# KLAMATH COUNTY OREGON

# INVITATION TO BID

## Library Soffits and Lighting Project

**For the**

**Klamath County Library**

**Date Issued:** June 21, 2016

**Issued By:** Klamath County Risk Management
305 Main Street
Klamath Falls, Oregon 97601

Contact: Leslie Barlow-Hunter, Contract and Risk Manager
Address: 305 Main Street, Suite 216, Klamath Falls, Oregon, 97601
Phone (voice): (541) 851-3693
E-mail lbarlow-hunter@co.klamath.or.us.

**Bids due:** 2:00 p.m., July 12, 2016

**FAXED BIDS ARE NOT ACCEPTED**

INVITATION TO BID
**Library Soffit and Lighting Project**

The Klamath County Library invites written sealed bids for the Library Soffit and Lighting Project at the Klamath County Library, on the Klamath Avenue side of the building, located at 126 South 3rd St., Klamath Falls, OR. 97601.

The ITB document may be obtained from the undersigned at 305 Main Street, Klamath Falls, Oregon 97601 or by calling (541) 851-3693 Monday through Friday 8:00 a.m. - 2:00 p.m. The RFP is also available on the web at http://klamathcounty.org/depts/contracts/openbids.asp. Any party downloading the ITB packet from the web will be responsible to check with the Contracting and Risk Manager, by phone 541-851-3693, or email at lbarlow-hunter@co.klamath.or.us, or online at the above referenced link, for any addenda issued for this project.

Questions pertaining to the specifications or scope of work should be directed to Christy Davis, Klamath County Library Director 126 South 3rd St., Klamath Falls, OR. 97601 phone: (541) 882-8894. A **mandatory pre-bid conference** will be held by Christy Davis, at the Klamath County Library, on the Klamath Avenue side of the building, located at 126 South 3rd St., Klamath Falls, OR. 97601 from **9 am to 10 a.m. June 29th, 2016.**

Written sealed bids in envelopes marked **"KLAMATH COUNTY LIBRARY SOFFIT AND LIGHTING PROJECT"** shall be delivered or mailed to Leslie Barlow-Hunter, Contract and Risk Manager, 305 Main Street, Suite 216, Klamath Falls, OR. 97601. Only bids from licensed contractors will be accepted. No bid shall be considered if received later than **2:00 p.m. July 12, 2016**. The bids shall be opened at the Klamath County Government Center at 305 Main Street in Room 216 on **July 12, 2016**.

This project is subject to Oregon's prevailing wage rates. All Bids must be accompanied by a certified or cashier's check, irrevocable letter of credit (Bank), or Bid Bond, payable to the Klamath County in an amount equal to ten percent (10%) of the total amount of the Bid.

Klamath County may reject any bid not in compliance with all prescribed public bidding procedures and requirements, and may for good cause reject any or all bids upon a finding of the agency it is in the public interest to do so. Klamath County reserves the right to rescind the award of any contract at any time before the execution of said contract by all parties without any liability against the County. All bids are subject to Oregon Law bid procedures.

Leslie Barlow-Hunter
Contract and Risk Manager

## INVITATION TO BID

The Klamath County Library invites written sealed bids for the Library Soffit and Lighting Project at the Klamath County Library, on the Klamath Avenue side of the building, located at 126 South 3rd St., Klamath Falls, OR. 97601.

Questions regarding this project may be addressed to Christy Davis, Klamath County Library Director 126 South 3rd St., Klamath Falls, OR. 97601 phone: (541) 882-8894. Only bids from Licensed Contractor's will be accepted. The County reserves the right to reject all Bids. This project is dependent upon available funding.

**SPECIFICATIONS** are attached as "Attachment C".

## SPECIAL TERMS AND CONDITIONS

- The bid must be received in a sealed envelope marked **"KLAMATH COUNTY LIBRARY SOFFIT AND LIGHTING PROJECT"** and be received no later than **2:00 p.m., July 12, 2016**. All bids shall be mailed or otherwise delivered to:

  Leslie Barlow-Hunter, Contract and Risk Manager
  Klamath County Human Resources
  305 Main Street, Room 216
  Klamath Falls, OR 97601

- Any bids received later than the stated date and time shall be rejected and returned to the bidder unopened. The bids shall be opened at the Klamath County Government Center at 305 Main Street in Room 216 on **July 12, 2016,** Facsimile bids are not acceptable. All bids received shall be firm and binding and irrevocable for a period of 60 calendar days following date fixed for receipt.

- All bids are to be completed on the **Bid Form** provided in Attachment A. The specifications of the project are attached as "Attachment C." Bids may be rejected by the County as non-responsive if the Bid Form is incomplete. If the bid is submitted by a partnership, it must be signed by a partner. If a corporation submits the bid, it must be signed by a corporate officer with the authority to sign such bids. All pages of the Bid Form must be left in the proper sequence when returned. A bid may be rejected if found to be altered, incomplete, conditional or otherwise irregular.

The Library shall hold a **mandatory** Pre-Bid Conference to answer general questions and to clarify any program issues. The Pre-Bid Conference will be held at the Klamath County Library, on the Klamath Avenue side of the building, located at 126 South 3rd St., Klamath Falls, OR. 97601 from **9 am to 10 a.m. June 29th, 2016.** Verbal comments made by Agency at the Pre-Proposal Conference are not binding unless followed with written addenda.

Pre-Bid Conference
Date: June 29, 2016
Time: 9:00 a.m.
Place: Klamath County Library, on the Klamath Avenue side of the building, located at 126 South 3rd St., Klamath Falls, OR. 97601

Attendance at the Pre-Bid Conference is mandatory. Attendance shall be recorded, and only those attending shall be eligible to submit a Bid. Contractors may send a representative. An explanation of the solicitation shall be given. Attendees shall have the opportunity to ask questions, which may clarify Agency expectations.

- If project bid exceeds $100,000, bidder must submit First-tier subcontractor list within two (2) hours on form provided as "Attachment B" pursuant to ORS 279C.370.

- The completed and signed attached certificates shall accompany all bids. These **certifications** are included in Attachment A with the Bid Form.

- **Bid Bond:** Each Offer shall be accompanied by a certified or cashier's check, irrevocable letter of credit (Bank), or Bid Bond, payable to the Department of Administrative Services (DAS) in an amount equal to ten percent (10%) of the total amount of the Offer.

- Contractors shall be licensed with the State of Oregon Construction Contractors Board (CCB) prior to bidding on Public Improvement Contract(s). FAILURE TO COMPLY WITH THIS REQUIREMENT SHALL RESULT IN BID REJECTION.

- All Subcontractors participating in the project shall be similarly registered with the Construction Contractors Board at the time they propose to engage in subcontract work. The CCB registration requirements apply to all public works contracts unless superseded by federal law.

- Public Works Bond: Effective January 1, 2006, all independent contractors working on qualifying public works projects must obtain and file with the Construction Contractors Board (CCB) a public works bond with a corporate surety authorized to do business in Oregon for the amount of $30,000 before starting work

- The Contractor and all subcontractors shall comply with the provisions of ORS 279C.800 through 279C.870, relative to Prevailing Wage Rates. The Klamath County Library will pay the PWR fee of one tenth of one percent of the contract prices to the Bureau of Labor and Industries (BOLI).

- Questions pertaining to the terms and conditions of the ITB shall be submitted in writing no later than **2:00 p.m. on July 5, 2016**. All questions regarding the ITB content, scope of work and contractual terms and conditions should be directed to Christy Davis, (541) 882-8894. Should comments be received or questions be raised by potential bidders, or situations arise which require any revision of the terms or conditions of this solicitation, an Addenda will be submitted to all known recipients of the ITB by way of fax, electronic, or regular mail, or an extension will be given to the ITB closing date. **Bidders shall be required to acknowledge the receipt and consideration of such Addenda on their submitted bid.**

- A prospective bidder may file a written protest of the procurement process or Invitation to Bid (ITB) document not less than ten (10) days prior to closing in accordance with OAR 137-047-0730. This written comment must be received by **2:00 p.m. July 06, 2016.** Protests are to be submitted to Leslie Barlow-Hunter, Contract and Risk Manager, marked **KLAMATH COUNTY LIBRARY SOFFIT AND LIGHTING PROJECT PROCUREMENT PROTEST,** at the address given above. The protest shall include a statement of the desired changes to the procurement process or the ITB document that the prospective bidder believes will remedy the conditions upon which the prospective bidder based its protest. Failure to file a protest pursuant to ORS 279B.405 will limit future action. Klamath County may extend closing date of the ITB if it determines an extension is necessary to consider and respond to the protest or may cancel the solicitation as stated under OAR 137-047-0660. Prior to the deadline for submitting a protest, a prospective bidder may request that Klamath County clarify any provision of the ITB. Any clarification, whether orally or in writing, does not change the ITB and is not binding on Klamath County unless the clarification is published through an Addendum.

- Klamath County shall determine whether an offered alternate is equal.

- Pursuant to OAR 137-047-0630 and ORS 279B.060, solicitation files will not be open for public inspection until after the notice of intent to award a contract is issued. After than time, solicitation files shall be made available for public inspection, except to the extent that the bidder has designated trade secrets or other proprietary data to be kept confidential, in accordance with ORS 279B.055(5)(c). Any such designated material shall accompany the bid but shall be readily separable from it. Bids and the contracting record shall be available for public review during usual business hours by contacting the Contract/Grant Specialist.

- Should a bidder or prospective bidder seek to appeal or protest an award resulting from this ITB, such protest must be made within seven (7) calendar days after the date of the "notice to award" the contract, is issued by the Klamath County Library. The notice of protest of the award shall be submitted in writing, marked **KLAMATH COUNTY LIBRARY SOFFIT AND LIGHTING PROJECT AWARD PROTEST,** to Leslie Barlow-Hunter, Contract and Risk Manager, Klamath County Human Resources, 305 Main Street, Room 216, Klamath Falls, OR 97601. The protesting bidder can claim to be adversely affected or aggrieved only if the bidder is eligible for award of the contract as the responsible bidder submitting the best responsive bid and is next in line for award as defined in OAR 137-047-0261(6). Protests shall be reviewed and forwarded to the Local Contract Review Board (LCRB), (the Klamath County Board of Commissioners) for resolution. The LCRB reserves the right to settle or resolve the written protest as specified in the above-stated OAR.

- Klamath County reserves the right to (a) amend any part of this ITB, including exhibits and attachments; (b) to extend the deadline for submitting bids; (c) to waiver minor irregularities or informalities; (d) to reject for good cause and without liability therefore, any and all bids and, (e) upon a finding that doing so is in the public interest, Klamath County reserves the right to rescind the award of any contract at any time before the execution of said contract by all parties without any liability against the County. All bids are subject to Oregon Law bid procedures.

- Klamath County is not liable for any cost incurred by the bidder responding to this ITB.

- Bidders are to understand that contract is dependent upon funds made available.

- The bidder hereby represents that this bid is made without connection with any person, firm or corporation making a bid for the same project, and is in all respects fair and without collusion or fraud.

- Submission of a bid in response to this ITB signifies the bidder's willingness to enter into a contract for services with Klamath County and is in agreement with the conditions set forth in the Sample Contract included in this ITB.

- The contract will be awarded to the lowest responsible, responsive bidder, as set forth in ORS Chapters 279A, 279B, 279C and OAR Chapter 137. The terms and conditions of the Sample Contract are included with the Specifications.

- By signing and returning the Bid Form the bidder acknowledges they have read and understand the terms and conditions in the Solicitation Document and accept and agree to be bound by the terms and conditions of the Solicitation Document.

- Submission of a bid represents that the bidder has satisfied themselves by personal examination of the specifications and other data pertaining to the project, visited the site, or by such other means as they prefer, as to the actual conditions and requirements of the contract, and shall not at any time after submission of the bid assert that there was any misunderstanding in regard to the nature, quality or description of the services to be provided.

- The contract documents pertinent to this project shall be comprised of the fully executed contractual agreement, the bid, the specifications for the project, and any addenda subsequently issued to those documents.

- The work of the project must comply with all applicable regulations, as well as all local codes, standard practices, and occupational health and safety regulations for such projects.

- The successful bidder shall be required to provide County with written warranty against defects in materials and workmanship for a period of one year.

- Contractor signifies by submitting a bid for this project that he/she is qualified and licensed to perform the work for which the bid is submitted.

- The bidder shall give particular attention to the expeditious execution of the work such that the County will not be subject to undue hardship resulting from completion delay. The County desires completion within thirty (30) days from the "Notice to Proceed" after signing of a contract. Liquidated damages of $100.00 per day will be charged against contractor who does not complete project within the work schedule period. The County, at the County's discretion, may grant an extension of time without liquidated damages if the delay is caused by occurrences beyond the contractor's control. If a bidder will be unable to perform the services in accordance with this schedule, the bidder may submit an alternative schedule as an attachment to the Bid Form. If the County determines that the completion date proposed by the bidder will cause inconvenience or hardship to the County, the bid may be rejected.

- The successful contractor agrees to furnish all equipment, tools, labor, materials and other means of work performance necessary to achieve substantial completion of the work within thirty (30) days from date on "Notice to Proceed". The Contract Administrator, or their designee, will perform a final walk through upon project completion with the successful Contractor and make recommendation for final payment.

- Schedule of events:

    - Pre-bid conference, Tuesday, June 29th 9am to 10am
    - Any questions pertaining to the terms and conditions of the ITB in writing, no later than 2:00pm, July 5th
    - Sealed bids due Tuesday July 12, 2016 by 2:00 pm
    - Bids opened Tuesday July 12, 2016
    - Protest period ends at 2pm on July 27, 2016
    - 30 days to complete job

# LIBRARY SOFFIT AND LIGHTING PROJECT

## BID FORM

Having carefully examined the Invitation to Bid, specifications and other data pertaining to the project for the Library Soffit and Lighting Project as well as all other conditions affecting the work, the undersigned proposes to furnish all necessary labor, materials, equipment, services, and other items required, whether specified or not, to complete the project for the price set forth below. It is understood that this project will be in complete accordance with the specification requirements for the project unless otherwise stipulated in documents attached hereto and which comprise a part of this bid.

I acknowledge that the County requires completion of the work within thirty (30) days of the "Notice to Proceed" after signing of a contract. In response to the County's interests, the undersigned agrees that, if awarded the Contract, and after execution thereof, he will commence and complete the work within the stipulated start and completion dates.

**Library Soffit and Lighting Project**

| | |
|---|---|
| **Vinyl** | **$** _____ |
| **Fiber Board Product (e.g. Hardie Board)** | **$** _____ |
| **Metal Product (e.g. Aluminum)** | **$** _____ |

*Note - If the contractor wishes to include bids for soffit materials different than any examples above, they may do so. Drywall is NOT an acceptable material. Any material used for the soffits must be able to withstand occasional water-hose cleaning without sustaining damage.

**Library Soffit and Lighting Alternate Bid** **$**_____

The Foregoing Bid Is Contingent upon Understanding and Agreement, to Wit:

1. Klamath County has the right to reject any and all bids.

2. Contractor will acquire all necessary permits for project.

3. The undersigned bidder hereby represents that this bid is made without connection with any person, firm or corporation making a bid for the same project, and is in all respects fair and without collusion or fraud.

4. Bidder declares that he/she has carefully examined the specifications and provisions set forth in the Invitation to Bid for the project; that he/she has personally inspected the site; and that he/she has satisfied him/herself to the actual conditions and requirements of the work involved.

5. Bidder agrees to furnish all equipment, tools, labor, materials, and other means of work performance necessary to achieve completion of the work within thirty (30) days date of the Notice to Proceed, in accordance with the conditions of the Invitation to Bid.

6. Execution of this bid constitutes an offer binding upon the bidder and is irrevocable for a period of thirty (30) County business days after the scheduled bid opening.

7. Any attachments to this Bid Form hereto become part of this offer and are hereby incorporated herein.

8. It is agreed that if any party hereto is required to apply to the Courts for enforcement of this bid, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney fees at trial and on appeal of such suit or action, in addition to all other sums provided by law.

9. Certificate of non-discrimination, certificate of compliance with Oregon tax laws and bidder residency statement, which were included with instructions as "Attachment A", are completed and attached to this Bid Form.

10. Contractor agrees to be bound by and will comply with the provisions of ORS 279C.840 or 40 U.S.C.27a, "Payment of Prevailing Wage".

///

_____

Signature:

_____

Printed Name:

_____

Title:

_____

Firm Name:

_____

Address

Phone Number: _____

Federal I.D. # _____

Contractor License # _____

Date Signed: _____

ACCEPTED THIS _____ Day of _____, 2016.

**Klamath County Board of Commissioners:**

_____

Chair

_____

Commissioner

_____

Commissioner

**Independent Contractor Certification Statement**
[as required by OAR 125-020-0410 (1)(a)]

Klamath County Departmental Certification

In order to comply with the provisions of ORS 670.600, an individual or business entity performing labor or services for remuneration shall be considered to perform the labor or services as an "Independent Contractor" if the following standards are met:

1. The individual or business entity providing the labor or services is free from direction and control over the means and manner of providing the labor or services, subject only to the right of the person for whom the labor or services are provided to specify the desired results;

2. The individual or business entity providing the labor or services is responsible for obtaining all assumed business registrations or professional occupational licenses required by state law or local government ordinance for the individual or business to conduct the business;

3. The individual or business entity providing labor or services furnishes the tools or equipment necessary for the performance of the contracted labor or services;

4. The individual or business entity providing labor or services has the authority to hire and fire employees to perform the labor or services;

5. Payment for the labor or services is made upon completion of the performance of specific portions of the project or is made on the basis of an annual or periodic retainer.

In hereby certify that the contracted work or intended contracted work meets these standard.

Department Head Date

**(Contractor/Proposed Contractor is to complete the next page)**

To establish status as an "independent contractor" as defined in ORS 670.600, certain standards must be met by the individual or business entity performing that work.

The undersigned certifies that he/she/the business entity meets the following standards:

1. The individual or business entity providing labor or services is registered under ORS Chapter 701, "construction Contractors", if the individual or business entity provides labor or services for which such registration is required; and,

2. Federal and state income tax returns in the name of the business or business Schedule C or farm Schedule F as part of the person income tax return were filed for the previous year if the individual or business entity performed labor or services as an independent contractor in the previous year; and,

3. The individual or business entity represents to the public that the labor or services are to be provided by an independently established business. Except when individual or business entity files a Schedule F as part of the person income tax returns and the individual or business entity performs farm labor or services that are reportable on Schedule C, an individual or business entity is considered to be engaged in an independently established business when four or more of the following circumstances exist.

Contractor is to check four or more of the following:

__ The labor or services are primarily carried out at a location that is separate from the residence of an individual who performs the labor or services, or are primarily carried out in a specific portion of the residence, which portion is set aside as the location of the business;

__ Commercial advertising or business cards are customary in operating similar businesses, are for the business, or the individual or business entity has a trade association membership;

__ Telephone listing and service are used for the business that is separate from the personal residence listing and service used by an individual who performs the labor or service;

__ Labor or services are performed only pursuant to written contracts.

__ Labor or services are performed for two or more different persons within a period of one year; or,

__ The individual or business entity assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership or performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be performed.

| | |
|---|---|
| _____ | _____ |
| Contractor Signature | Date |
| _____ | _____ |
| Printed Name | Federal Tax ID # |

## *BIDDER/PROPOSER RESIDENCY STATEMENT*

Pursuant to ORS 279A.120, Oregon's Reciprocal Preference Law, public contracting agencies shall, for the purposes of determining the lowest responsible bidder/proposer and the awarding of a contract, add a percent increase on the bid of a non-resident bidder/proposer equal to the percent, if any, of the preference given to that bidder/proposer in the state in which the bidder/proposer resides.

***As defined in ORS 279A.120, "Resident Bidder/proposer" means a bidder/proposer that has paid unemployment taxes or income taxes in this state in the twelve calendar months immediately preceding submission of the bid, has a business address in this state, and has stated in the bid whether the bidder/proposer is a "Resident Bidder/proposer". A "Non-resident Bidder/proposer" is a bidder/proposer who does not meet the definition of a "Resident Bidder/proposer" as stated above.***

1. Bidder/Proposer ☐ IS ☐ IS NOT a "Resident Bidder/proposer" as set forth above.

***2. If a Resident Bidder/proposer, enter your Oregon Business address below:***

_____

_____

3. If a Non-resident Bidder/proposer, enter state of residency:

_____

_____

Bidder/Proposer hereby certifies that the information provided is true and accurate.

Signature: _____ Date: _____

Printed or Typed Name: _____

Title: _____

Firm: _____

Telephone: _____

## CONTRACTOR'S CERTIFICATION REGARDING DRUG TESTING PROGRAM

(1) Pursuant to OAR 137-049-0200, contractor certifies by its signature on this document that it has a Qualifying Drug Testing Program in place for its employees that includes, at a minimum, the following:

(a) A written employee drug testing policy, (b) Required drug testing for all new Subject Employees or, alternatively, required testing of all Subject Employees every 12 months on a random selection basis, and
(c) Required testing of a Subject Employee when the contractor has reasonable cause to believe the Subject Employee is under the influence of drugs.

(2) A drug testing program that meets the above requirements will be deemed a "Qualifying Employee Drug Testing Program." An employee is a "Subject Employee" only if that employee will be working on the Project job site.

(3) Contractor agrees that by signing this certification it represents and warrants to the County that its Qualifying Employee Drug Testing Program is in place and will continue in full force and effect for the duration of the Contract. The County's performance obligation (which includes, without limitation, the County's obligation to make payment) shall be contingent on Contractor's compliance with this representation and warranty.

(4) Contractor also agrees that, as a condition to County's performance obligation (which includes, without limitation, the County's obligation to make payment), contractor shall require each Sub-Contractor providing labor for the project to:

(a) Demonstrate to the Contractor that it has a Qualifying Employee Drug Testing Program for the Sub-Contractor's Subject Employees, and represent and warrant to the Contractor that the Qualifying Employee Drug Testing Program is in place at the time of subcontract execution and will continue in full force and effect for the duration of the subcontract; or (b) Require that the Sub-Contractor's Subject Employees participate in the Contractor's Qualifying Employee Drug Testing Program for the duration of the subcontract.

CONTRACTOR

_____
Firm Name

By: _____

Name: _____
(Corporate Officer, Title)

Date: _____

## CERTIFICATE OF NON-DISCRIMINATION

Pursuant to ORS 279A.110, discrimination in subcontracting is prohibited. Any contractor who contracts with a public contracting agency shall not discriminate against minority, women or emerging small business enterprises or a business enterprise that is owned or controlled by or that employs a disabled veteran in the awarding of contracts.

By signature of the authorized representative of the bidder/proposer, the bidder/proposer hereby certifies to Klamath County that this bidder/proposer has not discriminated against minority, women, or emerging small business enterprises will not discriminate against minority, women or against a business enterprise that is owned or controlled by or that employs a disabled veteran in obtaining any subcontracts; and, further, that if awarded the contract for which this bid or proposal is submitted, shall not so discriminate.

Date: _____

Signature: _____

Printed or Typed Name: _____

Name of Firm: _____

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## *COMPLIANCE WITH OREGON TAX LAWS*

The undersigned is authorized to act on behalf of Contractor and that Contractor is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws.

The undersigned certifies under penalty of perjury both individually and on behalf of Contractor that:

The undersigned is a duly authorized representative of Contractor, has been authorized by Contractor to make all representations, attestations, and certifications contained in this Contract and to execute this Contract on behalf of Contractor.

Date: _____

Signature: _____

Printed or Typed Name: _____

Name of Firm: _____

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## CERTIFICATE OF COMPLIANCE WITH ORS 305.380 AND 305.385

The undersigned, as provider or potential provider of goods, services or real estate space to Klamath County, hereby certifies under penalty of perjury that to the best of my knowledge, the undersigned is not in violation of any Oregon tax described in ORS 305.380(4).

Date: _____

Signature: _____

Printed or Typed Name: _____

Name of Firm: _____

## ***CONTRACTOR'S REPRESENTATIONS AND WARRANTIES***

Contractor represents and warrants to Klamath County that:

1. Contractor has the power and authority to enter into and perform this Contract.

2. This Contract, when executed and delivered, is a valid and binding obligation of Contractor, enforceable in accordance with its terms.

3. Contractor (to the best of Contractor's knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the effective date of this Contract, faithfully has complied with:

    a. All tax laws of this state, including but not limited to ORS 305.620 and ORS Chapters 316, 317, and 318;

    b. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;

    c. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and

    d. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

4. Any Goods/Items/Equipment/Components/Hardware/Software/Intellectual Property Rights, etc. delivered to/granted to Klamath County under this Contract, and Contractor's Services rendered in the performance of Contractor's obligations under this Contract, shall be provided to Klamath County free and clear of any and all restrictions on or conditions of use, transfer, modification, or assignment, and shall be free and clear of any and all liens, claims, mortgages, security interests, liabilities, charges, and encumbrances of any kind.

Date: _____

Signature: _____

Printed or Typed Name: _____

Name of Firm: _____

# FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM
# (OAR 137-040-0017)

Bids which are submitted by Bid Closing, but for which a required disclosure submittal has not been made by the specified Disclosure Deadline, are not responsive and shall not be considered for Contract award

AGENCY SUPPLIED INFORMATION:

PROJECT NAME: _____
BID #: _____ BID CLOSING: Date: _____ Time: _____ ☐AM ☐PM
REQUIRED DISCLOSURE DEADLINE: Date: _____ Time: _____ ☐AM ☐PM
Deliver Form To (Agency): _____
Designated Recipient (Person): _____ Phone #: _____
Agency's Address: _____
_____
_____

INSTRUCTIONS:

*The contracting agency will insert "N/A" above if the contract value is not anticipated to exceed $100,000. Otherwise this form must be submitted either with the bid or within two (2) working hours after the advertised bid closing date and time; but no later than the DISCLOSURE DEADLINE stated above.*

Unless otherwise stated in the solicitation, this document shall not be submitted by facsimile. It is the responsibility of bidders to submit this disclosure form and any additional sheets, with the bid number and project name clearly marked, at the location indicated by the specified disclosure deadline. See "Instructions to Bidders".

List below the Name, Category of Work add Dollar Value for each first-tier subcontractor that would be furnishing labor, or labor and material, for which disclosure is required. Enter the word "NONE" if there are no first-tier subcontractors subject to disclosure. ATTACH ADDITIONAL SHEETS IF NECESSARY.

BIDDER DISCLOSURE:

| | SUBCONTRACTOR NAME | CATEGORY OF WORK | DOLLAR VALUE |
|---|---|---|---|
| 1. | _____ | _____ | _____ |
| 2. | _____ | _____ | _____ |
| 3. | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ |

The above listed first-tier subcontractor(s) are providing labor, or labor and material, with a Dollar Value equal to or greater than:

a) 5% of the total Contract Price, but at least $15,000. [If the Dollar Value is less than $15,000 do not list the subcontractor above.]
or
b) $350,000 regardless of the percentage of the Total Contract Price.

Form Submitted By (Bidder Name): _____

Contact Name: _____ Phone #: _____

# SCOPE OF WORK

The Klamath County Library seeks bids for soffit and lighting removal (including haul off) and replacement on the Klamath Avenue side of the Klamath County Library.

Project extends from several feet right of the front of the building (if one is facing the front doors form the sidewalk) to the far corner at 2nd Street and concerns all material over the ADA ramp and exterior of the entryway.

Would like bid pricing for comparison on three different materials for soffits:

1. Vinyl
2. Fiber board product (e.g. Hardie board)
3. Metal product, e.g., aluminum
4. If the contractor wishes to include bids for soffit materials different than any examples above, they may do so. * *Drywall is NOT an acceptable material. Any material used for the soffits must be able to withstand occasional water-hose cleaning without sustaining damage.

Lighting should be replaced with bright LED lighting and work with existing light timers controlled by Klamath County Maintenance. Lights should be bright enough that a car passing by on Klamath Avenue (e.g. a law enforcement cruiser) can easily see any activity in the ramp, on the stairs or at the doors. Old lighting/electrical should be hauled off.

*Library would like an alternative bid for the soffits and lights running the entirety of the Southwest side of the building as well (the side that runs parallel to 2nd Street). Included in this bid would be pricing for placing conduit and 5 junction boxes, evenly spaced apart, up above the highest part of the soffit structure.

# BOLI Rates

( http://www.boli.state.or.us/BOLI/WHD/PWR/pwr_book.shtml )

Exhibit 1

-SAMPLE-
Contract for Construction

PARTIES: Klamath County ("County"); and,

**_____ ("Contractor")**

DATE: _____, 2016

**1. Services to be Provided:**

1.1. The Contractor shall provide, or cause to be provided, as an Independent Contractor and not as an agent of the County, detail as specified in "Exhibit A" the Bid Form and Specifications, attached to and hereby made part of this Contract.

1.2. The project shall be completed, as determined by the Contract Administrator, no later than 30 days from the signing of the Contract by the Klamath County Board of Commissioners. An extension of thirty 30 days will be allowed, if required, due to severe weather. Contractor shall make every effort to protect building from moisture as a result of precipitation.

1.3. Work shall be performed during normal County business hours, between 8:00 A.M. and 5:00 P.M., Monday through Friday, unless approval to deviate from this schedule is granted by the County.

2. **Compensation; Progress Payments, Retainage:** The Contractor shall be compensated a firm fixed price amount of $_____ for the work described in this Contract.

2.1. General: Progress payments will be made promptly and retainage withheld in accordance with ORS 279C.500 to 279C.570. At a regular period, each month the County's representative will make an estimate of the amount and value of work accomplished.

2.1.1. The estimates upon which progress payments are based are not represented to be accurate estimates, and all quantities shown are subject to correction in the final estimate.

2.1.2. Progress payments are not an acceptance or approval of any part of the work or a waiver of any defects therein, and in no manner relieve the Contractor or Contractor's sureties from obligations under the contract.

2.1.3. No payment shall release the Contractor or Contractor's sureties.

2.2. Progress Payments: Progress payments will be based on the estimate in 8.1.1, less such amounts as may have been previously paid, less such other amounts as may be deductible or as may be owing and due to the County, and less an amount to be retained.

2.3. Retainage: Retainage will be required and held in accordance with ORS 279C.550 to .570. The Contractor may deposit bonds, securities or other instruments with the County or in a bank or trust company for the County to hold for the County's benefit in lieu of moneys held as retainage. If the County accepts bonds, securities or other instruments deposited as provided in this subsection, the County shall reduce the moneys held as retainage in an amount equal to the value of the bonds, securities and other instruments and pay the amount of the reduction to the Contractor in accordance with ORS 279C.570. Interest or earnings on the bonds, securities or other instruments shall accrue to the Contractor. If the Contractor elects, the County shall deposit the retainage as accumulated in an interest-bearing account in a bank, savings bank, trust company or savings association for the benefit of the County. The amount to be retained will equal five percent (5%) of the value of completed work except as follows:

2.3.1. When the contract work is fifty percent (50%) completed, the County's representative may, in its discretion, reduce or eliminate the retainage on the progress payments for the remaining work accomplished. Reduction or elimination will only be considered upon written application by the Contractor, which must include written approval of the Contractor's surety.

2.3.2. ORS 279C.845 Retainage: If a Contractor is required to file certified statements under ORS 279C.845, County will retain 25% of any amount earned by the Contractor until the Contractor has filed the certified statements. Retainage under this section will be returned only in accordance with ORS 279C.845.

2.4. Claims for Extra Compensation in any case where the Contractor deems extra compensation is due for work or materials not allowed by the County's representative, the Contractor shall in writing notify the County's representative of the Contractor's intention to make claim for such compensation before the Contractor begins the work on which the Contractor bases the claim. If such notification is not given or the County's representative is not afforded proper facilities by the Contractor for keeping strict account of actual cost, then the Contractor agrees to waive the claim for extra compensation. Such notice by the Contractor and the fact that the County's representative has kept account of the cost, shall not in any way be construed as proving the validity of the claim.

2.4.1. Notwithstanding any other notices that are required, in the event Contractor discovers any subsurface, latent or other conditions at the site differing materially from those indicated in the contract documents, the Contractor shall immediately notify County's representative and not disturb them until the County's representative has review such conditions.

2.5. **Interest:** In the event of a dispute as to compensation due Contractor, upon settlement or judgment in favor of Contractor, interest is added to, not part of settlement.

3. **Contract Administrator; Personal Liability of Public Officials:** The Klamath County _____ Department shall administer this Contract for the County as the delegate of the Klamath County Board of Commissioners. In carrying out the provisions of the contract documents, or in exercising any power or authority granted to the Contractor by the contract, the Contractor agrees there will be no liability upon the officials, officers, or employees of the County, either personally or as officials of the County; it being always understood that in such matters they act as the agents and representatives of the County.

4. **Status:** The Contractor is engaged hereby as an independent Contractor as defined in ORS 670.600 and will be so deemed for purposes of the following:

4.1. This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees. Without limitation, but by way of illustration, the benefits which are not intended to be extended by this Contract to the Contractor are holiday, vacation, and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Worker's Compensation, unemployment compensation, or retirement benefits.

4.2. The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract.

4.3. The Contractor hereby specifically waives any right that it may have or claim for indemnification from the County for the Contractor, its heirs, successors or assigns pursuant to the Oregon Tort Claims Act, ORS 30.260 et seq.

5. **Quality of Work:** The Contractor has represented, and by entering into this Contract now represents, that all personnel assigned to the work required under this Contract are fully qualified to perform the work to which they will be assigned in a competent, professional and workmanlike manner and, if required to be registered or licensed by the State of Oregon, are so licensed or registered. The Contractor shall perform the services described in this Contract as an independent Contractor in accordance with its own methods, the terms of this Contract, and all applicable laws and regulations, and shall be responsible for the professional quality, technical accuracy and the coordination of all services furnished by the Contractor under this Contract. The Contractor shall, without additional compensation, correct or revise any error or deficiencies in its work products or services. Neither the County's review, approval or acceptance of, nor payment for, any of the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the County in accordance with applicable laws for all damages to County caused by the Contractor's negligent performance of any services furnished under this Contract.

6. **Warranty:** The Contractor shall provide a warranty against defects in materials and workmanship for a period of one (1) year. The Contractor guarantees to repair and replace faulty work and materials, whether performed by him or Sub-Contractors for a period of one (1) year from the date of completion. In the event of failure to comply within fifteen (15) days after being notified in writing by the County of faulty work and material, the Contractor authorizes the County to proceed to have said defects repaired at the expense of the Contractor. In the event that the County pays for said repair, the Contractor agrees to reimburse the County forthwith on demand.

**7. Constraints:**

7.1. The Contractor agrees to defend, indemnify and save County, its agents and employees harmless from any and all losses, claims, action, costs, expenses, judgments, subrogation or other damages resulting from injury to any person (including injury resulting in death) or damage (including loss or destruction) to property, arising or resulting from the fault, negligence, wrongful act or wrongful omission of the Contractor or its agents or employees.

7.2. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon State Constitution, and is contingent upon funds being appropriated therefore.

7.3. The Contractor shall provide all necessary equipment, tools, labor, materials, and other means of work performance necessary to complete the work under this Contract. No County equipment or personnel shall be utilized in fulfilling the services of this Contract.

7.4. All products, materials and services procured under this Contract shall be considered to be "goods" for the purpose of the Oregon Uniform Commercial Code. In addition to any rights and obligations established by this Contract, the provisions of Oregon Revised Statutes, Chapter 72, shall apply, notwithstanding ORS 72.2060 and 72.2070 and except as indicated in Section 21 "Amendment" of this Contract.

7.5. Neither party shall be held responsible for delay or failure in performance of this Contract when such delay or failure is due to causes beyond the control and without the fault or negligence of the party. Such causes may include, but are not restricted to, fire, flood, epidemic, acts of God, unusually severe weather, strikes, or legal acts of public authorities, which cannot be reasonably forecast or provided against. Either party may terminate this Contract after reasonably determining that such delay or failure will prevent continued performance of the Contract and upon giving written notice to the other party of the cause, its effect upon Contract performance, and the effective date of termination.

7.6. Contractor shall provide proof that it has in place, during the term of this contract, a drug-testing program pursuant to ORS 279C.505(2) for Contractor's or Sub-Contractors' Subject (on-site) Employees. Contractor's execution of the attached certification satisfies this provision.

**8. Compliance with Law:**

8.1. The Contractor and Contractor through its agents, officers and employees shall observe and comply with all present and future laws, orders, regulations, rules, ordinances and requirements of federal, state and county governments with respect to activities performed pursuant to this Contract. Should the Contractor utilize agents that are not in the employ of Contractor, Contractor shall ensure that any sub-contracts or other agreements contain language obligating all agents, Sub-Contractors to the dictates of this paragraph (10.1).

a. The Contractor, throughout the duration of this Contract and any extensions**,** shall comply with all federal, state and local laws, regulations, and ordinances applicable to this Contract or to the Contractor's obligations under this Contract, as those laws, regulations and ordinances may be adopted or amended from time to time.

b. The Department's performance under this Contract is conditioned upon the Contractor's compliance with ORS 279B.220, 279B.225, 279B.230 and 279B.235. The Contractor shall, to the maximum extent economically feasible in the performance of this Contract, use recycled paper (as defined in ORS 279A.010 (1) (ee)), recycled PETE products (as defined in ORS 279A.010 (1) (ff)), and other recycled plastic resin products and recycled products (as "recycled product" is defined in ORS 279A.010 (1) (gg)).

c. Any violation of subsection (a.) of this section shall constitute a material breach of this Contract. Further, any violation of this Contract, which Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle the County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

- Termination of this Contract, in whole or in part;

- Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to State's setoff right, without penalty; and

- Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. The County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing the replacement Services/replacement Goods/ a replacement contractor.

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

8.2. If Section 10.3 applies, the County will pay the fee to the Bureau of Labor and Industries pursuant to ORS 279C.825(1).

8.3. If this contract is for a public works project that exceeds $50,000, the Contractor shall comply with the provisions of the **Oregon Prevailing Wage Rate**, and any applicable amendments in effect at the time the initial specifications were first advertised (available at www.oregon.gov/boli). Wage Rates for all other regions are excluded. This compliance shall include all required reporting to the State and County of wages paid under the Contract and shall be incorporated into all subcontracts under this Contract. The applicable prevailing wage rates can be found at this website: _ http://www.oregon.gov/boli/whd/pwr/Pages/index.aspx .

8.4. When the project involves federal funds, payment of the higher of Oregon Prevailing Wage Rates (PWR) or federal **Davis-Bacon Act rates** are required. Workers shall be paid no less than the higher of the applicable state or federal prevailing wage rate as determined by the Commissioner of the Bureau of Labor and Industries if the project is subject to the PWR law. Federal rates are available at www.dol.gov/. [A1]

8.5. County will withhold 25% of amounts due Contractor if County does not receive copies of certifi**ed payroll statements when required pursuant to ORS 279C.845(7). Workers** will be paid the applicable prevailing wage rates in each trade or occupation and daily/weekly/holiday/weekend overtime will be paid. Contractor will provide to workers a written schedule showing the number of hours per day and days per week the employee may be required to work.

8.6. Contractor and Sub-Contractors shall file a **Public Works Bond** with the Construction Contractor's Board on all public works projects subject to the PWR law before starting work on the project, unless exempt. Contractors must include a provision in all subcontracts requiring all Sub-Contractors to have a Public Works Bond filed with the Construction Contractor's Board before starting work, unless exempt.

8.7. Contractor shall provide a Performance Bond and a Payment Bond in the amount of the full contract price before starting work on the project.

8.8. The Contractor shall comply with all applicable laws and regulations. Contractor must obtain required licenses, certificates and permits. Cost of permits if required by local municipalities will be paid by Klamath County.

8.9. All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless the employer is exempt under ORS 656.126. [A2] Prior to commencing any work pursuant to the Contract, the Contractor shall certify to the County that Contractor is either a carrier-insured employer or a self-insured employer as provided for by ORS 656.407. If the Contract is a carrier-insured employer, Contractor shall provide the County with a certificate of worker's compensation insurance. If the Contractor is a self-insured employer, the Contractor shall provide the County with certification from the Worker's Compensation Division as evidence of the Contractor's status. Contractor shall ensure that each of its Sub-Contractors complies with the requirements of ORS 656.017.

8.10. The Contractor shall comply with all pertinent provisions of ORS Chapters 200, 279A, 279B, 279C and 659A pertaining to nondiscrimination in hiring and subcontracting practices.

8.11. The Contractor shall take affirmative steps to assure that small, minority and women-owned businesses and firms located in labor surplus areas are used when possible as sources of supplies, equipment, construction, services and labor when subcontracts are utilized in the performance of this Contract.

8.12. Pursuant to ORS 279A.125, the Contractor shall use recyclable products to the maximum extent economically feasible in the performance of the work of this Contract.

8.13. Pursuant to ORS 279C.505, the Contractor shall:

a. Make payment promptly, as due, to all persons supplying to the Contractor labor or material for the performance of the work provided for in this Contract;
b. Pay all contributions or amounts due the Oregon Industrial Accident Fund from the Contractor or any Sub-Contractor incurred for the performance of this Contract;
c. Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished;
d. Pay to the Oregon Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

8.14. Pursuant to ORS 279C.515, if the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a Sub-Contractor by any person in connection with this Contract as such claim becomes due, the proper officer or officers representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract. The payment of a claim in the manner authorized in this subsection shall not relieve the Contractor or the Contractor's surety from their obligations with respect to any unpaid claims. Interest at the rate of three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payment was received from the County or from the contractor, but not to exceed 30 percent, shall be charged on the amount due in accordance with ORS 279C.515(2).[A3]

8.15. Pursuant to ORS 279C.520, no person shall be employed for more than ten hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases the laborer shall be paid at least time and a half pay: for all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or, for all overtime in excess of ten hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and for all work performed on Saturday and on legal holiday specified in ORS 279C.540.

a. Contractor must give a written schedule to employees showing the number of hours per day and days per week the employee may be required to work.

8.16. Pursuant to ORS 279C.530, the Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care or needed care and attention, incident to sickness or injury, to employees of Contractor, of all sums which Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

8.17. The contractor shall pay the first-tier Sub-Contractor for satisfactory performance under its subcontracts within 10 days out of such amounts as are paid to the contractor by the County under this contract and include such a payment provision in its subcontracts. The payment provision shall require the contractor to pay to the first-tier Sub-Contractor an interest penalty on amounts due in the case of each payment not made within 30 days after receipt of payment from the County, I[A4]f a contractor or Sub-Contractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with this contract, the person may file a complaint with the Constructions Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.[A5]

8.18. The Contractor shall comply with all applicable requirements of the Americans with Disabilities Act of 1990 and ORS 659A.139 in regards to employment and access to services.

8.19. The Contractor shall comply with the requirements of the Rehabilitation Action of 1973 which provides that no qualified handicapped persons shall, on the basis of their handicap, be excluded from, be denied the benefits of, or otherwise by subjected to discrimination under any program or activity which receives or benefits from funds under this Contract.

8.20. The Contractor shall comply with requirements of the Civil Rights Act of 1964, including the following provisions:

a. No person in the United States shall, on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving this assistance.

b. It shall be an unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensations, terms, conditions, or privileges of employment, segregate, or otherwise adversely affect his status as an employee, because of such individual's race, color, sex, religion, or national origin.

8.21. Any person or persons claiming to have supplied labor or materials for the prosecution of the work provided for in this contract has a right of action on the Contractor's bond, cashier's check or certified check as provided for in ORS 279C.380 and 279C.400 only if:

a. The person or assignee has not been paid in full; and

b. Written notice of claim has been provided in accordance with ORS 279C.600 and 279C.605.

8.22. Contractor and first-tier Sub-Contractor(s) shall include the required payment and interest penalty clauses in each subcontract pursuant to ORS 279C.580.

a. A dispute arising between Contractor, first-tier Sub-Contractor(s) or their Sub-Contractor(s) does not constitute a dispute to which the County is a party. The County shall not be included as a party in any administrative or judicial proceeding involving such a dispute.

b. Contractor will pay to first-tier Sub-Contractor(s) for satisfactory performance under its contract within ten (10) days as such amounts that are being paid to Contractor.

8.23. If federal grant funds are involved, the federal laws, rules and regulations applicable to the grant shall govern in the event they conflict with a provision required by ORS 279C.005 to 279C.670.

8.24. If the work includes lawn or landscape maintenance, the contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective. ORS 279C.510(2).

8.25. If the work includes demolition, the contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. ORS 279C.510(1).

8.26. In compliance with ORS 279C.525 the following is a list of federal, state and local agencies of which the County has knowledge that have enacted ordinances or regulations relating to environmental pollution and the preservation of natural resources that *may* affect the performance of the Contract:

FEDERAL AGENCIES:

Agriculture, Department of
Forest Service
Soil Conservation Service

Defense, Department of
Army Corps of Engineers

Energy, Department of
Federal Energy Regulatory Commission

Environmental Protection Agency

Health and Human Services,
Department of Housing and Urban Development,

Interior, Department of

Bureau of Land Management

Bureau of Reclamation

Geological Survey

U.S. Fish and Wildlife Service

Labor, Department of

Occupation Safety and Health Administration

Water Resources Council

STATE AGENCIES:

Agriculture, Department of
Soil and Water Conservation Commission

Energy, Department of

Environmental Quality, Department of

Fish and Wildlife, Department of

Forestry, Department of

State Lands, Division of

Water Resources Department

LOCAL AGENCIES

City Councils

County Commissioner, Board of

8.27. It is mutually understood and agreed that the Department of Environmental Quality of the State of Oregon has enacted regulations dealing with the prevention of environmental pollution and preservation of natural resources which regulations may affect the performance of the contract. The contractor shall comply with all such applicable regulations in the performance of this contract.

8.28. Unless disposition of environmental pollution is specifically a part of this Contract, contractor shall immediately notify County of any hazardous substances which contractor discovers or encounters during performance of the work required by this Contract. "Hazardous substances" are those substances, materials or wastes regulated in 40 CFR, Part 261 and defined as hazardous in 40 CFR S 261.3. In addition to notifying County of any hazardous substances discovered or encountered, contractor shall immediately cease working in any particular area of the project where a hazardous substance has been discovered or encountered if continued work in such area would present a bona fide risk or danger to the health or well-being of contractor's or any sub-contractor's work force.

8.29. Spill Responsibility.

a. Contractor will be held responsible for any and all releases of environmental pollution during performance of the contract which occur as a result of, or are contributed by, actions of its agent, personnel, or sub-contractors. Contractor agrees to promptly dispose of such spills or leaks to satisfaction of the County and proper regulatory agencies in a manner that complies with applicable federal, state, and local laws and regulations. Cleanup shall be at no cost to the County.

b. Contractor shall report all reportable quantity releases to applicable federal, state, and local regulatory and emergency response agencies. Reportable quantities are found in 40 CFR, Part 302, Table 302.4 for hazardous substances and in OAR 340-108 for petroleum products. Upon discovery, regardless of quantity, contractor must telephonically report all releases to the County. A written follow-up report shall be submitted to County within 48 hours of the telephonic report. The written report shall contain, at a minimum:

- Description of items released (identity, quantity, manifest no., and all other documentation required by law.)
- Whether amount of items released is EPA/DEQ reportable, and, if so, when it was reported.
- Exact time and location of release, including a description of the area involved.
- Containment procedures initiated.
- Summary of communications about the release contractor has had with members of the press or State officials.
- Description of cleanup procedures employed or to be employed at the site, including disposal location of spill residue.
- Personnel injuries, if any, resulting from, or aggravated by, the release.

8.30. It is the contractor's responsibility to secure field locations for all existing underground utilities in the project area. The contractor shall maintain these locations for the duration of the project. The contractor shall bear all costs to repair damage to utilities directly resulting from the contractor's actions.

9. **Final Inspection:** Contractor shall notify Contract Administrator in writing of completion of project. County will inspect project and project documents within 15 days of written notice of completion and will either acknowledge acceptable work in writing or notify Contractor of remaining work to be performed in writing.

**10. County Payment for Unpaid Labor or Supplies:**

10.1. If contract is incomplete County may pay valid claims and charge the amount against payments due or to become due to the Contractor under the contract. Contractor and Contractor's surety shall not be relieved from liability for unpaid claims.

10.2. If contract has been completed and all funds disbursed to Contractor all claims shall be referred to the Contractor's surety for resolution. County shall not make payment to suppliers or Sub-Contractors for work already paid for.

**11. Safety and Health Requirements:**

11.1. Goods, services and work supplied by the Contractor under this Contract shall comply with all federal and state occupational health and safety statutes, rules and requirements including, but not limited to, those of the Oregon Department of Consumer and Business Services.

11.2. The Contractor shall be solely responsible for informing its employees and its Sub-Contractors' employees about hazardous chemicals and materials that employees may encounter and precautionary measures that must be taken by the employees. The Contractor shall not be entitled to additional compensation by the County for costs attributable to this provision.

12. **Insurance:** Contractor shall procure and maintain in force, for the entire duration of this Contract, insurance providing coverage for bodily injury and property damage which may arise out of the operations of the Contractor or his Sub-Contractors, employees, agents, assigns or for anyone whose acts any of them may be liable. Such insurance shall have coverage limits equal to or greater than the minimum limits set forth herein

12.1. Contractor shall furnish to Klamath County an Accord 25-S certificate of insurance evidencing the existence of all insurance coverages required by this contract prior to the commencement of any work.

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

12.3. Contracts should have the following:

- □ General Liability
  - Each Occurrence $2,000,000
  - Aggregate $4,000,000
  - Operations $2,000,000
    - Products and Completed
  - Personal/Advertising Injury $2,000,000
- □ Auto Liability
  - Combined Single $2,000,000
- □ Workers' Compensation
  - Statutory Limits
  - Employers Liability
    - $1,000,000
  - Indemnity Clause

12.3.1. Contractor shall endorse the CGL to include Klamath County as an "additional insured", including coverage for products and completed operations, and a copy of this endorsement shall accompany each certificate. The additional insurance endorsement shall be CG2010\1985 edition or its equivalent. [A6]

12.3.2. Contractor's insurance shall be primary and not excess to, or contributory with any insurance coverage provided by Klamath County. Contractor's insurance shall be endorsed to provide project specific aggregate limits with respect to project covered by this contract.

12.3.3. CGL coverage, including products and completed operations coverage, shall be maintained from the date work commences until two years after the work has been completed.

12.3.4. If the work required by this contract or the location of the work specified in this contract constitutes an exposure to the employees of the Contractor or his Sub-Contractors under the U.S. Longshoremen and harbor Workers Act, The Jones Act, or under any laws, regulations or statutes that apply to maritime workers, the Contractor shall ensure that proper coverage is purchased and maintained.

12.3.5. Contractor and all Sub-Contractors shall endorse the Worker's Compensation coverage to provide a "waiver of subrogation" in favor of Klamath County.

12.4. Commercial Pollution Liability Coverage (CPL). Contractor and any Sub-Contractors whose work involves hazardous substance or pollutant remediation work shall provide CPL coverage. CPL coverage is required for abatement work involving but not limited to lead, asbestos, PCB;s and other hazardous materials.

CPL per occurrence limit $2,000,000

12.4.1. CPL will be endorsed to name Klamath County as an "Additional Insured" and coverage shall be provided on an Occurrence Form. Claims-made coverage is unacceptable.

12.5. Builder's Risk Coverage. Contractor shall provide a special form builder's risk property insurance coverage to include earthquake and flood in the full amount of the project. This coverage shall include Klamath County as a named insured. Builder's risk coverage shall have a deductible no larger than $5,000 with the exception of earthquake and flood on which deductible shall not exceed 2% of the value of the project. Builder's risk coverage shall be maintained for the entire duration of the project until occupancy. Contractor agrees to waive rights of subrogation against Klamath county on all property coverage issues.

**13. Liquidated Damages:**

13.1. Any delay in the completion of this Contract beyond the date specified will cause inconvenience and/or loss to the County. In the event of delay, it is and will be impractical and difficult to ascertain and determine the actual damage County sustains by reason of the delay. The Contractor will pay to the County, not as a penalty but as liquidated damages, for each calendar day of delay beyond the completion date set forth in Section 1.2 of this Contract, the sum of $100[A7].

13.2. The County, at its sole discretion, may grant the Contractor an extension of time for completion if the delay is caused by occurrences beyond the Contractor's control. An extension shall not be granted for a shortage or inadequacy of labor, equipment or materials; negligence or fault of the Contractor, Contractor's suppliers or Sub-Contractors; or other deficiencies determined by the County to be within the province of the Contractor's control or responsibility.

14. **Right to Audit and Retention of Records:** The County retains the right to audit books and records of the Contractor or any Sub-Contractor to the extent that such books and records relate to this Contract. Contractor shall retain such books and records for a period of three (3) years from the date of final payment under the prime contract and any Sub-Contractor shall retain such books and records for a period of three (3) years from the date of final payment under the subcontract.

14.1. **Assignment/Subcontract:** Contractor shall not assign, sell, dispose of, or transfer rights, nor delegate duties under the Contract, either in whole or in part, without the County's prior written consent. Unless otherwise agreed by the County in writing, such consent shall not relieve the Contractor of any obligations under this Contract. Any assignee or transferee shall be considered the agent of the Contractor and be bound to abide by all provisions of this Contract. If the County consents in writing to an assignment, sale, disposal or transfer of the Contractor's rights or delegation of the Contractor's duties, the Contractor and its surety, if any, shall remain liable to the County for complete performance of this Contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless the County otherwise agrees in writing.

15. **Attorney Fees:** In the event suit or action is instituted to enforce any of the terms of this Contract, each party shall be responsible for their own attorney fees and any related costs.

16. **Default, Remedies:** Time is of the essence of this Contract. Either party shall be deemed to be in default if such party fails to perform any of its obligations under this Contract. In the event of default, the party that is not in default shall have the right to terminate this Contract immediately and pursue whatever legal, or equitable, remedies are available. All remedies shall be cumulative.

17. **No Waiver:** No term or provision hereof shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other whether expressed or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach.

**18. Termination:**

18.1. This Contract may be terminated by either party pursuant to Section 18 "Default, Remedies" of this Contract by giving written notice to the other party.

18.2. The County reserves the right to terminate this Contract upon ten (10) days written notice should it find the Contractor has failed to comply with the provisions of Section 13 "Insurance" of this Contract.

**19. Amendment:**

19.1. This Contract and any amendments to this Contract shall be in writing and will not be effective until approved by the Klamath County Board of Commissioners and the Contractor.

19.2. This Contract supersedes and cancels any prior contracts between the parties hereto for similar services.

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

21. **Conflict of interest**:

21.1. Klamath County desires to have the Contractor refrain from activities which could be interpreted as creating an organizational conflict of interest.

21.2. The Contractor agrees to avoid any activities which may influence the decisions of Klamath County or which directly or indirectly affect the interest of the County where the Contractor has a personal interest in the matter which may be incompatible with the interest of Klamath County Government, and to promptly notify County regarding any change in Contractor's private interests or the Services under this Agreement which may result or appear to result in a conflict of interest.

22. **Notices:** Any notice required to be given pursuant to this Contract shall be in writing and may be given by personal delivery or by certified or registered mail, addressed to the County or the Contractor at the address set forth below, or to either of them in any other manner prescribed by law.

Contract Administrator

(Department)
(Address)
(Phone)

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Contractor:
Purpose:
Term:

**CONTRACTOR:**
****519 Main St.
****
Klamath Falls, OR 97601

Phone: (***) ***

Signature: _____

Printed or Typed Name: _____

Federal I.D. # _____

Date: _____

**KLAMATH COUNTY BOARD**
**of COMMISSIONERS:**
305 Main Street
Klamath Falls, OR 97601

(541) 883-5100

Approved this ____ day of _____, 20__.

_____
Chairman

_____
Commissioner

_____
Commissioner

**APPROVED AS TO FORM AND**
**LEGAL SUFFICIENCY:**

_____
David P. Groff