and current virus and malware protection on the individual machines and network being used by the Consultant to access AWProject and shall ensure that such active and current virus and malware protection is maintained on machines and networks used for access to AWProject but not owned or controlled by Consultant. Whether external users are accessing AWProject data through a company-owned or personally-owned machine, ODOT reserves the right to quarantine any infected files, documents or other items that are found to contain a virus, malware, adware or otherwise harmful component. Consultant shall immediately notify ODOT in the event of a breach or security concern at their company. ODOT reserves the right to suspend user accounts, consultant accounts, or both, if they contain harmful software. ODOT also reserves the right to require Consultant to clean devices of harmful software. In the event of chronic infections ODOT reserves the right to deny future access to AWProject.