

## BAKER COUNTY



### COVER PAGE

# SEEKING PROFESSIONAL SERVICES FOR ENGINEERING, DESIGN AND PROJECT MANAGEMENT OF THE HEWITT AND HOLCOMB PARKS WATER SUPPLY PROJECT

**RFP NO. 2024-02**

Date of Issue:

Closing Date and Time: July 8th, 2024 at 5:00 pm PST

Single Point of Contact (SPC): Doni Bruland, Parks Director

Address: 1995 Third Street

City, State, Zip Baker City, OR, 97814

Phone (voice)

E-mail: [dbruland@bakercounty.org](mailto:dbruland@bakercounty.org)

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## **SECTION 1: GENERAL INFORMATION**

### **1.1 INTRODUCTION**

- 1.1.1** The purpose of the Hewitt and Holcomb Parks Water Supply Project is to develop water system infrastructure to support improving the potable water supply to Hewitt and Holcomb Parks. A hydraulic study has been conducted. See Attachment D, Technical Memorandum. The study concluded that the wells currently providing water to the Parks have tested positive for coliform in the past and have very high iron levels, which are leading to water taste and appearance concerns. It has been determined that a viable solution is to purchase potable water from the City of Richland and use the existing park wells for irrigation purposes only.
- 1.1.2** Baker County Parks requires Professional Engineering Services related to the planning and design of potable waterlines from the existing waterline in the City of Richland to Hewitt and Holcomb Parks. The waterline will be installed within county road right-of-ways. The waterline will continue within the individual Parks to provide potable water to each camping space and restrooms/showers. It will not be used for irrigation purposes.
- 1.1.3** The proposed waterline will begin in Richland where it will be connected to an existing 6” waterline located at the City’s boundary, continue south until Sullivan Lane then southeast onto Robinette Road and to Holcomb and Hewitt Parks entrances. Each Park will then have waterlines to camping spaces. The waterline will have ‘saddles’ at each residence for future water hook-up by private property owners, if the property owners choose to do so.
- 1.1.4** Funding has been allocated and is presently available for the estimated costs associated with the engineering services sought under this RFP. Additional funds will be secured through granting sources in order to complete the Hewitt and Holcomb Parks Water Supply Project. A preliminary cost estimate for this project is attached to this RFP (Attachment D, Technical Memorandum) and estimates that the total project cost will be \$1,625,000.
- 1.1.5** Throughout this Request for Proposal (RFP) all firms and individuals submitting proposals will be referred to as Proposers; the selected Proposer will be referred to as the Consultant.

### **1.2 SCHEDULE**

The table below represents a tentative schedule of events. All times are listed in Pacific Time. All dates listed are subject to change. N/A denotes that event is not applicable to this RFP.

Event	Date	Time
Pre-Proposal Mandatory Site Visit	N/A	
Questions / Requests for Clarification Due	6/20/24	4 PM
Answers to Questions / Requests for Clarification Issued (approx.)	5 calendar days after questions due	
RFP Protest Period Ends	5 calendar days prior to RFP Closing	
Closing (Proposal Due)	7/8/24 at 5 PM	
Presentations, Demonstrations, or Interviews	TBD	
Issuance of Notice of Intent to Award (approx.)	7/17/24	
Award Protest Period Ends	5 calendar days after Notice of Intent to Award	

### 1.3 SINGLE POINT OF CONTACT (SPC)

The SPC for this RFP is identified on the Cover Page, along with the SPC’s contact information. Proposer shall direct all communications related to any provision of the RFP only to the SPC, whether about the technical requirements of the RFP, contractual requirements, the RFP process, or any other provision.

## SECTION 2: OVERVIEW AND SCOPE

### 2.1 OVERVIEW

This RFP anticipates the award of an agreement for the work, materials and service described by this Scope of Work, below, and associated Contract Documents.

The estimated cost of the professional services of the Consultant is anticipated to be approximately 10% of the total project cost, as outlined in Attachment D. ORS 297C.110(5)(a)(C)

### 2.2 SCOPE OF WORK

The basic services consist of those usual and customary to design engineering of potable water projects of similar size and include:

- A. Schematic Design- Participate and follow directives from design session in collaboration with Baker County and City of Richland representatives to create a workable design. Schematics should be refined incorporating budget, intended use, and relationship of the existing municipal water line. Consultant will furnish three (3) copies of the preliminary design documents and the Consultant’s estimate of probable project cost to the County. Consultant will meet with the County to present the preliminary design documents and the projected cost estimate.

- B. Design Development-Upon approval of schematic by County, the Consultant will create detailed plans for final design. Revisions if needed will be utilized to complete this final planning stage. The Consultant will then prepare a final design plan for approval, providing three (3) copies of the final design documents and the engineer’s estimate of probable costs accounting for any changes made to preliminary design.
- C. Construction Documents-Upon approval and acceptance of a final product from the design process, the Consultant will be responsible for preparation of all necessary engineering drawings and plan documents for completion of the project.
- D. Bidding & Contract Award-The Consultant will assist the County in drafting documents and soliciting bids for the project from prospective prime contractors. Services will include, but may not be limited to, assisting the County with the distribution of plans and specifications, assisting with pre-bid meetings, assisting with formulating responses to prospective bidders’ questions, issuing addendums, participation in bid opening, and providing recommendation for prime contract award.
- E. Construction Administration & Closeout- the Consultant will be a representative of and shall advise and consult with the County during construction until final payment of prime contractor is due and during the correction period as described in the Contract Documents. Consultant shall assist the County in completion of and filing documents required for the approval of any governmental authorities having jurisdiction over the project.
- F. The Consultant will be responsible for the procurement of ALL plan approvals and permitting from governing jurisdictions for the Project to include but not limited to the City of Richland, Baker County and the State Of Oregon.
- G. Additionally, the Consultant will provide on the County’s behalf construction administration and inspection services. This will include coordination of regular progress meetings, creation of Project schedule, review of shop drawings, assist in material selection, construction observation and evaluation, materials testing, process certificates for payment, creation of final record drawings, warranty follow up, and project close out.

## **SECTION 3: MINIMUM QUALIFICATOINS AND PROPOSAL REQUIREMENTS**

### **3.1 MINIMUM QUALIFICATIONS**

- A. Applicable licenses
- B. Maintain minimum insurance requirements, as shown in Attachment C
- C. Complete Financial Viability form, Attachment B

### **3.2 PROPOSAL REQUIREMENTS**

Proposal must address each of the items listed in this section and all other requirements set forth in this RFP. Proposer shall describe the Goods to be provided or the Services to be performed or both. A Proposal that merely offers to provide the goods or services as stated in this RFP may be considered non-responsive to this RFP and will not be considered further.

Proposal should not include extensive artwork, unusual printing or other materials not essential to the utility and clarity of the Proposal. Do not include marketing or advertising material in the Proposal, unless requested. Proposal should be straightforward and address the requests of the RFP. Proposal containing unsolicited marketing or advertising material may receive a lower evaluation score if specific information is difficult to locate.

Firms interested in submitting proposals as detailed in this RFP shall submit one (1) original proposal and (3) copies of the proposal. Proposals shall be signed by an authorized representative, failure to do so may subject the proposal to rejection by the County. Proposals must be submitted in a sealed package and clearly marked as follows:

RFP Title: Hewitt and Holcomb Parks Water Supply Project; Engineering RFP

RFP No:

SPC: Doni Bruland  
Baker County Facilities  
1995 3<sup>rd</sup> St  
Baker City, OR 97814

Proposals must address the following items which will be used as the Evaluation Criteria, consistent with ORS 279C.110(3);

1. Specialized experience capabilities and technical competence;
2. Resources committed to perform the services and the portion of the time that the prospective consultant's staff would spend to perform the services;
3. Record of past performance, including by not limited to price and cost data from previous projects, quality of work, ability to meet schedules, cost control and contract administration;
4. Availability to the project locale;
5. Familiarity with the project locale; and
6. Ownership status and employment practices regarding historically underutilized businesses;
7. Proposed project management techniques.

Proposals must include:

- A. COVER LETTER/BACKGROUND INFORMATION:** A one to two page cover letter indicating the firm, how they are legally formed and a short introduction. Provide a table or chart listing the principles and team members with a brief description of the key person(s) responsible for the work under the resulting contract. The table or chart may be a separate page, and will not count in the page-count of the cover letter. Include pertinent qualifications and experience of assigned personnel and sub-consultants, if any. Include information, if any, regarding ownership status and employment practices regarding disadvantaged business enterprises, emerging small businesses, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own, or historically underutilized businesses.
- B. REFERENCES and PAST EXPERIENCE:** Proposers should provide evidence of the successful completion of projects of similar scale and scope, ideally within the past two years. Include price and cost data from the projects. Please provide name, address and telephone numbers of contact person for three (3) such projects. Describe availability and capability to perform the required services.

- C. SCOPE OF WORK:** Using the project Overview and Scope (Section 2, above), outline a work plan including a proposed project schedule, start and end date with an explanation of workflow and any potential constraints. Describe capacity to complete the project accounting for the Proposer’s location of home or regional offices, including a description of the Proposer’s familiarity with the physical location of the Project. . Describe how Proposer will approach the project in order to minimize Project costs, provide services in a timely manner and ensure Project quality. Describe how the Proposer’s project team will interact with each other, Baker County and other Project participants including contractors. Include a description of Proposer’s approach to handling proposed change order requests from the County and/or contractors during Project construction.

**Proposer should be prepared to submit a Pricing Proposal upon request, if after the County’s evaluation of (A.) through (C.) above, the County determines the Proposer is sufficiently qualified and is in the top three ranked proposals of those responsive proposals submitted. Proposer may withdraw from consideration if the Proposer does not wish to submit a Pricing Proposal.**

**Pricing Information to include the following:**

**D. Pricing Proposal:**

- a. A schedule of hourly rates that will be charged for the work of each individual or each labor classification, in the form of an offer that is irrevocable for not less than 90 days after the date of the proposal; and
- b. A reasonable estimate of hours that will be required to perform the work outlined in the Scope of Work, and
- c. A list of expenses, including travel expenses, that the Proposer expects to incur in connection with providing the services outlined in the Scope of Work.
- d. Proposed billing and invoicing schedules.

## **SECTION 4: SOLICITATION PROCESS**

### **4.1 PUBLIC NOTICE**

The RFP and attachments are published in the paper of record for Baker County and the Daily Journal of Commerce Oregon. The RFP will also be posted on Baker County’s website and sent to those contractors who have contacted the county asking for RFP information prior to the publication of this RFP.

Modifications, if any, to this RFP will be made by written Addenda. Addenda are incorporated into the RFP by this reference.

### **4.2 QUESTIONS / REQUESTS FOR CLARIFICATIONS**

All inquiries, whether relating to the RFP process, administration, deadline or method of award, or to the intent or technical aspects of the RFP must:

- Be delivered to the SPC via email;
- Reference the RFP number;

- Identify Proposer’s name and contact information;
- Refer to the specific area of the RFP being questioned (i.e. page, section and paragraph number); and
- Be received by the due date and time for Questions/Requests for Clarification identified in the Schedule.

### **4.3 SOLICITATION PROTESTS**

#### **4.3.1 Protests**

If a Proposer wishes to object to any aspect of procurement, the proposer may file a written protest at the County Commissioner’s Office (1995 3<sup>rd</sup> Street, Baker City, OR 97814). The protest must include all grounds for the protest and all supporting evidence, in the form of documents, affidavits and the like. A protest must be filed promptly, as soon as the protester knows of the grounds for the protest. Protest of any aspect of requests for proposals must be filed before solicitation closing date. County will notify all proposers of intent to award five (5) days before contract takes effect. All protests regarding contract award must be filed before contract takes effect.

### **4.4 PROPOSAL DELIVERY OPTIONS**

Proposer is solely responsible for ensuring its Proposal is received by the SPC in accordance with the RFP requirements before Closing. The County is not responsible for any delays in mail or by common carriers or by transmission errors or delays, or for any mis-delivery for any reason. A Proposal submitted by any means not authorized below will be rejected. The following delivery options are permitted for this RFP:

#### **Delivery through Mail or Parcel Carrier**

A Proposal may be submitted through the mail or via parcel carrier, and must be clearly labeled and submitted in a sealed envelope, package or box. The outside of the sealed submission must clearly identify the Proposer’s name and the RFP number. It must be sent to the attention of the SPC at the address listed on the Cover Page.

#### **Delivery in Person**

A Proposal may be hand delivered, and must be clearly labeled and submitted in a sealed envelope, package or box. A Proposal will be accepted, prior to Closing, during County’s normal Monday – Friday business hours of 8:00 a.m. to 5 p.m. Pacific Time, except during State of Oregon holidays and other times when the County Courthouse is closed. The outside of the sealed submission must clearly identify the Proposer’s name and the RFP number. It must be delivered to the attention of the SPC at the address listed on the Cover Page.

### **4.5 PROPOSAL MODIFICATION OR WITHDRAWAL**

If a Proposer wishes to make modifications to a submitted Proposal it must submit its modification in one of the authorized methods listed in the Proposal Delivery Options section. To be effective the notice must include the RFP number and be submitted to the SPC prior to Closing.



If a Proposer wishes to withdraw a submitted Proposal, it must submit a written notice signed by an authorized representative of its intent to withdraw to the SPC via email prior to closing in accordance with OAR 125-247-0440. To be effective the notice must include the RFP number.

#### **4.6 PROPOSAL DUE**

A Proposal (including all required submittal items) must be received by the SPC on or before Closing. All Proposal modifications or withdrawals must be received prior to Closing.

A Proposal received after Closing is considered LATE and will NOT be accepted for evaluation. A late Proposal will be returned to the Proposer or destroyed.

#### **4.7 PROPOSAL REJECTION**

The County may reject any or all Proposals, if such rejection would be in the public interest, as determined by the County, for any reason including any of the following:

- Proposer fails to substantially comply with all prescribed RFP procedures and requirements, including but not limited to the requirement that Proposer’s authorized representative sign the Proposal.
- Proposer attempts to influence the proposal evaluator.
- Proposal is conditioned on the County’s acceptance of any other terms and conditions or rights to negotiate any alternative terms and conditions that are not reasonably related to those expressly authorized for negotiation in the RFP or Addenda.

#### **4.8 EVALUATION PROCESS**

##### **4.8.1 Responsiveness and Responsibility determination**

An evaluation committee comprised of the Baker County Parks Director, Baker County Facilities Director, Baker County Road Master and one County Commissioner will make initial determinations of responsiveness and responsibility of each proposal.

##### **4.8.1.1 Responsiveness determination**

A proposal received prior to Closing will be reviewed to determine if it is Responsive to all RFP requirements including compliance with Minimum Qualifications section and Proposal Requirements section. If the Proposal is unclear, the SPC may request clarification from Proposer. However, clarifications may not be used to rehabilitate a non-Responsive proposal. If the SPC finds the Proposal non-Responsive, the Proposal may be rejected, however, the contracting Agency may waive mistakes.

##### **4.8.2 Evaluation Criteria**

Baker County will screen and select the prospective Consultant in compliance with ORS 279C.110 (5).

SPC may request further clarification to assist in gaining additional understanding of Proposal. A response to a clarification request must be to clarify or explain portions of the already submitted Proposal and may not contain new information not included in the original Proposal.

Evaluation of each Proposal and allocation of points for each criteria will be made by an evaluation team including Baker County Parks Director, Baker County Facilities Director, Baker County Road Master and a County Commissioner, or an evaluation committee selected by the Baker County Parks Director.

	Maximum Points
A. Cover letter and Background Information Including qualifications and experience of any team member identified for work on the Project.	20
B. References and Past Experience Including evaluation of Financial Viability Form (Attachment B)	30
C. Work Plan/Proposal to Accomplish Scope of Work	40
<b>D. Pricing Proposal (to be considered after initial evaluation of (A.) through (C.) and upon request by County.)</b>	10

#### 4.9 NEXT STEP DETERMINATION

At the conclusion of the scoring of criteria A through C, above, the County may choose to conduct additional round(s) of competition and scoring if it is in the best interest of the County. Additional rounds of competition may consist of, but will not be limited to:

- Request for Pricing Proposal
- Serial or simultaneous negotiations

County reserves the right to award a contract on the basis of initial proposal received. Therefore, proposals should include the Proposer’s best terms. County may request Pricing Proposals from up to three responsive and qualified Proposers to include in the evaluation of proposals. If County chooses to request Pricing Proposals, County will announce the evaluation scores and rank for each Proposer after its initial evaluation. ORS 279C.110(5)(c).

#### 4.10 RECOMMENDATION

The proposal representing the highest score, after additional rounds of competition and scoring, if any, will be recommended to Baker County Contract Review Board for consideration and final award.

### SECTION 5: AWARD AND NEGOTIATION

## **5.1 AWARD NOTIFICATION PROCESS**

### **5.1.1 Intent to Award Notice**

The County will notify all Proposers in writing that the County intends to award a Contract to the selected Proposer subject to successful negotiation of any negotiable provisions.

### **5.1.2 Protests**

County will notify all proposers of intent to award five (5) days before contract takes effect. All protests regarding contract award must be filed before contract takes effect.

## **5.2 APPARENT SUCCESSFUL PROPOSER SUBMISSION REQUIREMENTS**

The proposer selected for a contract award under this RFP will be required to execute a contract consistent with the Baker County Standard Contract Provisions, attached as Attachment A, and to submit additional information and comply with the following:

### **5.2.1 Insurance**

The Consultant shall commence no work until all insurance requirements have been met, the Protest of Awards deadline has passed, any protest has been decided, and a contract has been fully executed.

### **5.2.2 Business Registry**

If selected for award, Proposer shall be duly authorized by the State of Oregon to transact business in the State of Oregon before executing the Contract. Visit <http://sos.oregon.gov/business/pages/register.aspx> for Oregon Business Registry information.

### **5.2.3 Pay Equity Compliance**

Contractor shall comply with ORS 652.220 and shall not discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character, the performance of which requires comparable skills, or pay any employee at a rate less than another for comparable work, based on an employee's membership in a protected class.

"Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age. Contractor's compliance with this section constitutes a material element of this Contract and a failure to comply constitutes a breach that entitles Agency to terminate this Contract for cause.

Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Contractor may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.

## **5.3 CONTRACT NEGOTIATION**

### **5.3.1 Negotiation**

After selection of an Apparent Successful Proposer, County may enter into Contract negotiations with the Apparent Successful Proposer. By submitting a Proposal, Proposer agrees to comply with the requirements of the RFP, including the terms and conditions set forth in the Baker County Standard Contract Provisions (Attachment A).

Proposer must submit any requested exceptions to the Standard Contract Provisions to the County during the Questions / Requests for Clarification period set forth in Section 1.2. Unless the County agrees to modify any of the terms and conditions, County intends to enter into a Contract with the successful Proposer consistent with the Baker County Standard Contract Provisions (Attachment A).

It may be possible to negotiate some provisions of the final Contract. *The successful Proposer may submit a form of contract with proposed terms.* Proposer is cautioned that the County believes modifications to the Standard Contract Provisions constitute increased risk and increased cost to the County.

The County reserves the right to negotiate the Scope of Work and any other material term, at the sole discretion of the County.

Any subsequent negotiated changes are subject to prior approval of the Baker County Board of Commissioners, sitting as the Baker County Contract Review Board.

In the event that the parties have not reached mutually agreeable terms within 30 calendar days, the County, at its discretion, may terminate Negotiations and commence Negotiations with the next highest ranking Proposer.

## **SECTION 6: ADDITIONAL INFORMATION**

### **6.1 CERTIFIED FIRM PARTICIPATION**

Pursuant to Oregon Revised Statute (ORS) Chapter 200, the County encourages the participation of small businesses, certified by the Oregon Certification Office for Business Inclusion and Diversity (“COBID”) in all contracting opportunities. This includes certified small businesses in the following categories: disadvantaged business enterprise, minority-owned business, woman-owned business, a business that a service-disabled veteran owns or an emerging small business. The County also encourages joint ventures or subcontracting with certified small business enterprises. For more information, visit:

<https://oregon4biz.diversitysoftware.com/FrontEnd/ContractorSearchPublic.asp?XID=6787&TN=oregon4biz>

### **6.2 GOVERNING LAWS AND REGULATIONS**

This RFP is governed by the laws of the State of Oregon and Baker County. Venue for any administrative or judicial action relating to this RFP, evaluation and award is the Circuit Court of Baker County for the State of Oregon; provided, however, if a proceeding must be brought in a federal forum, then it must be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or consent to the jurisdiction of any court.

### **6.3 OWNERSHIP/PERMISSION TO USE MATERIALS**

All Proposals are public record and are subject to public inspection after the County issues the Notice of the Intent to Award. Application of the Oregon Public Records Law will determine whether any information is actually exempt from disclosure.

All Proposals submitted in response to this RFP become the Property of the County. By submitting a Proposal in response to this RFP, Proposer grants the County a non-exclusive, perpetual, irrevocable, royalty-free license for the rights to copy, distribute, display, prepare derivative works of and transmit the Proposal solely for the purpose of evaluating the Proposal, negotiating a Contract, if awarded to Proposer, or as otherwise needed to administer the RFP process, and to fulfill obligations under Oregon Public Records Law (ORS 192.311 through 192.478). Proposals, including supporting materials, will not be returned to Proposer unless the Proposal is submitted late.

### **6.4 CANCELLATION OF RFP; REJECTION OF PROPOSAL; NO DAMAGES.**

The County may reject any or all Proposals in-whole or in-part, or may cancel this RFP at any time when the rejection or cancellation is in the best interest of the County. The County is not liable to any Proposer for any loss or expense caused by or resulting from the delay, suspension, or cancellation of the RFP, award, or rejection of any Proposal.

### **6.5 COST OF SUBMITTING A PROPOSAL**

Proposer shall pay all the costs in submitting its Proposal, including, but not limited to, the costs to prepare and submit the Proposal, costs of samples and other supporting materials, costs to participate in demonstrations, or costs associated with protests.



## **ATTACHMENT A: Baker County Standard Contract Provisions**

Except as otherwise provided in the solicitation document or otherwise approved by Baker County and its legal counsel, the following standard public contract provisions shall be included expressly by reference in each contract of Baker County.

1. Contractor shall make payment promptly, as due, to all persons supplying to such contractor labor or material for the prosecution of the work provided for in the contract, and shall be responsible for payment to such persons supplying labor or material to any subcontractor. ORS 279C.505
2. Contractor shall pay promptly all contributions or amounts due to the State Industrial Accident Fund (SAIF) and the State Unemployment Compensation Fund from contractor or any subcontractor in connection with the performance of the contract. ORS 279C.505
3. Contractor shall not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished, shall assume responsibility for satisfaction of any lien so filed or prosecuted and shall defend against, indemnify and hold County harmless from any such lien or claim. ORS 279C.505
4. Contractor and any subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. ORS 279C.505
5. For Public Improvement Contracts and construction contracts only, if contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the contractor or a subcontractor by any person in connection with the public contract as such claim becomes due, the County may pay such claim to the person furnishing the labor or contractor by reason of the contract. The payment of a claim in a manner authorized here shall not relieve the contractor or its surety from the obligation with respect to any unpaid claim. If the County is unable to determine the validity of any claim for labor or services furnished, the County may withhold from any current payment due Contractor an amount equal to said claim until its validity is determined, and the claim, if valid is paid by the contractor or the County. There shall be no final acceptance of the work under the contract until all such claims have been resolved. ORS 279C.515
6. Contractor shall make payment promptly, as due, to any person, co-partnership, association or corporation furnishing medical, surgical, hospital or other needed care and attention, incident to sickness or injury, to the employees of contractor, of all sums which the contractor agreed to pay or collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing payment for such service. 279B.230, 279C.530
7. For Public Improvement Contracts, the Contractor shall demonstrate that an employee drug testing program is in place. ORS 279C.505
8. With certain exceptions listed below, contractor shall not require or permit any person to work more than 10 hours in any one day, or 40 hours in any one week except in case of necessity, emergency, or where public policy absolutely requires it, and in such cases the person shall be paid at least time and a half for:
  - a. 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

- b. All overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Thursday, and
- c. All work performed on the day specified in ORS 279B.020 (1) for non-public improvement contracts or ORS 279C.540 (1) for public improvement contracts.

For personal service contracts as designated under ORS 279A.055, instead of (a) and (b) above, a laborer shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under these contracts who are excluded under ORS 653.010 or 653.261 or under 29 USC Sections 201 to 209, from receiving overtime.

Contractor shall follow all other exceptions pursuant to ORS 279B.235 (for non-public improvement contracts) and ORS 2791C.540 (for non-public improvement contracts) including contracts involving collective bargaining agreements, contracts for services and contracts for fire prevention and suppression. This paragraph does not apply to contracts for purchase of goods or personal property.

Contractor must give notice to employees who work on a public contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

- 9. For Public Works projects subject to ORS 279C.800 to 279C.870 and the Davis-Bacon Act (40 U.S.C. 276a): (1) If the state prevailing rate of wage is higher than the federal prevailing rate of wage, the contractor and every subcontractor on the project shall pay at least the state prevailing rate of wage as required by ORS 279C.800 to 279C.870; and (2) If the federal prevailing rate of wage is higher than the state prevailing rate of wage, the contractor and every subcontractor on the project shall pay at least the federal prevailing rate of wage as required by the Davis-Bacon Act. ORS 279C.840
- 10. As to public improvement and construction contracts, Contractor shall comply with all applicable federal, state and local laws and regulations, including but not limited to those dealing with the prevention of environmental pollution and the preservation of natural resources that affect the performance of the contract. Entities which have enacted such laws or regulations include the following: Federal: Department of Agriculture, Forest Service, Soil Conservation Service, Army Corps of Engineers, Department of Energy, Federal Energy Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Housing and Urban Development, Solar Energy and Energy Conservation Bank, Department of Interior, Bureau of Land Management, Bureau of Indian Affairs, Bureau of Mines, Bureau of Reclamation, Geological Survey, Minerals Management Service, U.S. Fish and Wildlife Service, Department of Labor, Mine Safety and Health Administration, Occupational Safety and Health Administration, Department of Transportation, Coast Guard, Federal Highway Administration, Water Resources Council, and Department of Homeland Security. State: Department of Administrative Services, Department of Agriculture, Department of Consumer and Business Services, Oregon Occupational Safety and Health Division,



Department of Energy, Department of Environmental Quality, Department of Fish and Wildlife, Department of Forestry, Department of Geology and Mineral Industries, Department of Human Resources, Department of Land Conservation and Development, Department of Parks and Recreation, Soil and Water Conservation Commission, State Engineer, Department of Transportation, State Land Board, Water Resources Department. Local: City Councils, County Boards of Commissioners, County Service Districts, Sanitary Districts, Water Districts, Fire Protection Districts, Weed Districts and Planning Commissions.

If new or amended statutes, ordinances or regulations are adopted or the Contractor encounters a condition not referred to in the bid document not caused by the contractor and not discoverable by reasonable site inspection, which requires compliance with federal, state or local laws or regulations dealing with the prevention of environmental pollution or the preservation of natural resources, both the County and the Contractor shall have all the rights and obligations specified in ORS 279C.525. ORS 279C.525

11. The contract may be canceled at the election of County for any substantial breach, willful failure or refusal on the part of contractor to faithfully perform the contract according to its terms. The County may terminate the contract by written order or upon request of the contractor, if the work cannot be completed for reasons beyond the control of either the contractor or the County, or for any reason considered to be in the public interest other than a labor dispute, or by reason of any third party judicial proceeding relating to the work other than one filed in regards to a labor dispute, and when circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the work. In either case, for public improvement contracts, if the work is suspended but the contract not terminated, the contractor is entitled to a reasonable time extension, costs, and overhead per ORS 297C.655. Unless otherwise stated in the contract, if the contract is terminated, the contractor shall be paid per ORS 279C.660 for a public improvement contract. ORS 279C.655, ORS 279C.660 and ORS 279C.665
12. If the County does not appropriate funds for the next succeeding fiscal year to continue payments otherwise required by the contract, the contract will terminate at the end of the last fiscal year for which payments have been appropriated. The County will notify the contractor of such non-appropriation not later than 30 days before the beginning of the year within which funds are not appropriated. Upon termination pursuant to this subsection, the County shall have no further obligation to the contractor for payments beyond the termination date. This provision does not permit the County to terminate the contact in order to provide similar services or goods from a different contractor. ORS 294.100
13. By execution of the contract, contractor certifies, under penalty of perjury that:
  - a. To the best of contractor's knowledge, contractor is not in violation of any tax laws described in ORS 305.380(4), and
  - b. Contractor has not discriminated against minority, women or small business enterprises in obtaining any required subcontracts.

- c. Contractor prepared its bid or proposal related to this Agreement independently from all other bidders or proposers, and without collusion, fraud or other dishonesty.
14. Contractor agrees to prefer goods or services that have been manufactured or produced in this State if price, fitness, availability or quality are otherwise equal. ORS 279A.120, ORS 279A.128
15. Contractor agrees not to assign the contract or any payments due under the contract without the proposed assignee being first approved and accepted in writing by the County. ORS 294.100
16. Contractor agrees to make all provisions of the contract with the County applicable to any subcontractor performing work under the contract.
17. The County will not be responsible for any losses or unanticipated costs suffered by contractor as a result of the contractor's failure to obtain full information in advance in regard to all conditions pertaining to the work.
18. All modifications and amendments to the contract shall be effective only if in writing and executed by both parties.
19. The contractor certifies he or she has all necessary licenses, permits, or certificates of registration (including Construction Contractor Board registration or Landscape Contractor Board license, if applicable), necessary to perform the contract and further certifies that all subcontractors shall likewise have all necessary licenses, permits or certificates before performing any work. The failure of contractor to have or maintain such licenses, permits or certificates is grounds for rejection of a bid or immediate termination of the contract.
20. Unless otherwise provided, data which originates from the contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the County. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights. Data which is delivered under the contract, but which does not originate therefrom shall be transferred to the County with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so; provided that such license shall be limited to the extent which the contractor has a right to grant such a license. The contractor shall exert all reasonable effort to advise the County, at the time of delivery of data furnished under the contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of the contract. The County shall receive prompt written notice of each notice or claim of copyright infringement received by the contractor with respect to any data delivered under the contract. The County shall have the right to modify or remove any restrictive markings placed upon the data by the contractor.
21. If as a result of the contract, the contractor produces a report, paper publication, brochure, pamphlet or other document on paper which uses more than a total 500 pages of 8 ½" by 11" paper, the contractor shall use recycled paper with at least 25% post-consumer content which meets printing specifications and availability requirements. In

- all other cases Contractor shall make reasonable efforts to use recycled materials in the performance of work required under the contract. ORS 279A.125
22. As to contracts for lawn and landscape maintenance, the contractor shall salvage, recycle, compost or mulch yard waste material in an approved, site, if feasible and cost-effective,
23. When a public contract is awarded to a nonresident bidder and the contract price exceeds \$10,000, the contractor shall promptly report to the Department of Revenue on forms to be provided by the department the total contract, price, terms of payment, length of contract and such other information as the department may require before the County will make final payment on the contract. ORS 279A.120
24. In the event an action, lawsuit or proceeding, including appeal therefrom, is brought for violation of or to interpret any of the terms of the contract, each party shall be responsible for their own attorney fees, expenses, costs and disbursements for said action, lawsuit, proceeding or appeal.
25. Contractor is not carrying out a function on behalf of County, and County does not have the right of direction or control of the manner in which Contractor delivers services under the Contract or exercise any control over the activities of Contractor. Contractor is not an officer, employee or agent of County as those terms are used in ORS 30.265. Contractor covenants for itself and its successors in interest and assigns that it will not claim or assert that Contractor is an officer, employee or agent of the County, as those terms are used in ORS 30.265.
26. Contractor shall adhere to and enforce a zero tolerance policy for the use of alcohol and the unlawful selling, possession or use of drugs while performing work under the Contract.
27. The Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein, which would conflict with law, are deemed inoperative to that extent.
28. Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders:
- a. Titles VI and VII of the Civil Rights Act of 1964, as amended;
  - b. Sections 503 and 504 of the Rehabilitation Act of 1973, as amended;
  - c. the Americans with Disabilities Act of 1990, as amended and ORS 659A.112 through 659A.139;
  - d. Executive Order 11246, as amended;
  - e. the Health Insurance Portability and Accountability Act of 1996;
  - f. the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended;
  - g. the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended;
  - h. ORS Chapter 659A, as amended;
  - i. all regulations and administrative rules established pursuant to the foregoing laws; and

- j. all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

The above listed laws, regulations and executive orders and all regulations and administrative rules established pursuant to those laws are incorporated by reference herein to the extent that they are applicable to the Contract or required by law to be so incorporated.

- 29. Contractor and subcontractors shall comply with the Oregon Consumer Identity Theft Protection Act (ORS 646A.600 et seq.).
- 30. Indemnification. To the fullest extent authorized by law, Contractor agrees to indemnify, defend, reimburse and hold harmless County, its officers, employees and agents (the “Indemnified Parties”) from any and all threatened, alleged or actual claims, suits, allegations, damages, liabilities, costs, expenses, losses and judgments, including, but not limited to, those which relate to personal or real property damage, personal injury or death, attorney and expert/consultant fees and costs, and both economic and non-economic losses, to the extent caused by the negligence, breach of contract, breach of warranty (express or implied), or other improper conduct of Contractor, its employees, subcontractors, or anyone for whose acts Contractor is responsible. If claims are asserted against any Indemnified Party by an employee of the Contractor, a subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the Contractor’s indemnification obligation and other obligations under this section shall not be limited by any limitation on the amount or type of damages, compensation, or benefits payable to the employee by or for the Contractor or subcontractor under workers’ compensation acts, disability benefit acts, or other employee benefit acts.
- 31. For all Public Improvement Contracts, contractor and subcontractors must have a public works bond filed with the Construction Contractors Board before starting work on the project, unless the contractor or subcontractor is exempt under ORS 279C.836 (Public works bond) (4), (7), (8) or (9). ORS 279C.830

