

**SAMPLE CONTRACT**

**PUBLIC SERVICES CONTRACT**  
**(ORS Chapter 279B)**  
**by and between COLUMBIA COUNTY and**  
\*

This Agreement is made and entered into by and between COLUMBIA COUNTY, a political subdivision of the State of Oregon, hereinafter referred to as "County", and \_\_\_\_\_, hereinafter referred to as "Contractor".

WITNESSETH:

IT IS HEREBY AGREED by and between the parties above-mentioned, in consideration of the mutual promises hereinafter stated, as follows:

1. Effective Date. This Agreement is effective on the date last signed below.
2. Completion Date. The completion date for this Agreement shall be no later than \_\_\_\_\_ unless sooner terminated as provided herein.
3. Contractor's Services. Contractor agrees to provide the services described in the Contractor's Proposal, a copy of which is attached hereto, labeled Exhibit "A" and incorporated herein by this reference. In case of conflict between Contractor's Proposal and this Agreement, this Agreement shall control.
4. Consideration. County shall pay Contractor on a fee-for-service basis, an amount not to exceed \$\_\_\_\_\_, said amount to be the complete compensation to Contractor for the services performed under this Agreement. These fees shall include all expenses. Unless otherwise agreed to in writing by the parties, payment shall be made in a lump sum at the satisfactory completion of the project. This Agreement is subject to the appropriation of funds by County, and/or the receipt of funds from state and federal sources. In the event sufficient funds shall not be appropriated, and/or received, by County for the payment of consideration required to be paid under this Agreement, then County may terminate this Agreement in accordance with Section 17 of this Agreement.
5. Contract Representatives. Contract representatives for this Agreement shall be:

FOR COUNTY	FOR CONTRACTOR
------------	----------------

All correspondence shall be sent to the above addressees when written notification is necessary. Contract representatives can be changed by providing written notice to the other party at the address listed.

6. Permits - Licenses. Unless otherwise specified, Contractor shall procure all permits and licenses, pay all charges and fees and give all notices necessary for performance of this Agreement prior to commencement of work.
7. Compliance with Codes and Standards. It shall be the Contractor's responsibility to

demonstrate compliance with all applicable building, health and sanitation laws and codes, and with all other applicable Federal, State and local acts, statutes, ordinances, regulations, provisions and rules. Contractor shall engage in no activity which creates an actual conflict of interest or violates the Code of Ethics as provided by ORS Chapter 244, or which would create a conflict or violation if Contractor were a public official as defined in ORS 244.020.

8. Reports. Contractor shall provide County with periodic reports about the progress of the project at the frequency and with the information as prescribed by the County.
9. Independent Contractor. Contractor is engaged hereby as an independent contractor and shall not be considered an employee, agent, partner, joint venturer or representative of County for any purpose whatsoever. County does not have the right of direction or control over the manner in which Contractor delivers services under this Agreement and does not exercise any control over the activities of the Contractor, except the services must be performed in a manner that is consistent with the terms of this Agreement. County shall have no obligation with respect to Contractor's debts or any other liabilities of Contractor. Contractor shall be responsible for furnishing all equipment necessary for the performance of the services required herein. In addition:
  - A. Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Agreement.
  - B. This Agreement is not intended to entitle 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 Agreement to the Contractor are vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, social security, workers' compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if the Contractor is presently a member of the Public Employees Retirement System).
  - C. The Contractor is an independent contractor for purposes of the Oregon workers' compensation law (ORS Chapter 656) and is solely liable for any workers' compensation coverage under this Agreement. If the Contractor has the assistance of other persons in the performance of the Agreement, the Contractor shall qualify and remain qualified for the term of this Agreement as a carrier-insured or self-insured employer under ORS 656.407. If the Contractor performs this Agreement without the assistance of any other person, unless otherwise agreed to by the parties, Contractor shall apply for and obtain workers' compensation insurance for himself or herself as a sole proprietor under ORS 656.128.
10. Statutory Provisions. Pursuant to the requirements of ORS 279B.220 through 279B.235 and Article XI, Section 10 of the Oregon Constitution, the following terms and conditions are made a part of this Agreement:
  - A. Contractor shall:
    - (1) Make payment promptly, as due, to all persons supplying to Contractor labor or material for the performance of the work provided for in this Agreement. [ORS 279B.220 (1)]
    - (2) Pay all contributions or amounts due the Industrial Accident Fund from the

## SAMPLE CONTRACT

Contractor or any subcontractor incurred in the performance of this Agreement. [ORS 279B.220 (2)]

- (3) Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished. [ORS 279B.220 (3)]
  - (4) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. [ORS 279.220 (4)]
- B. Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness and injury, to the employees of Contractor, of all sums that Contractor agrees to pay for the services and all moneys and sums that Contractor collects or deducts from the wages of employees under any law, contract or agreement for the purpose of providing or paying for such services. [ORS 279B.230 (1)]
- C. Contractor shall pay employees at least time and a half pay for work the employees perform under this Agreement on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020 (1)(b)(B) to (G) and for all time the employee works in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. [ORS 279B.235 (5)(a)]
- D. Contractor shall notify employees in writing, who work under this Agreement, either at the time of hire or before work begins on this Agreement, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the contractor may require the employees to work. [ORS 279A.235 (5)(b)]
- E. All subject employers working under this Agreement are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126. [ORS 279B.230 (2)]
- F. This Agreement 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 therefor. Any provisions herein which would conflict with law are deemed inoperative to that extent.
11. Non-Discrimination. Contractor agrees that no person shall, on the grounds of race, color, creed, national origin, sex, marital status, handicap or age, suffer discrimination in the performance of this Agreement when employed by Contractor. Contractor certifies that it has not discriminated and will not discriminate, in violation of ORS 279A.110, against a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business enterprise that is certified under ORS 200.055 in awarding a subcontract.
12. Tax Law Compliance Warranty and Covenant. As required by ORS 279B.045., Contractor represents and warrants that Contractor has complied with the tax laws of this state or a political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Contractor shall continue to comply with the tax laws of this state or a political subdivision of this state during the term of the public contract. Contractor's failure to

comply with the tax laws of this state or a political subdivision of this state before the Contractor executes this Agreement or during the term of this Agreement is a default for which County may terminate this Agreement and seek damages and other relief available under the terms of this Agreement or under applicable law.

13. Nonassignment; Subcontracts. Contractor shall not assign, subcontract or delegate the responsibility for providing services hereunder to any other person, firm or corporation without the express written permission of the County, except as provided in Contractor's Proposal.
14. Nonwaiver. The failure of the County to enforce any provision of this Agreement shall not constitute a waiver by the County of that or any other provision of the Agreement.
15. Indemnity. Contractor shall indemnify, defend, save, and hold harmless the County, its officers, agents and employees, from any and all claims, suits or actions of any nature, including claims of injury to any person or persons or of damage to property, caused directly or indirectly by reason any error, omission, negligence, or wrongful act by Contractor, its officers, agents and/or employees arising out the performance of this agreement. This indemnity does not apply to claims, suits or actions arising solely out of the negligent acts or omissions of the County, its officers, agents or employees.
16. Insurance. For the duration of the Agreement, Contractor shall, at its own expense, purchase and maintain from a company or companies licensed to do business in the State of Oregon, the following insurance with limits not less than those indicated, or greater if required by law:
  - A. Workers' Compensation and employer's liability insurance meeting statutory limits mandated by state and federal laws. Employer's liability insurance with coverage limits of not less than \$500,000 must be included.
  - B. Commercial general liability and property damage insurance in an amount of not less than \$2,000,000 per occurrence to protect County, its officers, agents, and employees. Contractor shall provide County a certificate or certificates of insurance in the amounts described above which names County, its officers, agents and employees as additional insureds. Such certificate or certificates shall be accompanied by an additional insured endorsement. Contractor agrees to notify County immediately upon notification to Contractor that any insurance coverage required by this paragraph will be canceled, not renewed or modified in any material way, or changed to make the coverage no longer meet the minimum requirements of this Contract.
17. Termination. This Agreement may be terminated at any time in whole or in part by mutual consent of both parties. The County may terminate this Agreement, effective upon delivery of written notice to Contractor, or at such later date as may be established by the County under the following conditions:
  - A. If Contractor fails to perform the work in a manner satisfactory to County.
  - B. If any license or certificate required by law or regulation to be held by Contractor to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.
  - C. If funding becomes inadequate to allow the work to continue in accordance with the

## SAMPLE CONTRACT

project schedule.

In case of termination, Contractor shall be required to repay to County the amount of any funds advanced to Contractor, which Contractor has not earned or expended through the provision of services in accordance with this Agreement. However, Contractor shall be entitled to retain all costs incurred and fees earned by Contractor prior to that termination date, and any amounts remaining due shall be paid by County not to exceed the maximum amount stated above and decreased by any additional costs incurred by County to correct the work performed.

The rights and remedies of the County related to any breach of this Agreement by Contractor shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement. Any termination of this Agreement shall be without prejudice to any obligations or liabilities of either party already accrued before such termination.

18. Time of the Essence. The parties agree that time is of the essence in this Agreement.
19. Ownership of Documents. All documents of any nature and/or electronic data including, but not limited to, working papers, reports, material necessary to understand the documents and/or data, drawings, works of art and photographs, produced, prepared and/or compiled by Contractor pursuant to this Agreement are the property of County, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to County all rights of reproduction and the copyright to all such documents.
20. Mediation. In the event of a dispute between the parties arising out of or relating to this Contract, the parties agree to submit such dispute to a mediator agreed to by both parties as soon as practicable after the dispute arises, and preferably before commencement of litigation of any permitted arbitration. The parties agree to exercise their best efforts in good faith to resolve all disputes in mediation.
21. Choice of Law. This Agreement shall be governed by the laws of the State of Oregon.
22. Venue. Venue relating to this Agreement shall be in the Circuit Court of the State of Oregon for Columbia County, located in St. Helens, Oregon.
23. Attorneys' Fees. In the event an action, suit or proceeding, including appeal therefrom, is brought for failure to observe any of the terms of this Agreement, each party shall be responsible for its own attorneys' fees, expenses, costs and disbursements for said action, suit, proceeding or appeal.
24. Severability. If any provision of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof.
25. No Third-Party Rights. This Agreement is solely for the benefit of the parties to this Agreement. Rights and obligations established under this Agreement are not intended to benefit any person or entity not a signatory hereto.
26. ENTIRE AGREEMENT. THIS AGREEMENT (INCLUDING THE CONTRACTOR'S PROPOSAL) CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO

WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. CONTRACTOR, BY THE SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE(S) BELOW, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

CONTRACTOR:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form

By: \_\_\_\_\_  
Office of County Counsel

OWNER:

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By: \_\_\_\_\_  
Henry Heimuller, Chair

By: \_\_\_\_\_  
Margaret Magruder, Commissioner

By: \_\_\_\_\_  
Alex Tardif, Commissioner

Date: \_\_\_\_\_