

AGREEMENT

**Intergovernmental Agreement
Between
The State of Oregon
And
United States Army Corps of Engineers**

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State" or "ODOT," and the U.S. Army Corps of Engineers, Portland District, hereinafter referred to as "USACE," both herein referred to individually as "Party" and collectively as "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statutes (ORS) 190.110 and 366.558, State may enter into cooperative agreements with the United States Federal Government for the performance of work on improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
2. ODOT is responsible for administering federal aid highway projects within the State of Oregon consistent with federal laws and regulations.
3. USACE has regulatory jurisdiction and permitting responsibilities under Section 404 of the Federal Clean Water Act (33 USC 1344) ("hereinafter "Section 404") and Section 10 of the Rivers and Harbors Act (33 USC 403) ("hereinafter "Section 10").
4. By the authority granted in Section 214 of the Water Resources Development Act of 2000, as amended, codified at 33 USC 2352 (hereinafter "Section 214"), the Secretary of the Army, after public notice, may accept and expend funds contributed by a non-Federal public entity to expedite the evaluation of a permit of that entity related to a project or activity for a public purpose.
5. The authority of the Secretary of the Army under Section 214 has been delegated through the Assistant Secretary of the Army for Civil Works and the Chief of Engineers to the district and division commanders.
6. USACE issued a public notice on September 19, 2003 regarding the intent to accept and expend funds contributed by ODOT.
7. The Parties agree that it is mutually beneficial that ODOT provide funds to USACE to expedite the evaluation of permits for federal aid highway projects administered by ODOT.

8. The commitment under this Agreement continues and builds upon the Parties' coordination and cooperation efforts of the prior Agreement No. 31153.

The Parties therefore agree as follows:

TERMS OF AGREEMENT

1. **Project.** Under such authority, the Parties agree that State will contribute funds to USACE that will be used by USACE to provide expedited review of permit applications submitted by ODOT for projects or activities for a public purpose (e.g., review of aquatic resource delineations and compensatory mitigation plans submitted by ODOT, enhance coordination, and technical and policy assistance to ODOT for early transportation project planning), as described in Exhibit A, hereinafter referred to as "Project."
2. **Funding.**
 - a. The Project activities will be financed at an estimated cost of \$1,341,845 in state funds, as shown on Exhibit B. The estimate for the total Project cost is subject to change.
 - b. The maximum amount payable by State for Project activities under this Agreement is \$1,341,845 in state funds, as shown in Exhibit B.
 - c. If funds under the agreement have been expended and not replenished, any pending, remaining, or future permit applications will be handled like those of any other permit applicant.

3. Exhibits Attached and Incorporated.

This Agreement includes the following exhibits, each of which is attached and incorporated into this Agreement by reference:

- Exhibit TCD – Terms, Conditions and Definitions
- Exhibit A – Statement of Work
- Exhibit B – Compensation & Payment Provisions
- Exhibit C – Insurance (RESERVED)
- Exhibit D – Special Terms & Conditions (RESERVED)
- Exhibit E – Americans with Disabilities Act (ADA) Compliance
- Exhibit F – Contact Information

4. **Order of Precedence.**

Unless a different order is required by law, this Agreement shall be interpreted in the following order of precedence:

1. This Agreement (including all amendments, if any) less all Exhibits, attachments and other documents and information incorporated into this Agreement,
2. Exhibit TCD,
3. Exhibit A, the Statement of Work,
4. All other Exhibits,
5. Any other attachments,
6. Any documents/information incorporated into this Agreement by reference.

This provision survives termination of the Agreement.

5. **Term of Agreement; Effective Date.** The term of this Agreement begins on the date all required signatures are obtained (“Effective Date”) and terminates on December 31, 2025, on which date this Agreement automatically terminates unless extended by a fully executed amendment.
6. This Agreement will supersede and replace Agreement No.31153. Agreement No. 31153 will terminate upon execution of this Agreement. Work and travel completed prior to the Effective Date of this Agreement shall be invoiced under Agreement No. 31153. Work and travel completed on or after the Effective Date of this Agreement must be invoiced under this Agreement.

7. **Termination.**

- a. This Agreement may be terminated by mutual written consent of both Parties.
- b. State may terminate this Agreement effective upon delivery of written notice to USACE, or at such later date as may be established by State, under any of the following conditions:
 - i. If USACE fails to provide the Project activities called for by this Agreement within the time specified herein or any extension thereof.
 - ii. If USACE fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written

notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.

- iii. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to fund its obligations for performance of this Agreement.
- iv. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if State is prohibited from paying for the Project from the planned funding source.
- c. USACE may terminate this Agreement effective upon delivery of written notice to USACE, or at such later date as may be established by USACE, under any of the following conditions:
 - i. If ODOT fails to provide funds pursuant to this Agreement.
 - ii. If federal laws, regulations, policy, or guidelines are modified in such a way that either the work under this Agreement is prohibited or the USACE is prohibited from receiving funds from ODOT.
- d. Any termination of this Agreement shall not extinguish or prejudice any rights or obligations accrued to the Parties prior to termination.
- e. Upon receiving a notice of termination of this Agreement, USACE shall cease Project work under this Agreement by the date identified in the notice. After such date, any pending, remaining, or future ODOT permit applications will be handled by USACE like those of any other permit applicant.

8. **Advance Deposit.**

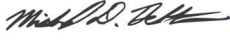
- a. Notwithstanding any provision to the contrary in Agreement No. 31153, the advance deposits paid originally under Agreement No. 23060, totaling \$30,000, and transferred over to Agreement No. 31153, shall be transferred over to this Agreement upon termination of Agreement No. 31153. This provision supersedes and replaces any provision to the contrary in Agreement No. 31153.
- b. Upon termination of this Agreement, USACE shall conduct a full cost accounting to determine the actual costs for the Project activities provided under this Agreement, and shall provide a copy to ODOT. USACE shall use ODOT's advance deposit to pay remaining unreimbursed costs, if any, and shall return any portion of the advance deposit in excess of such costs to ODOT, unless the Parties agree in writing to transfer the deposit over to a future agreement.

9. **Certification.** Each Party certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on its behalf, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind that Party.
10. **No Third Party Beneficiaries.** USACE and State are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement. This provision survives termination of the Agreement.
11. **Waiver; Amendment.** No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision. This provision survives termination of the Agreement.
12. **Notice.** Except as otherwise expressly provided in this Agreement, all notices to be given relating to this Agreement must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Project Manager at the physical address or email address set forth in Exhibit F, or to such other addresses as either Party may indicate pursuant to this paragraph. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective when the sender receives confirmation of receipt from the recipient (not an auto-reply). Except as set forth above in this paragraph, the Parties may agree to provide operational notices such as delivery, acceptance or rejection of services or deliverables by email as may be mutually agreed in Exhibit A.
13. **Severability.** The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid. This provision survives termination of the Agreement.
14. **Counterparts.** This Agreement may be executed in several counterparts all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
15. **Integration.** This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings,

agreements, or representations, oral or written, not specified herein regarding this Agreement.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

**United States Department of the Army
Corps of Engineers**, by and through its
designated officials

By 
Digitally signed by
HELTON.MICHAEL.DON.1131216
021
Date: 2021.02.16 16:52:36 -08'00'

Michael D. Helton, PMP
Colonel, Corps of Engineers
District Commander

Date 16 February 2021

**LEGAL REVIEW APPROVAL (If required
in USACE's process)**

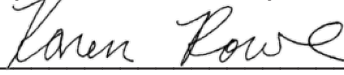
By N/A
COE Counsel

Date _____

COE Contact:

William Abadie
Chief Regulatory Branch
P.O. Box 2946
Portland, OR 97208-2946
503.808.4370
William.D.Abadie@usace.army.mil

STATE OF OREGON, by and through
its Department of Transportation

By 
Karen Rowe

~~McGregor-Lynce, Deputy~~ Delivery and
Operations Division Administrator

Date 02/19/2021

APPROVAL RECOMMENDED

By John Raasch Digitally signed by John Raasch
Date: 2021.02.19 15:12:32 -08'00'

John Raasch, State Environmental and
Cultural Resources Manager

Date February 19, 2021

**APPROVED AS TO LEGAL
SUFFICIENCY**

By Jennifer O'Brien via email
Assistant Attorney General

Date February 17, 2021

ODOT Contact:

John Raasch, Natural Resource Manager
ODOT – Geo-Environmental Section
4040 Fairview Industrial Drive SE MS #6
Salem, OR 97302
503.986.3370
John.RAASCH@odot.state.or.us

EXHIBIT TCD – TERMS, CONDITIONS AND DEFINITIONS

CONTRIBUTION: The following paragraphs 1 through 3 shall survive termination of the Agreement.

1. USACE shall be responsible to the extent permitted by the Federal Tort Claims Act only for the acts, omissions, or negligence of its own officers, employees, or agents. The State shall be responsible to the extent permitted by Article XI, Section 7 of the Oregon Constitution and by the Oregon Tort Claims Act (ORS 30.260 – 30.300) only for the acts, omissions, or negligence of its own officers, employees, or agents.
2. Notwithstanding the foregoing defense obligations under the paragraph above, neither Party nor any attorney engaged by either Party shall defend any claim in the name of the other Party or any agency/department/division of such other Party, nor purport to act as legal representative of the other Party or any of its agencies/departments/divisions, without the prior written consent of the legal counsel of such other party. Each Party may, at any time at its election assume its own defense and settlement in the event that it determines that the other Party is prohibited from defending it, or that the other Party is not adequately defending its interests, or that an important governmental principle is at issue or that it is in the best interests of the Party to do so. Each Party reserves all rights to pursue any claims it may have against the other if it elects to assume its own defense.
3. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

RECORDS

The Parties acknowledge and agree that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Parties which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after completion of the Project and final payment. Copies of applicable records shall be made available upon request. This provision survives termination of the Agreement.

EMPLOYMENT COSTS

USACE shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholding.

COMPLIANCE WITH LAW

USACE shall comply with all federal laws, regulations, and executive orders applicable to the work under this Agreement. Without limiting the generality of the foregoing, USACE expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) any provisions of the Americans with Disabilities Act of 1990, as amended that are applicable to USACE, (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations.

NON-APPROPRIATION

The State of Oregon's payment obligations under this Agreement are conditioned upon ODOT's receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. USACE is not entitled to receive payment under this Agreement from any part of Oregon state government other than ODOT. Nothing in this Agreement is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon.

Should a lapse in federal appropriations result in a shutdown furlough for USACE's Regulatory Program, Project activities under this Agreement will not continue during the shutdown furlough. Funds provided under this agreement may not be used by USACE to continue Project activities during a shutdown furlough. Any exception to this policy must be approved by USACE Regulatory Headquarters.

These provisions survive termination of the Agreement.

**EXHIBIT A
STATEMENT OF WORK
PROJECT: United States Army Corps of Engineers Expedited Permit Processing**

**PROJECT DESCRIPTION and OVERVIEW of ACTIVITIES ASSOCIATED WITH
EXPEDITED PERMIT PROCESSING**

1. Background and Purpose

The goal of this Agreement is to provide needed expedited review of Department of the Army permit applications for ODOT federal aid highway projects, the Oregon State Transportation Improvement Plan (STIP) and maintenance programs, and processes associated with such permit applications, including enhanced coordination and technical and policy assistance to ODOT for early transportation project planning.

2. Communication and Coordination Principles

- a. The staff at USACE and ODOT should work together in a collaborative manner, seeking to skillfully balance their respective roles in regulatory oversight and project advocacy.
- b. The staff at USACE and ODOT are encouraged to learn and implement principles of effective communication, coordination, and negotiation to meet the mutual purpose and goals of this Agreement.
- c. When conflicts arise between ODOT and USACE, the first step is for the affected staff to constructively negotiate their disputes between each other; for conflicts that cannot be resolved after constructive negotiation is attempted, affected staff should elevate the decision to a higher management within their respective agency for resolution.
- d. For the purposes of routine coordination under this agreement:
 - i. The ODOT Principal Representative is Brad Livingston, Wetlands Program Lead, or assigned designee upon individual's absence.
 - ii. The primary contact at USACE is Benny Dean, Regulatory Project Manager, or assigned designee upon individual's absence.
 - iii. The supervisor of the USACE primary contact is Kristen Hafer, Policy and Compliance Section Chief, Regulatory Branch.
 - iv. Each Party shall notify the other party in writing of any contact information changes during the term of this agreement.

- e. ODOT and USACE shall meet regularly to discuss issues regarding policy consistency.

3. State Responsibilities

- a. ODOT shall respond in a timely manner to issues raised by the USACE relating to the implementation of the terms of this Agreement.
- b. ODOT staff will direct any concerns about USACE staff performance to that ODOT staff member's manager. The ODOT manager will communicate concerns to the ODOT Principal Representative. The ODOT Principal Representative will communicate with the USACE primary contact, and his or her USACE supervisor when appropriate, regarding such concerns.
- c. ODOT will provide USACE adequate information and notice for joint site or project meetings. The level of project detail should be commensurate with the level of guidance detail expected in return from USACE.
- d. When project prioritization and scheduling conflicts arise, ODOT will provide project ranking and prioritization direction upon request by USACE.

4. USACE Responsibilities

In furtherance of the Project, USACE shall complete all activities included in this Statement of Work (SOW). USACE shall provide all labor, equipment and materials to manage, coordinate, and complete the work in accordance with the performance and delivery schedules identified in this SOW. USACE shall:

- a. Adhere to the following timeframes:
 - i. Respond to ODOT phone calls within two (2) business days; respond to e-mails within two (2) business days.
 - ii. Route messages to alternate USACE staff if the assigned USACE project manager is out of the office for more than two (2) business days.
 - iii. Inform the ODOT Principal Representative, or their designee, if USACE staff will be out of the office for more than two (2) business days.
 - iv. Respond to ODOT requests for meetings in a timely manner; and manage meeting commitments as determined by USACE workload demands, ODOT priorities, and necessity for meeting.
 - v. Provide ODOT staff with an early notice if, for any reason, meeting commitments cannot be met.

- b. Provide expedited review and processing of ODOT's Department of the Army permit applications in a timely manner or such timeframe indicated under this section.
 - i. Expedited review timelines are as follows:
 - 1) Approved Jurisdictional Determinations: USACE shall respond to Approved Jurisdictional Determination requests within 30 calendar days upon receiving a complete Aquatic Resource Delineation Report.
 - 2) Permit Applications: Upon receiving a complete Joint Permit Application, USACE shall make a permit decision in an expedited fashion and shall generally make decisions on applications subject to this Agreement faster than on applications that are not subject to a WRDA Agreement. Timelines for final permit decisions and issuance of General Permit verifications are dependent upon compliance with other environmental laws and regulations such as Section 401 of the Clean Water Act, Endangered Species Act, Coastal Zone Management Act, and National Historic Preservation Act.
 - ii. Activities necessary to accomplish expedited permit processing may include, but are not limited to, the following:
 - 1) Pre-application conferences;
 - 2) Informal feedback on appropriateness of proposed compensatory mitigation;
 - 3) Participation in early coordination activities such as National Environmental Policy Act (NEPA)/404 synchronization;
 - 4) Application intake review;
 - 5) Review and/or preparation of NEPA documents;
 - 6) Review and provision of comments on Environmental Assessments and Environmental Impact Statements prepared by another lead federal agency.
 - 7) Feedback on project drawings;
 - 8) Jurisdictional determinations;
 - 9) Site visits for purposes other than enforcement or non-compliance investigations;
 - 10) Public notice preparation;
 - 11) Preparation of correspondence;
 - 12) Public interest review;
 - 13) 404(b)(1) Guidelines and alternatives analysis review;
 - 14) Undertaking consultations pursuant to the Endangered Species Act and National Historic Preservation Act;
 - 15) Tribal consultation;
 - 16) Preparation of draft permit decision documents;
 - 17) Meetings with ODOT or resource agencies;

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- 18) Programmatic tool development and improvement;
 - 19) Collection of geographic information system (GIS) data; and
 - 20) Coordination with the Corps Section 408 staff; and
 - 21) Coordination with Corps real estate staff.
- ii. Consider ODOT project ranking and scheduling when prioritizing work.
 - iii. Provide copies of e-mails and correspondence related to USACE permit application completeness to ODOT Principal Representative. Promptly advise the applicant and ODOT Principal Representative if additional information is necessary and notification of whether application is considered complete.
 - iv. Coordinate final permit conditions with the applicant and copy the ODOT Principal Representative with the draft conditions prior to USACE final permit decisions on complex actions.
 - v. Provide a copy of all permits and other decisions to the ODOT Principal Representative.
- c. Coordinate permit application reviews with all relevant agencies including National Marine Fisheries Service and U.S. Fish and Wildlife Service for Endangered Species Act Section 7 consultation, Oregon Department of Environmental Quality for water quality certification, and others as applicable.
- i. Contact coordinating agencies within two weeks of initiating consultation or requesting USACE assistance for follow-up; and
 - ii. Maintain prudent follow-up throughout USACE's review process.
- d. Provide feedback about ODOT's performance under this agreement annually, or upon request by the ODOT Principal Representative, for:
- i. Quality of work submitted to USACE for review and approval;
 - ii. ODOT staff knowledge of USACE regulations, rules, and permit requirements;
 - iii. Professional conduct related to communication and coordination; and
 - iv. Recommendations for improving working relationships with and performance of ODOT staff.

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- e. Identify opportunities for and provide support to USACE-ODOT process improvement and streamlining initiatives.
 - i. Assist ODOT to identify innovative ways to improve USACE permit processing efficiency for all ODOT projects requiring Department of the Army permits or permission.
 - ii. Coordinate with the ODOT Principal Representative to develop project plans and schedules for process improvement/streamlining initiatives at USACE-ODOT Quarterly Meetings.
- f. Attend ODOT meetings when requested by ODOT.
 - i. Primary meetings USACE staff is expected to attend include the following:
 - 1) Region-requested on-site and in-office pre-application and project meetings.
 - 2) Quarterly Wetlands/Permits Team meetings.
 - 3) ODOT sponsored training sessions.
 - ii. Coordinate commitment conflicts with the ODOT Principal Representative.
- g. Provide ODOT staff Section 404 and Section 10 guidance and analysis when requested.
 - i. Respond to ODOT requests for USACE-related information in a timely manner.
 - ii. Provide advice and guidance on ways to avoid and minimize project impacts to achieve better environmental outcomes and to reduce permit processing timeframes and potential delays, including suggestions to qualify for more streamlined permits such as Nationwide Permits or Regional General Permits.
 - iii. For the purposes of permit process improvement and consistent decision-making, copy the ODOT Principal Representative on e-mail or other written ODOT-related communications that may have Section 404 or Section 10 implications for ODOT project delivery.
 - iv. Provide consistent application of USACE policy by:
 - 1) Assisting the ODOT Principal Representative in the development of USACE-related technical guidance documents;
 - 2) Frequent coordination with all USACE staff working under this Agreement; and
 - 3) Frequent coordination with ODOT staff.

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- v. Stay current with USACE national and regional policy changes that may affect ODOT project delivery, and provide this information in a timely manner to the ODOT Principal Representative for dissemination to relevant ODOT staff.
- h. Document site visits in writing and provide copies to ODOT Principal Representative.

EXHIBIT B - COMPENSATION AND PAYMENT PROVISIONS

USACE OBLIGATIONS

1. USACE shall present invoices for 100 percent of actual Eligible Costs incurred by USACE on behalf of the Project directly to State's project manager for review and approval. Under no conditions shall State's obligations exceed \$1,341,845 over the term of the agreement including all expenses.
 - a. Such invoices shall be in a form identifying the ODOT project and the agreement number for this Agreement, and shall itemize and explain all expenses for which reimbursement is claimed. Invoices shall be presented for periods of not less than one month duration, based on actual expenses incurred. Such itemized invoices for time and travel will identify the ODOT project and the time to the nearest half hour that the USACE staff spent providing the Project activities described in Exhibit A.
 - b. Eligible Costs are reasonable and necessary actual costs incurred by the USACE in performance of the Project, and which comply with the requirements of Article IX, Section 3a of the Oregon Constitution.
 - c. Travel expenses shall be reimbursed to USACE in accordance with the current U.S. General Services Administration per diem rates, available at <https://www.gsa.gov/travel/plan-book/per-diem-rates>.
2. USACE shall be responsible for hiring, training, supervising, providing office space and office support and handle all compensation, employment benefits, insurance, retirement contributions, income tax withholding, and unemployment taxes, for any USACE staff to perform the work described in Exhibit A. USACE shall keep accurate cost accounting records for work under this Agreement.
3. Funds contributed by ODOT hereunder will be expended by the USACE for the costs (including salary, associated benefits, overhead, and travel expenses) of Corps personnel (including Regulatory Branch, Environmental Resources Section, and Engineering Division personnel) to perform expedited permit processing activities for ODOT projects as provided in this Agreement, which is roughly equivalent to a total of one (1) FTE. ODOT project-related activities that the funds may be expended on include, but are not limited to, the following: pre-application conferences, participation in early coordination activities such as National Environmental Policy Act (NEPA)/404 synchronization, application intake review, review and/or preparation of NEPA documents, drawings correction, jurisdictional determinations, site visits, public notice preparation, preparation of correspondence, public interest review, undertaking consultations pursuant to the Endangered Species Act and National Historic Preservation Act, tribal consultation, preparation of draft permit decision documents, meetings with ODOT or resource agencies, programmatic tool development and

improvement, collection of geographic information system (GIS) data, request(s) under Section 408, Navigation, levee safety, real estate evaluation, and any other activities identified in Exhibit A.

4. USACE shall not invoice an hourly rate greater than the maximum hourly rate established below under ESTIMATED COSTS unless approved in writing by the ODOT Principal Representative or their designee prior to the commencement of the work to which the higher hourly rate applies.
5. Funds contributed by ODOT will not be used for the required review by a responsible USACE official one level above the decision maker of the final permit decisions and decision documents. Funds will not be used for enforcement activities; however, funds may be used for compliance inspections (e.g., of issued permits and monitoring of compensatory mitigation banks).

STATE OBLIGATIONS

In consideration for the Project activities performed under this Agreement, State agrees to reimburse USACE for Eligible Costs within forty-five (45) days of receipt and approval by State of monthly Project invoices. State agrees to pay USACE a maximum amount of \$1,341,845 over the term of the Agreement. Said maximum amount shall include reimbursement for all expenses. Travel expenses shall be reimbursed to USACE in accordance with the current General Services Administration per diem rates, available at <https://www.gsa.gov/travel/plan-book/per-diem-rates>.

ESTIMATED COSTS

This section details the estimated cost of the Project. The estimate assumes that the USACE staff are at the high end of the pay scale (GS12 Step 10) and located in Portland, Oregon. An annual 2% cost of living adjustment is included in the estimate.

Estimated breakdown of Project costs by fiscal year (FY), including estimated labor and overhead:

Period from 01/01/2021 to 12/31/2021

- Estimated Labor and Overhead: \$229,829.00
- Maximum Hourly Rate (labor and overhead): \$131.93

Period from 01/01/2022 to 12/31/2022

- Estimated Labor and Overhead: \$240,498.00
- Maximum Hourly Rate (labor and overhead): \$138.05

Period from 01/01/2023 to 12/31/2023

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- Estimated Labor and Overhead: \$253,799.00
- Maximum Hourly Rate (labor and overhead): \$144.40

Period from 01/01/2024 to 12/31/2024

- Estimated Labor and Overhead: \$265,366.00
- Maximum Hourly Rate (labor and overhead): \$150.98

Period from 01/01/2025 to 12/31/2025

- Estimated Labor and Overhead: \$277,353.00
- Maximum Hourly Rate (labor and overhead): \$157.80

Total Estimated Cost of the Project:

Labor and Overhead:	\$1,266,845.00
Travel Costs:	\$ 75,000.00

Total 5-Year Estimated Cost: \$1,341,845

The total 5-year estimated cost is based on the estimated costs of travel and the annual labor costs of USACE staff spent performing Project activities over the term of the Agreement. The 5-year total travel costs shall not exceed \$75,000.

EXHIBIT C – INSURANCE (RESERVED)

EXHIBIT D - SPECIAL TERMS AND CONDITIONS (RESERVED)

EXHIBIT E - AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE

1. USACE shall ensure that the Project and all component activities comply with Section 504 of the Rehabilitation Act of 1973 and any provisions of the Americans with Disabilities Act of 1990 as amended that applies to USACE (together, "ADA").
2. The Parties shall coordinate to ensure that temporary pedestrian routes are provided through or around any Project work zone. USACE shall provide ODOT with adequate information to allow ODOT to establish a temporary pedestrian route for any Project work zone, and to provide advance notice of any temporary pedestrian route to the public, people with disabilities, and disability organizations.

EXHIBIT F - CONTACT INFORMATION

1. **The Parties Contact Information is as follows:**

a. State's Contact

State's Project Manager for this Agreement is:

Name:	John Raasch Natural Resource Manager, Geo-Environmental Section Oregon Department of Transportation
Address:	4040 Fairview Industrial Drive SE MS #6 Salem, OR 97302
Ph:	503.986.3370
E-mail:	John.RAASCH@odot.state.or.us

b. USACE Contacts

USACE's Project Manager for this Agreement is:

Name:	William Abadie Chief, Regulatory Branch U.S. Army of Corps of Engineers
Address:	P.O. Box 2946 Portland, OR 97208-2946
Ph:	503.808.4370
E-mail:	William.D.Abadie@usace.army.mil

USACE's Invoice Contact and remit address for payments is:

Name:	Justina Boyd Budget Analyst Operations Division Portland District
Address:	P.O. Box 2946 Portland, OR 97208-2946
Ph:	503.808.4302
E-mail:	Justina.A.Boyd@usace.army.mil

2. Either Party may change the Project Manager designation during the term of this Agreement by promptly sending written notice (e-mail acceptable) to the other Party, with a copy to the ODOT Procurement Office in Salem, Oregon.