



CONTRACT DOCUMENTS
BENTON COUNTY, OREGON

MLK PARK TO PONDEROSA AVE

PATH RESURFACING

COUNTY PROJECT # BP01-01-24

Benton County Board of Commissioners

**Xanthippe Augerot, Chair,
Nancy Wyse, Vice Chair
Patrick Malone, Commissioner**

April 4, 2024

**Gary Stockhoff, P.E.
Director of Public Works**

MLK PARK TO PONDEROSA AVE PATH RESURFACING

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ADVERTISEMENT FOR BIDS

Benton County invites bids for the **MLK Park to Ponderosa Ave. Path Resurfacing**

County Project Number **BP01-01-24**.

BRIEF DESCRIPTION OF WORK TO BE PERFORMED

The proposed work generally consists of furnishing all labor, equipment, materials, and supervision for excavation, aggregate base and shoulder, subgrade stabilization, and AC pavement placement for the multi-use path on the existing alignment per these Contract Documents.

Plans, specifications, and bid documents will be available on April 10, 2024, in the office of the Public Works Department, 360 SW Avery Avenue, Corvallis, Oregon at no cost or viewed at <https://finance.bentoncountyor.gov/requests-for-proposals/>. Bidders shall be responsible for checking the County RFP site for any addendums or clarifications to the bid documents.

To be considered for award the following conditions must be met:

- 1) Bidders must prequalify in accordance with ORS 279C.430 and provisions of public contracting rules as adopted by Benton County at least two days prior to the date of the bid opening.
- 2) Bidders must be prequalified for the following work classes:
 - Aggregate Bases
 - Asphalt Concrete Paving
 - Earthwork and Drainage

Prequalification can be met by bidder submitting Oregon Department of Transportation prequalification or providing two (2) to three (3) examples of similar construction projects completed.

- 3) The Bid Proposal must be submitted on the prescribed form and shall contain a statement by the bidder that the bid complies with the provisions of ORS 279C.800 to 279C.870, and contain a statement as to whether the bidder is a resident bidder as defined in ORS 279A.120.
- 4) The Contractor must be registered with the Oregon Construction Contractors Board and shall have the appropriate license necessary to perform the work under this bid, or the State Landscape Contractors Board in order for his/her bid to be considered on construction contracts.
- 5) The Bid Proposal must be accompanied by cash, cashier's check, certified check or bid bond payable to Benton County, Corvallis, Oregon, in an amount not less than ten percent (10%) of the total bid amount.
- 6) The CONTRACTOR shall, within two working hours of the date and time of the deadline when the bids are due to the COUNTY, submit to the COUNTY a disclosure of any first-tier subcontractor that will be furnishing labor or materials in connection with the public improvement and whose contract value is equal to or greater than:

- a) Five percent of the total project bid or \$15,000, whichever is larger; or
- b) \$350,000, regardless of the percentage of the total project bid.

The disclosure of first-tier subcontractors shall include:

- a) The name and address of each subcontractor;
 - b) The registration number assigned to the subcontractor by the Oregon Construction Contractors Board if the subcontractor is required to have a certificate of registration issued by the board;
 - c) The category of work that each subcontractor will perform; and the amount of the contract of the subcontractor.
- 7) **Return the entire contract and proposal documents.** Bid must be in writing, sealed, marked plainly as **MLK Park to Ponderosa Ave Path Resurfacing**, and received by Amelia Miller, Administrative Specialist, Benton County Department of Public Works, 360 SW Avery Avenue, Corvallis Oregon, 97333 by **2:00 p.m. local time** on **April 25, 2024**, at which time the bids will be publicly opened and read.

All bidders must submit a list of their first-tier subcontractors no later than 4:00 p.m. local time that same day.

Benton County reserves the right to reject any or all bids, to postpone the award of the contract for a period not to exceed thirty (30) days, and to accept that proposal which is in the best interest of the County.

Dated: April 4, 2024

By: Gary Stockhoff, Director of Public Works

Publish: Daily Journal of Commerce: April 10, 2024

Corvallis Gazette-Times: April 11, 2024

BIDDER'S INSTRUCTIONS CHECKLIST

Bidder's attention is called to the following forms which must be executed in full as required:

- A. **BID FORM (S):** Each bidder shall complete the bid form(s). Prices must be shown in the spaces provided and must be expressed in both words and figures. Where conflict occurs, written or typed words shall prevail.
- B. **BID BOND:** This form is to be executed by bidder and bidder's Surety. The amount of cash, certified check, cashier's check, irrevocable letter of credit or Bid Bond shall not be less than 10% (ten percent) of the total Bid amount.
- C. **FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM:** When the contract value is greater the \$100,000, this form must be submitted by the bid submission deadline or within two working hours of such submission deadline. If no subcontractors will be used, the bidder must indicate "NONE" on the disclosure form. Failure to submit this form will result in the bid becoming non-responsive and such bid will not be considered for award.
- D. **DRUG TESTING PROGRAM CERTIFICATION FORM:** This form must be submitted with the bid to demonstrate that bidder has an employee drug and alcohol testing program in place and will continue to keep the program in place throughout the duration of performing the Contract awarded.

The following forms are to be executed after the Contract is awarded:

- A. **CONSTRUCTION CONTRACT:** This agreement is to be executed by the successful bidder.
- B. **PERFORMANCE AND PAYMENT BOND:** Bonds are to be executed by the successful bidder and bidder's Surety Company and submitted at the time of the Contract is executed.
- C. **PUBLIC WORKS WAGE CERTIFICATION Form:** This form is to be completed in accordance with state law and submitted with the request for payment.
- D. **CERTIFICATES OF INSURANCE:** Certificates are to be executed by the successful bidder and bidder's insurance companies and submitted at the time the Contract is executed.
- E. **FORM OF RETAINAGE:** If the project is over \$500,000, then the successful bidder shall fill out and submit the form of retainage document, in accordance with ORS 279C.560 and HB 2415, at the time the Contract is executed.
- F. **OTHER BOND:** If project is over \$100,000, CONTRACTORS AND SUB-CONTRACTORS shall file a \$30,000 Public Works Bond with the Construction Contractor's Board.

BID PROPOSAL

Benton County Public Works Department
360 SW Avery Avenue
Corvallis, Oregon

The undersigned, hereinafter called the bidder, declares that the only persons or parties interested in the proposal are those named herein, that the proposal is in all respects fair and without fraud, that it is made without collusion with any official or employee of the County, and that the proposal is made without any connection or collusion with any person making another proposal on this Contract.

The bidder further declares that he has carefully examined the Contract documents for the construction of the proposed improvements; that he has personally inspected the site; that he has satisfied himself as to the quantities of materials, items of equipment, and conditions of work involved, including the fact that the description of the work and materials as included herein is brief and is intended only to indicate the general nature of such items and to identify the said quantities with the detailed requirements of the Contract documents; and that this proposal is made according to the provisions and under the terms of the Contract documents, which documents are hereby made a part of this proposal.

The bidder agrees that if this proposal is accepted, he will, within seven (7) calendar days after notification of acceptance, execute the Contract with the County in the form of Contract provided by the County, and will, at the time of execution of the Contract, deliver to the County the performance bond and insurance certificates required by the Contract. The Contractor further agrees, to the extent of this proposal, to furnish all necessary labor, equipment and tools to meet the requirements of this Contract, within seven calendar days of receiving formal written notice to proceed from the County.

The bidder further agrees to complete construction of all work in all respects as set forth in the Special Provisions and certifies that all provisions of Oregon Law (ORS 279C.840), relating to prevailing wage rates, and all other applicable provisions of ORS 279A, B and C are incorporated in and shall be complied with in making this proposal. Contractor shall ensure all employees are paid not less than the specified minimum hourly rate of wage if the project is subject to the prevailing wage rate law. Contractor certifies that it is not disqualified or debarred from entering into this contract under ORS 279B.130, 279C.440 and/or any applicable Federal compliance requirements in accordance with 2 CFR part 180.

Is the bidder a Resident Bidder as defined in ORS 279A.120?

Resident Non-resident

Note: “Resident bidder” means a bidder that has paid unemployment taxes or income taxes in the state of Oregon during the 12 calendar months immediately preceding submission of the bid, has a business in this state and has stated in the bid whether the bidder is a “resident bidder”. (ORS 279A.120(1)(b).”

In the event the bidder is awarded the Contract and shall fail to complete the work within the time limit or extended time limit agreed upon, as more particularly set forth in the Contract documents,

liquidated damages shall be paid to the County at the rate of Four Hundred dollars (\$400.00) per day until the work shall have been finished, as provided by the Contract documents. It is agreed that the said sum is a fair measure of the amount of damage the County will sustain in case the work is not completed in a timely fashion. Sundays and legal holidays shall be excluded in determining days in default.

The bidder further proposes to accept as full payment for the work proposed herein the amount computed under the provisions of the Contract documents and based on the following unit price amounts, it being expressly understood that the unit prices are independent of the exact quantities involved, that they represent a true measure of the labor and material required to perform the work, including all allowance for overhead and profit for each type and unit of work called for in these Contract documents.

It is agreed that if the bidder is awarded the Contract for the work herein proposed and shall fail or refuse to execute the Contract and furnish the specified performance bond within seven (7) calendar days after receipt of notification of acceptance of his proposal, then, in that event, the bid security in the sum of _____ Dollars (\$_____) deposited herewith according to the conditions of the Advertisement for Bids and Instructions to Bidders, shall be retained by the County as liquidated damages; and it is agreed that the said sum is a fair measure of the amount of damage the County will sustain in case the bidder shall fail or refuse to enter into the Contract for the said work and to furnish the performance bond as specified in the Contract documents. Bid security in the form of cash or a certified check shall be subject to the same requirements as a bid bond.

If the bidder is awarded a construction contract on the proposal, the surety who will provide the performance bond will be:

_____ whose address is:

(Site Address)

_____, _____, _____
City, State, Zip

The name of the bidder who has submitted this proposal is doing business at:

(Site Address)

_____, _____, _____
City, State, Zip

_____, _____, _____
(Mailing Address) City, State, Zip

the latter which is the address to which all communications concerned with this proposal and with the Contract shall be sent.

The names of the principal officers of the corporation submitting this proposal, or of the partnership or of all persons interested in this proposal as principals, are as follows:

(If sole proprietor or partnership)

In witness hereto the undersigned has set his (its) hand this _____ day
of _____, 20_____.

Signature of Bidder

Title

(If corporation)

In witness whereof, the undersigned corporation has caused this instrument to be executed and its seal affixed by its duly authorized officers

this _____ day of _____, 20_____.

Name of Corporation

By

Title

Attest: _____
Secretary

CONTRACTOR'S PROPOSAL

ITEM NO	ITEM WITH BID UNIT PRICE (Unit price in writing)	APPROX QUAN	UNIT	UNIT PRICE	TOTAL AMOUNT
1	MOBILIZATION @ _____ Dollars and _____ Cents, Per Lump Sum Price.	1	LS	\$ _____	\$ _____
2	TEMPORARY TRAFFIC CONTROL @ _____ Dollars and _____ Cents, Per Lump Sum Price.	1	LS	\$ _____	\$ _____
3	REMOVAL OF STRUCTURES AND OBSTRUCTIONS @ _____ Dollars and _____ Cents, Per Lump Sum Price.	1	LS	\$ _____	\$ _____
4	EXCAVATION @ _____ Dollars and _____ Cents, Per Cubic Yard Price.	830	CY	\$ _____	\$ _____
5	SUBGRADE GEOTEXTILE FABRIC @ _____ Dollars and _____ Cents, Per Square Yard Price.	3100	SY	\$ _____	\$ _____
6	SUBGRADE STABILIZATION @ _____ Dollars and _____ Cents, Per Square Yard Price.	400	SY	\$ _____	\$ _____
7	CRUSHED AGGREGATE BASE & SHOULDER @ _____ Dollars and _____ Cents, Per Ton Price.	1750	TON	\$ _____	\$ _____
8	WARM MIX ASPHALT CONCRETE @ _____ Dollars and _____ Cents, Per Ton Price.	570	TON	\$ _____	\$ _____
TOTAL					\$ _____

FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM

PROJECT NAME & NUMBER: MLK PARK TO PONDEROSA AVE PATH RESURFACING, COUNTY PROJECT # BP01-01-24.

BID SUBMITTAL DEADLINE: 2:00 P.M. DATE: April 25, 2024.

DISCLOSURE FORM SUBMITTAL DEADLINE: 4:00 P.M. DATE: April 25, 2024.

This form must be submitted no later than 4:00 p.m. on the same day the bids are due in the County Public Works Office. Any and all bids received after the bid submittal deadline, or for which this First-Tier Subcontractor Disclosure Form has not been received by 4:00 p.m. will not be considered and will be returned to the bidder.

List below the name, address, subcontract dollar value, category of work, Construction Contractor Board (CCB) registration or State Landscape Contractors Board (SLCB) license number if applicable, contact name and telephone number of each subcontractor that will be furnishing labor or materials with dollar value equal to or greater than:

- a) 5% of the total Contract price, but at least \$15,000 (including all alternates); or
- b) \$350,000 regardless of the percentage of the total Contract price.

Note: You must enter "NONE", sign and submit the form if there are no subcontractors that need to be disclosed. (Attach additional sheets if needed.)

Firm Name	CCB/SLBC Number/Work Type
Address	Category of work
City, State, Zip	Subcontract Amount

Firm Name	CCB/SLBC Number/Work Type
Address	Category of work
City, State, Zip	Subcontract Amount

NOTE: FAILURE TO SUBMIT THIS FORM BY THE 4:00 P.M. DISCLOSURE DEADLINE WILL RESULT IN A BID BECOMING NON-RESPONSIVE AND SUCH BID WILL NOT BE CONSIDERED FOR AWARD.

Form Submitted By (Bidder Name): _____

Form Received in the County Public Works Office:

Time: _____ Date: _____ By: _____

Note: Unless otherwise stated in the original Invitation to Bid, this form shall not be faxed. It is the responsibility of the Bidder to ensure timely receipt of the Form by the Public Works Office.

EMPLOYEE DRUG TESTING PROGRAM
CERTIFICATION FORM

BIDDER'S NAME: _____

**PROJECT NAME & NUMBER: MLK PARK TO PONDEROSA AVE PATH
RESURFACING, COUNTY PROJECT # BP01-01-24.**

ORS 279C.505(2) provides that every public improvement contract contain a condition that the Contractor shall demonstrate that an employee drug testing program is in place. The County's award of the Contract for which this certificate is required is conditioned, in part, upon the Bidder's demonstration of compliance with the provisions of ORS 279C.505. If the Bidder named above is awarded the Contract, this certificate shall become a part of, and shall constitute a continuing representation and warranty under, the Contract.

To induce the County to award the Contract to the Bidder, the undersigned, as the duly authorized representative of the Bidder, hereby represents and warrants, on behalf of the above named Bidder:

1. The Bidder has and enforces, and all times during the term of the Contract will have and enforce, a written employee drug testing;
2. A copy of the Bidder's current written employee drug testing policy will be available for inspection by the County at any time upon the County's request; and
3. The Bidder understands and agrees that its representations and warranties herein will become a continuing part of the Contract and that breach of any of the foregoing will be sufficient grounds for disqualification under 279C.440(2)(d).
4. The Contractor has provided each employee with a copy of the drug testing policy.

The County shall not be liable, either directly or indirectly, in any dispute arising out of the substance or procedure of Bidder/Contractor's drug testing program. Nothing in this drug testing provision shall be construed as requiring Bidder/Contractor to violate any legal, including constitutional, rights of any employee, including but not limited to, selection of which employees to test and the manner of such testing. The County shall not be liable for Bidder/Contractor's negligence in establishing or implementing, or failure to establish or implement, a drug testing policy, or for any damage or injury caused by Bidder/Contractor's employees acting under the influence of drugs while performing work covered by the Contract. These are Bidder/Contractor's sole responsibilities.

In Witness Whereof, the Bidder has caused this document to be executed by its duly authorized representative on the date shown below.

Signature: _____

Printed Name, Title: _____

Date: _____

BID BOND

KNOW ALL MEN BY THESE PRESENTS: That we, _____
of _____ (hereinafter called the principal),
as principal, and _____
(hereinafter called the surety), are held and firmly bound unto:

Benton County, Oregon (hereinafter called the obligee) in the penal sum of
_____ Dollars (\$_____) for the payment of
which the principal and the surety bind themselves, their heirs, executors, administrators, successors
and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that WHEREAS, the principal has
submitted or is about to submit a proposal to the obligee on a Contract for:

NOW, THEREFORE, if the said Contract be timely awarded to the principal and the principal shall,
within such time as may be specified, enter into the Contract in writing, and give bond, if bond is
required, with surety acceptable to the obligee for the faithful performance of the said Contract, then
this obligation shall be void; otherwise to remain in full force and effect.

Signed and sealed this _____ day of _____, 20____.

(Seal)
Principal

Witness Title

Surety

By _____
Attorney-in-Fact

BENTON COUNTY CONSTRUCTION CONTRACT

In consideration of the covenants set forth below _____
_____ referred to as CONTRACTOR and BENTON COUNTY, OREGON, a political subdivision of the State of Oregon, hereinafter referred to as COUNTY, mutually contract as follows:

- I. CONTRACTOR and COUNTY name the State of Oregon, hereinafter referred to as STATE, as a third party beneficiary of this contract.
- II. CONTRACTOR agrees and covenants with COUNTY that it will furnish all tools, equipment, labor, and material necessary to perform and complete in a good and workmanlike manner the following work:

The proposed work generally consists of furnishing all labor, equipment, materials, and supervision for excavation, aggregate base and shoulder, subgrade stabilization, and AC pavement resurfacing of the multi-use path on the existing alignment per these Contract Documents.

CONTRACTOR agrees to complete the work by **September 27th, 2024**.
- III. That the advertisement for bid, the signed bid proposal, the bid unit price schedules, the bid proposal bond, the fully executed Contract, the fully executed performance bond, the Benton County Standard Provisions, the Oregon Standard Specifications for Construction, the Special Provisions, and the plans are hereby referred to and by reference made a part of this Contract. All work shall be done according to the terms, conditions and requirements of said Contract Documents.
- IV. COUNTY agrees to pay CONTRACTOR as outlined in the attached bid proposal. Retainage shall be an amount equal to 5% of said progress payment until the work has been completed. If the project is over \$500,000, the CONTRACTOR shall fill out and submit Section E: Form of Retainage, in accordance with ORS 279C.560, 279C.570 and 701.420, directing the COUNTY on how to manage the retainage. The Form of Retainage shall be submitted at the time the Contract is executed.
- V. This writing is intended both as the final expression of the agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the agreement. No modification of this agreement shall be effective unless and until it is made in writing and signed by both parties.
- VI. CONTRACTOR shall comply with all applicable federal, state and local laws, rules and regulations on nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, disability, sexual orientation, gender identity or source of income. Contractor certifies that it is not disqualified or debarred from entering into

this contract under ORS 279B.130, 279C.440 and/or any applicable Federal compliance requirements in accordance with 2 CFR part 180.

- VII. CONFLICT OF INTEREST: CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services. The CONTRACTOR further covenants that in the performance of this contract no person having any such interest shall be employed.
- VIII. INDEMNIFICATION: CONTRACTOR shall hold harmless, indemnify, and defend COUNTY, its officers, agents, and employees from any and all liability, actions, claims, losses, damages or other costs including attorney's fees and witness costs (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity arising from, during or in connection with the performance of the work described in this contract, except liability arising out of the sole negligence of the COUNTY and its employees. Such indemnification shall also cover claims brought against COUNTY under state or federal workers' compensation laws. If any aspect of this indemnity or the above warranty shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification or the above warranty.
- IX. COUNTY shall require its CONTRACTOR and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Oregon Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260 (Claims), to the extent such Claims are caused, or alleged to be caused by the negligent or willful acts or omissions of COUNTY's CONTRACTOR or any of the officers, agents, employees or subcontractors of the CONTRACTOR. It is the specific intention of the Parties that STATE shall, in all instances, except to the extent Claims arise from the negligent or willful acts or omissions of the STATE, be indemnified from and against all Claims caused or alleged to be caused by the CONTRACTOR or subcontractor.
- X. Any such indemnification shall also provide that neither COUNTY's CONTRACTOR and subcontractor nor any attorney engaged by COUNTY's CONTRACTOR and subcontractor shall defend any claim in the name of the State of Oregon or the COUNTY, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that COUNTY's CONTRACTOR is prohibited from defending the State of Oregon, or that COUNTY's CONTRACTOR is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against COUNTY's CONTRACTOR if the State of Oregon elects to assume its own defense.
- XI. INSURANCE: The CONTRACTOR as specified in the Benton County Standard Provisions and any subcontractors shall maintain insurance acceptable to the COUNTY (Section E) in full force and effect throughout the term of this contract. Workers' Compensation Insurance: If

CONTRACTOR employs one or more workers as defined in ORS 656.027 and such workers are subject to ORS 656.001 to 656.794, CONTRACTOR shall maintain currently valid workers' compensation insurance covering all such workers. CONTRACTOR shall maintain this insurance throughout the period of this contract.

- XII. CONTRACTOR shall abide by the provisions of ORS 279A, B and C, incorporated by this reference. It is expressly understood that this contract in all things shall be governed by the laws of the State of Oregon.
- XIII. Status of Contractor: The parties intend that CONTRACTOR, in performing the services specified in this Contract, shall act as an independent contractor and shall have the control of the work and the manner in which it is performed. CONTRACTOR is not to be considered an agent or employee of the COUNTY and is not entitled to participate in any pension plan, insurance, bonus, or similar benefits COUNTY provides its employees.
- XIV. CONTRACTOR will not be eligible for any federal social security, state worker's compensation, unemployment insurance, or Public Employees Retirement System benefits from this contract payment, except as a self-employed individual.
- XV. If this payment is to be charged against Federal funds, CONTRACTOR certifies that it is not currently employed by the Federal government and the amount charged does not exceed its normal charge for the type of service provided.
- XVI. COUNTY will report the total amount of all payments to CONTRACTOR, including any expenses, in accordance with Federal Internal Revenue Service and State of Oregon Department of Revenue regulations. CONTRACTOR shall be responsible for any Federal or State taxes applicable to amounts paid under this contract.
- XVII. The CONTRACTOR shall:
- a. Make payment promptly, as due, to all persons supplying to such CONTRACTOR labor or material for the prosecution of the work provided for in this contract
 - b. Pay all contributions or amounts due the Industrial Accident Fund incurred in the performance of this contract.
 - c. Not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, Municipal Corporation, or subdivision thereof, on account of any labor or material furnished.
 - d. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
 - e. Demonstrate that an employee drug testing program is in place and shall remain in place for the duration of this contract.

- f. Ensure that no person shall be employed for more than ten (10) hours in any one day, or forty (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 employee shall be paid at least time and a half pay:
 - i. For all overtime in excess of eight (8) hours a day or forty (40) hours in any one week when the work week is five consecutive days, Monday through Friday; or
 - ii. For all overtime in excess of ten (10) hours a day or forty (40) hours in any one week when the work week is four consecutive days, Monday through Friday; or
 - iii. For all work performed on Saturday and on any legal holiday specified in ORS 279C.540.

XVIII. If this contract is subject to the prevailing wage rate law per ORS 279C.836, and where the project is over \$100,000 the Contractor and SUB-CONTRACTORS must file a \$30,000 Public Works Bond with the Construction Contractor's Board to be used exclusively for unpaid wages determined to be due by BOLI, unless the project meets other exclusions identified in this section or ORS 279C.836. CONTRACTOR shall verify Public Works Bond filing for any subcontractors prior to starting work on the project.

XIX. In the event CONTRACTOR or first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with this public improvement contract within 30 days after receipt of payment from COUNTY 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(3) 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 COUNTY or from the contractor, but the rate of interest shall not exceed 30 percent. The amount of interest may not be waived. If the CONTRACTOR or a subcontractor 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 Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

CONTRACTOR

BENTON COUNTY

Principal

By _____
Gary Stockhoff, P.E.
Director of Public Works &
Contracting Officer

Printed Name Title

Date

Date

Approved as to Form:

Employer I.D. Number or
Social Security Number

County Counsel

Contractor's Board Number

Date

CONTRACTOR - SIGN THE FOLLOWING AFFIDAVIT IF YOU ARE AN OWNER/OPERATOR BUSINESS.

AFFIDAVIT OF OWNER/OPERATOR BUSINESS

CONTRACTOR declares that s/he does not currently employ, and will not employ any individuals for work under this contract during the term this contract is in force.

Principal

Date

SPECIAL PROVISIONS

Scope of Project and Location

The proposed work generally consists of furnishing all labor, equipment, materials, and supervision for excavation, aggregate base and shoulder, subgrade stabilization, and AC pavement placement for the multi-use path on the existing alignment per these Contract Documents. The path spans from the southwest corner of the parking lot at Dr. Martin Luther King, Jr. Park in Corvallis to Ponderosa Ave. to the northwest.

See Construction Drawings for additional information on project scope and location.

Pre-construction Meeting

A Pre-construction Meeting will be required. The Pre-construction Meeting will be scheduled after the Contract is signed and within 30 days of the Contractor's receipt of the Notice to Proceed. No mobilization or work may be performed prior to the Pre-construction Meeting unless specifically approved in writing by the Engineer. At the Pre-construction Meeting the Contractor must provide the County with the following documentation:

- List of Materials Suppliers
- Anticipated Staging Areas
- Traffic Control Plan
- Certification that crushed quarry aggregate shall be material that meets Oregon Standard Specification for Construction 02630.10 Dense Grade Aggregate 3/4"-0 or 1"-0 and have 100 percent fractured faces.
- Job Mix Formulas for ACP
- Project Work Schedule

Award

Award will be made to the lowest qualified bid for the project.

Payment

Payment for the various items of work shall be made at the Contract unit prices or adjusted unit prices as set forth herein. Such payment shall constitute full compensation for all labor, tools, equipment, materials, and cleanup required for a complete operating project. All incidental items of work for a complete project for which pay items do not appear shall be included in the prices bid for the various other items to which they are incidental.

No payment will be made for any materials exceeding 5% of the Engineer's estimated quantities without written approval prior to the furnishing and placement of those materials.

COUNTY and/or CONTRACTOR shall withhold 25% of amounts owed if certified payrolls are not submitted as required by BOLI.

Prevailing Wages

Prevailing wage rates are incorporated in this bid document by reference. Find those rates at: http://www.oregon.gov/BOLI/WHD/PWR/pwr_book.shtml. At final contract signing, applicable rates on bid opening date will be included.

Notification of Construction Schedule

The Contractor shall submit a Project Work Schedule identifying the sequencing of activities and time required for work progression. The Schedule shall contain sufficient detail to enable the Contractor and Engineer to coordinate their respective Contract duties. All work must be completed between June 17, 2024, and September 27, 2024.

Traffic Control

Traffic control and protection is the sole responsibility of the Contractor and shall be in accordance with the Oregon Standard Specifications for Construction and the MUTCD. The Contractor shall submit a signing plan prior to starting work. No work shall begin until the submitted plan has been approved.

The Contractor shall provide and maintain flaggers, barricades, and signs throughout the course of the project, as necessary, to warn the public at all times on the right of way and within the park who may be affected by work operations.

A full path closure will be required for construction. All work shall be completed in a single closure unless approved in writing by the Engineer. Duration of closure shall be no longer than 19 days, starting on Monday and ending on Friday. Closure notification signs shall include closure dates and be posted no less than 7 days prior to closure.

Survey Work

All survey work required to complete the project shall be the responsibility of the Contractor. The Contractor and their Surveyor shall work with the Engineer to adjust grades to match existing features as needed.

Quality Control and Acceptance Testing

The Contractor is responsible for all sampling and quality control testing. Sampling and testing materials shall be conducted on the frequency and in the manner prescribed in the ODOT Manual of Field Test Procedures or as directed by the engineer. Nonfield-tested materials will be accepted according to the Nonfield Tested Materials Acceptance Guide. The Contractor shall employ or subcontract persons to perform all tests when required. Cost for tests shall be included in the bid price for which the tests apply. No separate measurement or payment for testing will be made.

Coordination and scheduling of all testing, sampling, and laboratory services shall be the responsibility of the Contractor. Test results shall be made available to the County upon completion of each test. Written copies shall be provided to the County as they become available.

Completion Date

All work shall be completed by September 27, 2024.

TECHNICAL SPECIFICATIONS

Bid Item No. 1 – Mobilization:

Work under this bid item shall conform to Section 00210 of the Oregon Standard Specifications for Construction.

Payment for all work under this bid item will be paid for at the Contract Bid Unit Lump Sum and will be payment in full for mobilization.

Bid Item No. 2 – Temporary Traffic Control:

Work under this bid item shall conform to Section 00220 of the Oregon Standard Specifications for Construction and as modified herein.

A Traffic Control Plan, including pedestrian notification within the park and parking lot, shall be submitted by the Contractor for approval of the County 3 days prior to the preconstruction meeting. No work shall begin until the submitted plan has been approved.

A full path closure will be required for construction. All work shall be completed in a single closure unless approved in writing by the Engineer. Duration of closure shall be no longer than 19 calendar days, starting on Monday and ending on Friday.

Orange construction fencing, as shown in the plans, shall be considered incidental to this bid item. No measurement of work under this bid item will be made.

Payment for this bid item will be on a Contract Bid Unit Lump Sum Basis and will include all equipment, labor, signs, temporary construction fence, and incidentals required to complete the work.

Bid Item No. 3 – Removal of Structures and Obstructions

Work under this bid item shall conform to Section 00310 of the Oregon Standard Specifications for Construction and as modified herein.

Any clearing and grubbing activities necessary to complete this project, including removal of overhanging tree limbs, shall be considered incidental to this bid item and shall conform to Section 00320 of the Oregon Standard Specifications for the Construction.

Contractor shall sawcut the existing path at path connections as needed to protect the existing structures from being damaged by removal. Contractor shall preserve and protect existing structures and paths that are not intended to be removed. Sawcutting required to complete this work shall be considered incidental to this bid item.

No measurement of work under this bid item will be made. Payment for this bid item will be on a Contract Bid Unit Lump Sum Basis and will include all equipment, labor, and incidentals required to complete the work.

Bid Item No. 4 – Excavation:

Work under this bid item shall conform to Section 00330 of the Oregon Standard Specifications for Construction and as modified herein. Earthwork shall be completed on the excavation basis of performance.

Excess material shall be hauled off and disposed of by the contractor. Material disposal shall be incidental to this bid item.

The intention is to complete this work during dry weather conditions, which should not necessitate the need for erosion control measures. As such, there is no bid item for erosion control in this contract. Any unforeseen runoff is to be contained within the excavation area. If circumstances arise requiring erosion control measures, the Contractor shall work with the Engineer to address any concerns. Additional erosion control, as deemed necessary by the Engineer, shall be considered incidental to this bid item. If needed, Erosion control measures shall comply with Sections 00280 and 00290 of the Oregon Standard Specifications for Construction.

Additionally, excavation should be limited to the footprint of the proposed path and gravel shoulders. Therefore, permanent seeding is not anticipated to be needed for this project. If excavation or other damages occur outside of the footprint of the proposed path, the Contractor shall be responsible for placing permanent seeding per Section 01030 of the Oregon Standard Specifications for Construction. Any required permanent seeding shall be considered incidental to this bid item.

Watering for compacting and preparing the roadbed excavations, roadbed embankments, subgrade, subbases, bases, and alleviating dust nuisance is incidental to this bid item. Compaction of the subgrade shall be incidental to this bid item.

Payment for this bid item will be on a Contract Bid Unit Price per Cubic Yard basis and will include all equipment, labor, materials, and incidentals required to complete the work.

Bid Item No. 5 – Subgrade Geotextile Fabric

Work under this bid item shall conform to Section 00350 of the Oregon Standard Specifications for Construction and as modified herein.

The fabric shall be spread uniformly over the subgrade surface to the limits as shown on the Construction Drawings and as directed by the Engineer. For areas greater than the fabric width or length, the fabric shall be overlapped. The overlap shall be a minimum of 24 inches. No vehicles, including construction equipment, shall be allowed directly on the fabric. All underground utilities shall be tested and accepted prior to placing the geotextile fabric. No cutting or trenching through the geotextile fabric will be allowed.

Payment for this bid item will be on a Contract Bid Unit Price per Square Yard basis and will include all equipment, labor, materials, and incidentals required to complete the work.

Bid Item No. 6 – Subgrade Stabilization:

Work under this bid item shall conform to Section 00331 of the Oregon Standard Specifications for Construction and as modified herein.

Subgrade will be defined as all required excavation that is deeper than the typical path section shown on the Plans. Approval and installation of the subgrade fabric shall be in accordance with Section

00350 of the Oregon Standard Specifications for Construction. Foundation stabilization shall be material that meets Oregon Standard Specification for Construction 02630.10 Dense Grade Aggregate 2 1/2"-0 and have 100 percent fractured faces. Placement of the aggregate subbase shall be compacted to ninety-five (95) percent maximum relative density per AASHTO T-99. The Contractor shall protect the subgrade from traffic that visibly deflects the surface. Initial placement of the aggregate subbase shall be by back dumping or equivalent means to avoid trafficking the subgrade.

All excavation, subgrade fabric, aggregate subbase, labor, equipment and materials required to complete the work shall be considered incidental to this bid item. The quantities of subgrade stabilization will be measured on the square yard basis of subgrade volumes stabilized to the depth(s) as directed by the Engineer. The accepted quantities of Subgrade Stabilization will be paid for at the Contract Bid Unit Price per Square Yard of subgrade stabilized at 12 inches depth. Any over-excavation and soil stabilization done without the prior approval of the Engineer shall be paid for at the Contractor's expense and shall not be included in this Bid Item.

Bid Item No. 7 – Crushed Aggregate Base and Shoulder:

Work under this bid item shall conform to Section 00641 of the Oregon Standard Specifications for Construction and as modified herein.

Materials shall meet the requirements for base and shoulder aggregate.

Crushed aggregate shall be material that meets Oregon Standard Specification for Construction 02630.10 Dense Grade Aggregate 3/4"-0 or 1"-0 and have 100 percent fractured faces.

Material placed will be paid at the same rate for material placed as base or shoulder rock.

The quantity of aggregate mixture will be measured on the Contract Bid Unit Price Weight Basis, per Ton of material. Contractor shall be responsible for submitting load tickets to the County to verify quantities.

Bid Item No. 8 – Warm Mix Asphalt Concrete:

Work under this bid item shall conform to Section 00744 and Section 00745 of the Oregon Standard Specifications for Construction and as modified herein.

The WMAC mix shall be Level 2, 1/2" Dense PG 64-22 ACP. The contractor shall provide a Superpave mix design for the warm-mix asphalt concrete. The temperature of the warm-mix asphalt shall be at least 215°F at the time it is spread into the final position.

Any significant damage to adjacent concrete or other appurtenances damaged by AC paving shall be repaired and the cost of the repair shall be considered incidental to this bid item.

Tack coat shall be CSS-1 and shall be applied at a residual rate of 0.08 gallons per square yard. Tack coat shall be applied to all abutting structures and between lifts of asphalt.

The accepted quantities of WMAC incorporated into the project will be paid for at the Contract Bid Unit Price per Ton accepted in place, for the item Level 2, 1/2" Dense PG 64-22 ACP in base courses.

CERTIFICATION OF INSURANCE REQUIREMENTS

Contractor shall at all times maintain in force at Contractor's expense for insurance noted below.

Workers' Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide workers' compensation coverage in accordance with ORS Chapter 656 or CCB (Construction Contractors Board) for all subject workers. Contractor and all subcontractors of Contractor with one or more employees must have this insurance unless exempt under ORS 656.027. **Employer's Liability Insurance with coverage limits of not less than \$1,000,000 must be included. THIS COVERAGE IS REQUIRED.** If Contractor does not have coverage, and claims to be exempt, Contractor must indicate exemption within their Bid/Proposal submittal letter with qualified reasons for exemption, see ORS 656.027. Out-of-state Contractors with one or more employees working in Oregon in relation to this contract must have Workers' Compensation coverage from a state with extraterritorial reciprocity, or they must obtain Oregon specific Workers' Compensation coverage ORS 656.126.

Professional Liability insurance covering any damages caused by error, omission or any negligent acts of the Contractor, its subcontractors, agents, officers, or employees' performance under this Contract. **Combined single limit per occurrence shall not be less than \$2,000,000. Annual aggregate limit shall not be less than \$2,000,000.**

- If this box is checked, the limits shall be \$1,000,000 per occurrence and \$1,000,000 in annual aggregate.
- Required by County Not Required by County
-
-

Commercial General Liability insurance with coverage satisfactory to the County on an occurrence basis. **Combined single limit shall not be less than \$2,000,000 per occurrence for Bodily Injury and Property Damage and annual aggregate limit for each shall not be less than \$4,000,000.** Coverage may be written in combination with Automobile Liability Insurance (with separate limits). **Annual aggregate must be on a "per project basis".**

- If this box is checked, the limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate.
- If this box is checked, the limits shall be \$5,000,000 per occurrence and \$5,000,000 in annual aggregate.
- Required by County Not Required by County
-
-

Automobile Liability covering all owned, non-owned, or hired vehicles. If there are no owned autos this coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). **Combined single limit per accident shall not be less than \$2,000,000.**

- If this box is checked, the limits shall be \$1,000,000 per accident.

If this box is checked, the limits shall be \$5,000,000 per accident.

Required by County Not Required by County

Property of Others in Transit (Cargo) covering all County owned property / equipment being hauled by contractor. **Limit per occurrence shall not be less than \$100,000.**

Required by County Not Required by County

Coverage must be provided by an insurance company authorized to do business in Oregon or rated by A.M. Best's Insurance Rating of no less than A-VII or County approval. Contractor's coverage will be primary in the event of loss. Contractor shall furnish a current Certificate of Insurance to the County. Contractor is also responsible to provide renewal Certificates of Insurance upon expiration of any of the required insurance coverage.

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 thirty (30) days written notice from the Contractor or its insurer(s) to the COUNTY or STATE. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of the resulting contract and shall be grounds for immediate termination of the resulting contract and this Agreement.

The certificate shall also state the deductible or retention level. The COUNTY and the STATE must be listed as an Additional Insured by endorsement of any General Liability Policy on a primary and non-contributory basis. Such coverage will specifically include products and completed operations coverage.

Additional Insured Endorsement. The liability insurance coverage, except Professional Liability, Errors and Omissions, or Workers' Compensation, if included, required for performance of the resulting contract will include State and its divisions, officers and employees as Additional Insured but only with respect to the Contractor's activities to be performed under the resulting contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

The Certificate shall state the following in the description of operations: "Additional Insured Form (include the number) attached. The form is subject to policy terms, conditions and exclusions". A copy of the additional insured endorsement shall be attached to the certificate of insurance. If requested complete copies of insurance policies shall be provided to the County.

Certificate holder should be: Benton County, 360 SW Avery Avenue, Corvallis OR 97333 AND The State of Oregon, it's divisions, officers and employees. Certificates of Insurance can be faxed to 541-766-6891 or emailed to Public Works at pwinfo@co.benton.or.us

FORM OF RETAINAGE
(FOR PROJECTS OVER \$500,000)

CONTRACTOR: _____

PROJECT NAME: MLK PARK TO PONDEROSA AVE PATH RESURFACING

PROJECT NUMBER: BP01-01-24

As of January 1, 2020, Oregon Law provides three options for managing retainage for construction projects over \$500,000 in value. As contractor for the above-named project, which is over \$500,000 in value, your firm may choose to either:

_____ (a) Deposit a bond, or securities or other instruments with the County or in a bank or trust company, and have no retainage withheld, as described in ORS 279C.560(4),

_____ (b) Have the County place the retainage as it is earned in an interest-bearing bank account, at no cost to you, and after completion you will receive all of the interest earned along with your retainage, pursuant to ORS 279C.560(5), or

_____ (c) Have the County place the retainage as it is earned in an interest-bearing escrow account, where you will be responsible for the costs of the escrow, and will receive the interest along with your retainage, *with the amount reduced by the fees charged by the escrow agent.*

If you do not choose option (a) or (b), then the default method required by the law under HB 2415 (2019) will be that the retainage goes into an escrow account as described in (c). You should be aware, however, that under option (c) it is possible that the escrow fees to be deducted could be as much as or greater than the interest earned on the retainage. There is no charge or deduction for option (a) or (b).

Please indicate the method your firm prefers for the retainage on this project by marking in the space provided next to the preferred option, and return this form to the County.

Signature: _____

Printed Name, Title: _____

Date: _____

PERFORMANCE AND PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: That we, _____

as principal, and _____

duly authorized to transact surety business in Oregon, as surety, are jointly and severally held and bound unto Benton County in the sum of:

_____ for the payment of which we jointly and severally bind ourselves, our heirs, executors, administrators and assigns or successors and assigns, firmly by these presents.

THE CONDITION OF THIS BOND IS SUCH

That, whereas the said principal herein has made and entered into a certain Contract, a copy of which is attached hereto, with Benton County, which Contract, together with the applicable Contract documents is by this reference made a part hereof, whereby the said principal agrees to perform certain work and to assume certain obligations, which things he agrees to do in accordance with the certain terms, conditions, requirements, plans and specifications set out in said Contract.

NOW, THEREFORE, if the principal herein shall faithfully and truly observe and comply with the terms, conditions, and provisions of the said Contract, in all respects, and shall well and truly and fully do and perform all matters and things by him undertaken to be performed under said Contract, upon the terms set forth therein, and within the time prescribed therein, or as extended as provided in the applicable Contract documents, and shall indemnify and save harmless Benton County, the Benton County Board of Commissioners, and members thereof, its officers, employees, and agents, against any direct or indirect damages of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the said Contract by the said Contractor or his subcontractors; and shall make payment promptly, as due, to all subcontractors and to all persons supplying to the Contractor or his subcontractors equipment, supplies, labor or materials for the prosecution of the work or any part thereof, provided for in said Contract, and shall pay all contributions or amounts due the State Industrial Accident Fund and the State Unemployment Compensation Trust Fund from the Contractor or his subcontractors incurred in the performance of said Contract, and pay all sums of money withheld from the Contractor's employees and payable to the State Tax Commission pursuant to ORS 316; and shall pay all other just debts, dues and demands incurred in the performance of the said Contract and shall pay Benton County, such damages as may accrue to the County under said Contract and shall in all respects perform said Contract according to law, then this obligation is to be void, otherwise to remain in full force and effect.

Witness our hands this _____ day of _____, 20____.

Principal

_____ By: _____

Title: _____

_____ By: _____
Surety attorney-in-fact

Title: _____

Principal

By: _____

Title: _____

SPECIAL PROVISIONS (FEMA DISASTER PROVISIONS)

This Attachment shall apply only to those contracts wherein FEMA disaster reimbursements are sought and the services, equipment or material provided by the CONTRACTOR under this agreement are used or employed by COUNTY in response to a FEMA reimbursing event. If no such event occurs during the term of this agreement, these terms shall not apply.

1. Administrative, Contractual, or Legal Remedies

For all contracts greater or equal to \$250,000, which is the current Simplified Acquisition Threshold set by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council pursuant to 41 U.S.C. § 1908, CONTRACTOR agrees to be bound by the administrative, contractual, or legal remedies set forth in this agreement and, the following:

Termination for Default.

- a. Default. If the CONTRACTOR refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, otherwise fails to timely satisfy the Contract provisions, or commits any other substantial breach of this Contract, the COUNTY may notify the CONTRACTOR in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the COUNTY, the COUNTY may terminate the CONTRACTOR'S right to proceed with the Contract or such part of the Contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the COUNTY may procure similar goods or services in a manner and upon the terms deemed appropriate by the COUNTY. The CONTRACTOR shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the COUNTY, the CONTRACTOR shall take timely and reasonable necessary action to protect and preserve property in the possession of the CONTRACTOR in which the COUNTY has an interest.
- c. Compensation. Payment for completed goods and services delivered and accepted by the COUNTY shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the COUNTY. If the parties fail to agree, the COUNTY shall set an amount. The COUNTY may withhold from amounts due the CONTRACTOR such sums as the COUNTY deems to be necessary to protect the COUNTY against loss because of outstanding liens or claims and to reimburse the COUNTY for the

excess costs expected to be incurred by the COUNTY in procuring similar goods and services.

- d. Excuse for nonperformance or delayed performance. The CONTRACTOR shall not be in default by reason of any failure in performance of this Contract in accordance with its terms, including any failure by the CONTRACTOR to make progress in the prosecution of the performance hereunder which endangers such performance, if the CONTRACTOR has notified the COUNTY within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of a public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the COUNTY shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the COUNTY under this Contract. As used in this paragraph, the term "subcontractor" means subcontractor at any tier.
- e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of the contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the contract.

Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

2. Termination for Cause and for Convenience

For all contracts in excess of \$10,000, CONTRACTOR agrees to be bound by the termination for cause and for convenience provisions set forth in the contract and subsection 1 above. CONTRACTOR acknowledges the contract has no for-cause termination provision.

3. Equal Employment Opportunity

If this contract is for construction, CONTRACTOR agrees, pursuant to the requirements provided in 2 C.F.R. Part 200, Appendix II, and 41 C.F.R. § 60-1.4(b), as follows:

- a. CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. CONTRACTOR will take affirmative action to ensure that

applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- b. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the CONTRACTOR's legal duty to furnish information.
- d. CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CONTRACTOR's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965 [Part I - Nondiscrimination in Government Employment; Part II - Nondiscrimination in Employment by Government contractors and Subcontractors; Part III - Nondiscrimination Provisions in Federally Assisted Construction Contracts], and the rules, regulations, and relevant orders of the Secretary of Labor.
- f. CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- g. In the event of CONTRACTOR's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. CONTRACTOR will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (G) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the

following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

4. Compliance with Davis-Bacon Act

- a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. CONTRACTOR shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- c. Additionally, contractors are required to pay wages not less than once a week.

5. Compliance with the Copeland "Anti-Kickback" Act

- a. Contractor. CONTRACTOR shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- b. Subcontracts. CONTRACTOR or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

6. Contract Work Hours and Safety Standards Act

- a. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

- b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph a of this section CONTRACTOR and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such CONTRACTOR and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph a of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph a of this section.
- c. Withholding for unpaid wages and liquidated damages. The COUNTY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by CONTRACTOR or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph b of this section.
- d. Subcontracts. CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in paragraph a through d of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs a through d of this section.

7. Rights to Interventions Made Under a Contract

If the FEMA award meets the definition of “funding agreement” under 37C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Interventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA. See 2 C.F.R. Part 200, Appendix II(F).

8. Clean Air Act and Federal Water Pollution Control Act

- a. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

- b. CONTRACTOR agrees to report each violation to the COUNTY and understands and agrees that the COUNTY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. CONTRACTOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- d. CONTRACTOR agrees to report each violation to the COUNTY and understands and agrees that the COUNTY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- e. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

9. Energy Efficiency

To the extent applicable to this contract, CONTRACTOR agrees to comply with all applicable mandatory standards and policies relating to energy efficiency of the State.

10. Excluded Parties List System

CONTRACTOR understands and agrees that if CONTRACTOR is listed on the government-wide Excluded Parties List System in the System for Award Management at www.SAM.gov as suspended or debarred, CONTRACTOR cannot be awarded this contract.

11. Byrd Anti-Lobbying Amendment

If this contract is for an award of \$100,000 or more, CONTRACTOR acknowledges and agrees the written declaration included at the end of this document is submitted on its behalf. CONTRACTOR also agrees to disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award.

12. Recovered and Recycled Materials

To the extent applicable to this contract, CONTRACTOR agrees to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Section 6002 requires CONTRACTOR to use only items, designated in guidelines of the Environmental Protection Agency at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000

13. Access to Records. The following access-to-records requirements apply to this contract:

- a. CONTRACTOR agrees to provide to COUNTY, to the FEMA Administrator, to the Comptroller General of the United States, or to any of their authorized representatives, access to any books, documents, papers, and records of CONTRACTOR which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
 - b. CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
 - c. CONTRACTOR agrees to provide the FEMA Administrator or the Administrator's authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
 - d. In compliance with the Disaster Recovery Act of 2018, COUNTY and CONTRACTOR acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United
14. DHS Seals and Logos. CONTRACTOR is not permitted to use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
15. False Claims and Statements. CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to CONTRACTOR's actions pertaining to this contract.

**Byrd Anti-Lobbying Amendment Certification
for Contracts, Grants, Loans, and Cooperative Agreements**

CONTRACTOR certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under

grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By entering into this agreement, CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

CONSTRUCTION DRAWINGS

STANDARD PROVISIONS

PREVAILING WAGE RATES:

http://www.oregon.gov/BOLI/WHD/PWR/pwr_book.shtml