

CLATSOP COUNTY, OREGON

1100 Olney Avenue

Astoria, Oregon 97103

An Equal Opportunity Employer

Clatsop County Contract for Construction

This Contract is by and between **Clatsop County (County)** and XXXX. (**Contractor**). Whereas **County** has need of the services which **Contractor** has agreed to provide; **Now Therefore**, in consideration of the sum not to exceed \$XXX to be paid to **Contractor** by **County**, **Contractor** agrees to perform between date of execution and XXX, inclusive, the following specific construction services:

- A. The Work: Installation of Signs as described on Attachment A – RFQ and Attachment B – Bid Proposal Form.

- B. Payment Terms: Payment will be made 30 days from receipt of invoice and approval of work by County.
 - 1. **Written Notice.** Any notice of termination or other communication having a material effect on this Agreement shall be served by U.S. Mail on the signatories listed.

 - 2. **Governing Law/Venue.** This Agreement shall be governed by the laws of the State of Oregon. Any action commenced in connection with this Agreement shall be in the District or Circuit Court of Clatsop County. The prevailing party shall be entitled to reasonable attorney fees and costs, including an appeal. All rights and remedies of **County** shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of **County** according to law.

 - 3. **Compliance.** **Contractor** shall comply with all applicable Federal, State and local laws, rules and regulations. All provisions of ORS 279C.505 through 530 (Construction Contracts) are incorporated herein. Specifically, 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. ORS 279C.505(1)(a)

 - b. Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of this contract. ORS 279C.505(1)(b).

 - c. Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. ORS 279C.505(1)(c)

 - d. Pay to the Department of Revenue all sums withheld from employees under ORS 316.617.

 - e. Demonstrate that an employee drug-testing program is in place. ORS

279C.505(1)(d).

- f. Salvage or recycle construction and demolition debris if feasible and cost-effective. ORS 279C.510(1).
- g. Promptly pay, as due, all persons supplying labor and services furnished to the contractor or a subcontractor by any person in connection with this contract as the claim becomes due. If Contractor fails to pay any such claim, County may pay the claim and charge the payment against the funds due or to become due the Contractor by reason of the contract, pursuant to ORS 279C.515(1).
- h. If this contract is for a public improvement, if Contractor or first-tier subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or materials in connection with the public contract for a public improvement within 30 days after receipt of payment from the County, the Contractor or first-tier subcontractor shall owe the person the amount due plus interest commencing at the end of the 10 day period that payment is due under ORS 279C.580 and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580.
- i. Make payment to any person furnish labor or materials in connection with this contract within 30 days after receipt of payment from the contracting agency or a contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580(4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the contractor or first-tier subcontractor on the amount due shall equal 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 contracting agency or from the contractor, but the rate of interest may not exceed 30 percent. The amount of interest may not be waived. ORS 279C.515(2).
- j. Make payment to any person furnishing labor or materials in connection with this contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. ORS 279C.515(3).
- k. No person may be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279C.100. The employee shall be paid at least time and a half pay as provided for in ORS 279C.520.
- l. Pay promptly, as due, any payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or the needed care and attention, incident to sickness or injury, to the employees of the contract, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under

any law, contract or agreement for the purpose of providing or paying for the services, pursuant to ORS 279C.530(1).

- m. If Contractor is a subject employer, Contractor will comply with ORS 656.017. ORS 279C.530(2).
- n. Comply with maximum hours of work, holidays and overtime per ORS 279C.540 and time limit on claims for overtime per ORS 279C.545.
- o. Comply with ORS 279C.550 thru 570 regarding withholding of retainage. The withholding of retainage by a contractor or subcontractor shall be in accordance with ORS 701.420 and 701.430.
- p. Comply with ORS 279C.570 regarding prompt payment, progress payments and rate of interest.
- q. Contractor shall include in each subcontract for property or services entered into by the contractor and a first-tier subcontractor, including a material supplier, for the purpose of performing a construction contract: a payment clause that obligates the contractor to pay the first-tier subcontractor for satisfactory performance under its subcontract within 10 days out of such amounts as are paid to the contractor by the contracting agency under the contract; and an interest penalty clause that obligates the contractor, if payment is not made within 30 days after receipt of payment from the contracting agency, to pay to the first-tier subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract. These clauses must also be included in each of the contractor's subcontracts and in each of the first-tier subcontractor's subcontracts and each of the first-tier subcontractor's subcontracts shall include these clauses in their subcontracts with each lower-tier subcontractor or supplier. ORS 279C.580.
- r. Comply with ORS 279C.605 regarding Notice of Claim.
- s. Comply with Prevailing Wage Rate regulations, ORS 279C.800 through ORS 279C.870.
- t. Pay contract and subcontract workers not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838. ORS 279C.830(1)(c).
- u. A fee is required to be paid to the Commissioner of the Bureau of Labor and Industries as provided in ORS 279C.825. This fee shall be paid to the commissioner under the administrative rule of the commissioner. ORS 279C.830(2). This fee is paid by Clatsop County.
- v. Contractor is required to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836(7) or (8), and will include in every subcontract a provision requiring the subcontractor to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836(7)

or (8). ORS 279C.830(3)(a)(b).

- w. Certify that all subcontractors performing work described in ORS 701.005(2) will be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board in accordance with ORS 701.035 to 701.055 before the subcontractors commence work under the contract.

4. **Judicial Rulings.** If any provision of this Agreement as applied to either party or to any circumstances shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Agreement or the validity of enforceability of the Agreement.

5. **Independent Contractor.** **Contractor**, in carrying out the services to be provided under this Agreement, is acting as an "independent Contractor" and is not an employee of **County** or **Oregon Judicial Department (OJD)**, and as such accepts full responsibility for taxes or other obligations associated with payment for services under this Agreement. As an independent Contractor", **Contractor** will not receive any benefits normally accruing to County or OJD employees unless required by applicable law. Furthermore, **Contractor** is free to contract with other parties, on other matters, for the duration of this Agreement.

6. **Indemnification.** **Contractor** shall save harmless, indemnify, and defend **County** and the **OJD** for any and all claims, damages, losses and expenses including but not limited to reasonable attorney's fees arising out of or resulting from **Contractor's** performance of or failure to perform the obligations of this Agreement, to the extent same are caused by the negligence or misconduct of **Contractor** or its employees or agents.

7. **Worker's Compensation.** **Contractor** shall comply with ORS 656.017 for all employees who work in the State of Oregon. If the **Contractor** hires employees, he or she shall provide **County** with certification of Worker's Compensation Insurance, with employer's liability in the minimum of \$100,000.

8. **Nondiscrimination.** No person shall be subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, marital status, age or national origin. Any violation of this provision shall be considered a material violation of this Agreement and shall be grounds for cancellation, termination or suspension in whole or in part by **County**.

9. **Termination of Agreement.** This Agreement may be terminated under the following conditions:

- a. By written mutual agreement of both parties. Termination under this provision may be immediate.
- b. Upon fifteen (15) calendar days written notice by either Party to the other of intent to terminate.
- c. Immediately on breach of the contract.

10. **Subcontracting/Non-assignment.** No portion of this Agreement may be contracted or assigned to any other individual, firm, or entity without the express and prior approval of **County**.

11. **Survival.** The terms, conditions, representations and all warranties contained in this

Agreement shall survive the termination or expiration of this Agreement.

12. **Standard of Services and Warranty.** Contractor agrees to perform its services with that standard of care, skill and diligence normally provided by a professional individual in the performance of similar services. It is understood that the Contractor must perform the services based in part on information furnished by County and that Contractor shall be entitled to rely on such information. However, the Contractor is given notice that County will be relying on the accuracy, competence and completeness of Contractor's services in utilizing the results of such services. The Contractor warrants that the recommendations, guidance and performance of any person assigned under this Agreement shall be in accordance with professional standards and the requirements of this Agreement.

13. **Ownership and Use of Documents.** All documents, or other material submitted to the County by Contractor shall become the sole and exclusive property of County. All material prepared by Contractor under this Agreement may be subject to Oregon's Public Records Law.

14. **Tax Compliance Certification.** Contractor hereby certifies, under penalty of perjury, as provided in ORS 305.385(6), that to the best of Contractor's knowledge, Contractor is not in violation of any of the tax laws described in ORS 305.380(4).

15. **Insurance.** Contractor shall purchase and maintain at Contractor's expense, Comprehensive General Liability, Automobile Liability, and Professional Liability insurance. This insurance is to provide separate coverage for each of the required types of insurance at a minimum of \$1,000,000 for property damage and minimum of \$1,000,000 per person for bodily injury and no less than \$1,000,000 for each occurrence, \$2,000,000 aggregate. In addition, all such insurance, with the exception of Professional Liability, shall name County and the OJD, its Commissioners, employees and agents, as an Additional Insured. The OJD is a third party beneficiary to this contract. A copy of the policy or certificate of insurance acceptable to County shall be submitted to County. The Some, or all, of the required insurance may be waived or modified if approved by County's counsel as follows:

_____ (Approved by County Counsel)

(Comments)

(Contractor's Initials) _____

All terms on the previous pages of this document are hereby made a part of this Agreement.

This Agreement will not be effective until approved by the County Commission.

FOR COUNTY:

FOR CONTRACTOR:

Signature Date

Signature Date

Title

Title

Contractor Address: XXXXX