# REQUEST FOR QUOTE

Klamath County Developmental Disability Services is seeking quotes on the following. Quotes to be sent to Karen Cobb via mail to 3328 Vandenberg Road, Klamath Falls, OR 97603, fax to (541) 885-3709, or e-mail to kcobb@co.klamath.or.us. Deadline is Friday, November 4, 2016, at 5 p.m.

Please contact Karen Cobb (541) 885-2435 for an appointment to visit the site for more information

***LOCATION: 2426/2428 WHITE AVENUE, KLAMATH FALLS, OR 97601***

**OFFICE AND 4 UNITS:**

Remove baseboard heaters.

Repair damage to walls behind baseboard heaters (if needed).

Fill in cracks and nail holes in walls prior to painting. Recaulk where needed.

Paint all interior walls, ceiling, doors, and trim throughout. Paint for walls, ceiling and doors will be 2 coats of Sherwin Williams Antique White. All window and door trim will have 2 coats of Sherwin

Williams Camelback semi-gloss paint.

Install flush bumper door stops (polished brass) where needed.

Replace kitchen cabinets (upper and lower). Contractor to offer 3 options to DD Services

Replace kitchen countertops to coordinate with cabinets. Contractor to offer 3 options to DD Services.

**Attachments:**
Attachment A – Certifications
Attachment B – First Tier Sub Contractors Form
Attachment C – Scope of Work
Attachment D – Sample Contract

## ***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: _____

## *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: _____

## *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/SPECIFICATIONS***

REQUEST FOR QUOTES

WHITE AVENUE GROUP HOME PROPERTY

## Specifications

**Office:**

a. Remove baseboard heater and repair any wall damage (if needed).

b. Wall cracks and nail holes filled prior to painting. Re-caulking where needed.

c. Paint interior walls, ceiling, doors, trim and window trim throughout. Paint for interior walls, ceiling and doors will be 2 coats of Sherwin Williams Antique White. All door and window trim will have 2 coats of Sherwin Williams Camelback semi-gloss paint.

d. Install flush bumper door stops (polished brass) where needed behind doors.

**Unit 1:**

a. Remove baseboard heaters throughout and repair any wall damage (if needed).

b. Wall cracks and nail holes filled prior to painting. Re-caulking where needed.

c. Paint interior walls, ceiling, doors, trim and window trim throughout. Paint for interior walls, ceiling and doors will be 2 coats of Sherwin Williams Antique White. All door and window trim will have 2 coats of Sherwin Williams Camelback semi-gloss paint.

d. Install flush bumper door stops (polished brass) where needed behind doors.

e. Replace kitchen cabinets. Contractor offer choices of cabinetry.

f. Replace kitchen countertops to coordinate with cabinetry. Contractor to offer choices of countertops.

**Unit 2:**

a. Remove baseboard heaters throughout and repair any wall damage (if needed).

b. Wall cracks and nail holes filled prior to painting. Re-caulking where needed.

c. Paint interior walls, ceiling, doors, trim and window trim throughout. Paint for interior walls, ceiling and doors will be 2 coats of Sherwin Williams Antique White. All door and window trim will have 2 coats of Sherwin Williams Camelback semi-gloss paint.

d. Install flush bumper door stops (polished brass) where needed behind doors.

e. Replace kitchen cabinets. Contractor offer choices of cabinetry.

f. Replace kitchen countertops to coordinate with cabinetry. Contractor to offer choices of countertops.

**Unit 3:**

a. Remove baseboard heaters throughout and repair any wall damage (if needed).

b. Wall cracks and nail holes filled prior to painting. Re-caulking where needed.

c. Paint interior walls, ceiling, doors, trim and window trim throughout. Paint for interior walls, ceiling and doors will be 2 coats of Sherwin Williams Antique White. All door and window trim will have 2 coats of Sherwin Williams Camelback semi-gloss paint.

d. Install flush bumper door stops (polished brass) where needed behind doors.

e. Replace kitchen cabinets. Contractor offer choices of cabinetry.

f. Replace kitchen countertops to coordinate with cabinetry. Contractor to offer choices of countertops.

**Unit 4:**

a. Remove baseboard heaters throughout and repair any wall damage (if needed).

b. Wall cracks and nail holes filled prior to painting. Re-caulking where needed.

c. Paint interior walls, ceiling, doors, trim and window trim throughout. Paint for interior walls, ceiling and doors will be 2 coats of Sherwin Williams Antique White. All door and window trim will have 2 coats of Sherwin Williams Camelback semi-gloss paint.

d. Install flush bumper door stops (polished brass) where needed behind doors.

e. Replace kitchen cabinets. Contractor offer choices of cabinetry.

f. Replace kitchen countertops to coordinate with cabinetry. Contractor to offer choices of countertops.

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, details 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 60 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 $_____.00, with a not to exceed amount of $_____.00, 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.

A. 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.

B. 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.

C. 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:

A. 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.

B. 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.

A. 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:** Klamath County 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 twenty (20) years, no limit guarantee, from the manufacturer with a two (2) year watertight guarantee from the Contractor. The Contractor guarantees to repair and replace faulty work and materials, whether performed by him or

Sub-Contractors for a period of twenty (20) years, no limit guarantee, from the manufacturer and a two (2) year watertight guarantee from the Contractor, 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 8.3 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/.

8.5. County will withhold 25% of amounts due Contractor if County does not receive copies of certified **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. 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).

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. If 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.

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. Commercial General Liability Insurance (CGL) shall be provided on an Occurrence Form with coverage limits as shown in this section below. Claims-made coverage and *Modified* occurrence forms are unacceptable.

a. 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

12.4. 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.

12.5. 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.

12.6. 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.

12.7. 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.

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

12.9. 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 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.

| | |
|---|---|
| CPL per occurrence limit | $2,000,000 |

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.

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 16 "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 12 "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)

///

Contractor:

Purpose:
Term:

**CONTRACTOR:**
**********
**********
**********
Klamath Falls, OR 97601

Phone: (541) ***-****

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 _____, 2016.

_____
Chairman

_____
Commissioner

_____
Commissioner

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

_____
David P. Groff

EXHIBIT B

Bureau of Labor and Industries
Prevailing Wage Rates
For Region 11
For more details and BOLI form see
Electronic version available at www.oregon.gov/boli.