



**Wasco County
Issues the Following
REQUEST FOR PROPOSALS (RFP)
RFP Number 09-5113-03
ROOF REPLACEMENT ON THE WASCO COUNTY
CLINIC BUILDING**

Date of Issuance: December 18, 2009

Proposals Due Date: 3:00pm February 12, 2010

Issuing Office: Wasco County Facilities
Single Point of
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Mandatory Pre-Proposal Conference:

Date: January 11, 2010

Time: 10:00am- 11:30am

Location: Annex B Meeting Room

Phone Number 541-993-5210 (FOR DIRECTIONS ONLY)

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Section 1: Purpose and General Information

1.1 Introduction

1.1.1 Overview, Objectives, and Background.

Wasco County has recognized the need to remedy several shortcomings in the design and condition of the roof area and membrane of the Clinic Building located at 425 East 7th Street in The Dalles, OR. The work performed will be under the general supervision of a single contractor and shall address the following needs: the demolition and removal of an existing sheet metal roof and its framing; removal of all nonfunctional roof mounted HVAC and electrical equipment; some relocation of functional HVAC electrical supply conduits; install 110v receptacles at various locations on roof; address and execute necessary solutions to relocate existing and new rooftop network cabling and future network and antenna roof top access points; repair of damaged concrete parapet wall at T&M/lineal foot ; removal of all existing torch down roofing material and debris; repair of existing or installation of new deck sheeting at T&M/square foot; installation of rigid roof insulation; application of acceptable roofing product, flashing, scuppers, downspouts and other items as needed; inspect and verify function of drains and vents; create proper dispersal of all collected storm water away from building; and maintain protection from rain damage for the duration of the work. Because of the nature of the work the County has chosen to request proposals for the execution of these objectives.

1.1.2 Contract Term.

The Contract is anticipated to start in May of 2010 weather permitting. The initial Contract term shall be for sixty (60) days. The parties may agree to extend the term of the Contract up to a maximum of 6 months.

1.1.3 Method of Compensation.

The contract payment method shall be a fixed price for all proposed work and a cost per foot price for any additional work agreed to after execution of a contract.

1.1.6 Approximate Value.

The anticipated value of the [Supplies and Services] described in the RFP is estimated to be in the range of \$155,000

1.2 Schedule

Event	Due Date
RFP Release – Date of Issuance	December 18, 2010
Pre-Proposal Conference	January 11, 2010
Written Questions	January 22, 2010 by 3:00pm
Answers to Proposal Questions (approx.)	January 29, 2010
RFP Closing	February 12, 2010 by 3:00pm
Opening of Proposals	February 17, 2010
Evaluation (approx.)	February 22, 2010
Award Notification (approx.)	March 03, 2010
Issuance of Notice of Intent to Award	March 03, 2010
Award Protests (approx.)	March 08, 2010 by 3:00pm
Negotiations (approx.)	March 15, 2010
Contract Award (at County Commission Meeting)	March 17, 2010 11:00am

1.3 Definitions

For general definitions, see OAR 125-246-0110, which are incorporated by reference herein.

1.3.1 “**Agency**” means Wasco County

1.3.2 “**RFP**” means this Request for Proposals.

1.3.3 “**Scope of Work**” means the general character of the Supplies and Services, the work’s purpose and objectives, and Agency’s expectations. Examples of expectations include, if applicable, a description of the purchase, specifications, tasks (obligations), deliverables, delivery or performance schedule, and acceptance requirements. The Scope of Work helps the prospective Proposers develop the Proposals.

1.3.4 “**Statement of Work**” means the specific provision in the final Contract which sets forth and defines in detail the agreed-upon objectives, expectations, performance standards, and other obligations.

1.4 Scope of Work

The following work will take place on or near the roof surfaces of the building.

1. Develop and execute solutions addressing existing network cabling and equipment (serving building occupants) using acceptable methods rated for exterior exposure while minimizing interruptions in service to the occupant’s network. This must be coordinated with the technology staff that service the occupant’s networks and may require scheduling evening and weekend work in order to control the impact to their services.
2. Remove, in a safe manner, the existing raised sheet metal sloped roof surface; all related framing; all debris; all abandoned HVAC equipment, electrical conduit and extended plumbing vents;

3. Relocate and/or reroute electrical supply conduits as needed to simplify roofing and long term maintenance.
4. Remove all existing layers of roofing and related materials including all parapet flashing. All waste and hazardous material disposal rules and laws are to be addressed and observed. (Proposer shall verify and document the existence of any hazardous materials within the work area and offer an abatement plan if required.) **NOTE:** Approximately 20% of the total roofing felt is known to contain asbestos.
5. Cover all interior parapet walls with pre-coated sheet flashing; cap perimeter parapet walls with pre-coated flashing to match.
6. Replace all scuppers and downspouts; install necessary screening; replace other related items as needed.
7. Inspect and verify functionality of any internal roof drains and all plumbing vents.
8. Create proper and acceptable dispersal of all collected storm water away from building.
9. Repair existing or install new deck sheeting at T&M/square foot as required.
10. Install rigid R19 (min) roof insulation.
11. Apply acceptable roofing product and any additional flashing.
12. Provide building protection from rain damage for the duration of the work and be liable for any damage resulting from a failure to provide such protection.
13. Maintain a minimal impact to the operation of the facility and on the usability of the adjacent buildings and parking areas.

Agency and the successful Proposer may negotiate a Statement of Work for the Contract. The parties may agree to amend or modify the awarded Contract in accordance with OAR 125-246-0560 or 125-247-0285.

1.4.1 Anticipated and Unanticipated Amendments to the Scope of Work.

The general circumstances that might require an Amendment to be issued under the Contract include: The discovery of hazardous materials in the area of demolition and repair; the discovery of unanticipated conditions in the existing building and its systems.

A general description of possible changes to the requirements of the Contract that may be anticipated or planned for include: possible seismic upgrades; possible installation of photovoltaic array.

Except for these Anticipated Amendments, any and all later amendments shall be deemed unanticipated.

1.4.2 Change Orders

Proposer shall clearly specify their change order process in detail.

1.5 Single Point of Contact (SPC)

All questions, whether about the technical requirements of the RFP, contractual requirements, the procurement process, or any other aspect of the project or needed services, shall be directed only to the person listed on the first page of the RFP. The RFP document may be reviewed upon request at the address listed on the first page of the RFP.

1.6 Notice of Intent to Submit a Proposal

1.6.1 ORPIN.

The potential Proposer may express an interest in submitting a Proposal to the Oregon Procurement Information Network System (ORPIN) at <http://orpin.oregon.gov>. Within ORPIN, open the Opportunity, click on “interested,” insert the relevant information, and submit the information. ORPIN shall automatically notify Proposer of all notices and Addenda issued under this opportunity. *Please note: This process does not act to communicate regarding; or change any of the submittal process or schedule and only acts to guarantee interested parties notification and access to other communication submitted by the Agency.*

1.7 Mandatory Pre-Proposal Conference

Agency shall hold a Pre-Proposal Conference to answer general questions and to clarify any program issues. Questions will be recorded by Agency and will be answered as set forth in Section 3.3. Verbal comments made by Agency at the Pre-Proposal Conference are not binding.

Pre-Proposal Conference

Date: January 20, 2010

Time: 10:00am – 11:30am

Place: The meeting room located in the basement of County Annex B 421 E 7th St. (North of the construction site). Use east entrance.

Persons or organizations that are considering submitting a Proposal are advised and encouraged to attend. An explanation of the solicitation may be given at the request of any interested party in attendance. Attendees shall have the opportunity to ask questions of Agency program staff which may clarify Agency expectations.

The Pre-Proposal Conference is a forum in which potential Proposers may request in writing a change to the requirements contained in the RFP. Agency shall take all written requests to change requirements under advisement. Changes to the RFP, if any, shall be in the form of a written Addendum to the RFP and posted on ORPIN. Verbal comments made by Agency at the Pre-Proposal Conference are not binding.

Section 2: Proposal Requirements

2.1 Administrative Proposal Requirements

2.1.1 Proposal Cover Sheet.

The Proposer shall sign and submit the Proposal Cover Sheet (see Attachment A). Proposals shall address the proposal and submission requirements set forth in the RFP and shall describe how the Supplies and Services shall be provided. Proposals that merely offer to provide Supplies and Services as stated in the RFP shall be considered non-responsive and shall not be further considered.

All Proposals shall follow the format described in this Section. [Proposals shall respond to all elements of information requested, without exception.] Proposal sections and pages shall be appropriately numbered per the outline below.

Proposals may use various headings, but shall include at least the following headings in the following order and numbered as indicated below, followed by Proposer's responses:

- Part 1: Administrative Proposal Requirements
- Part 2: Technical Proposal Requirements

2.1.2 Copies.

Submissions in response to the RFP shall contain 2 originals, 4 copies of the proposal and all required supporting information and documents plus 1 CD containing a pdf version of the signed Proposal]. The originals and all copies of the Proposal shall be submitted in a sealed envelope or box, labeled "Proposal to RFP #09-5113-02" and delivered to the SPC.

2.1.3 Financial Statement/Fiscal Stability.

Briefly describe Proposer's experience with, and current strategies for, ensuring that the Proposer conducts business in a fiscally responsible manner and remains financially solvent through the proposed Contract term. Identify the individuals who have fiscal responsibilities. Any Proposer that has generated financial statements shall submit copies for the most recent period. If financial statements have not been generated, then Proposer may submit an audit or fiscal review by a certified public accountant, or if the Proposer is a "new" business, a copy of a business plan completed within the last year.

2.2 Minimum Proposal Requirements

A Proposal shall meet the minimum proposal requirements described in the Proposal Cover Sheet, Attachment A.

2.3 Technical Proposal Requirements

The Proposal shall describe how the Proposer shall meet each of the technical requirements described in the Scope of Work in Section 1.4, including identification of key persons who shall perform the work and their background and expertise. It shall include a time table specifying times for percentages of completion of the project (E.G. 25% complete after ___ days, 50% completed after ___ days etc.) It shall include a detailed description of the plan and methods the Proposer will implement in minimizing the disruption to the building occupants. This Proposal shall be evaluated as described in Section 4.

2.3.1 References.

In Attachment A, Proposers shall provide the names, addresses, telephone numbers, and contact information for three (3) customers for whom they have, within the last 6 years, provided supplies and services similar or equivalent to those described in this RFP. Agency may use references provided as part of the proposal evaluation process as described in Section 4.]

2.4 Quality Control and Warranty Specifications

2.4.1

The Proposer shall clearly justify why the chosen roofing material, installation method and durability/lifespan are preferable over other alternatives. Explain the advantages and disadvantages of the chosen approach.

Explain all quality control and supervision policies and procedures and list the name and qualifications for the responsible person(s) noting any skills and expertise with the type of roof system selected as well as any installation certification possessed by the supervisor or labor team. In addition document the specific type of roofing material and the installation method to be used.

The Proposer shall also describe in detail a proposal of warranty coverage that shall include, but is not limited to:

- Manufacturer's product warranty (does proposed roofing product manufacturer offer an ND [no dollar amount] warranty?)
- Material warranty (min. 10 years)
- Labor warranty (min. of 3 years)

These factors will be considered in evaluating and grading the proposal.

2.5 Price Proposal Requirements

Proposer shall submit its Price Proposal separately from the remainder of the Proposal.

Price Proposals shall be addressed to the SPC and clearly referenced as "Price Proposal to Request for Proposals #09-5113-02." Proposer shall submit 2 original(s) and four (4) copies of the Price Proposal plus 1 CD containing a pdf version of the signed Proposal.

Price Proposals shall be firm for a period of 120 days from the deadline for proposal submission.

Section 3: Solicitation Process

3.1 Procurement Authority and Method

Agency is conducting the RFP pursuant to its authority under ORS 279A.050 and its amendments. Agency intends to use the Competitive Sealed Proposals method pursuant to Section 10: Request for Proposal of the Wasco County Local Contract Review Board Rules as adopted (8/3/2005). Agency intends to initially conduct a single-step Competitive Sealed Proposal method.

3.2 ORPIN

The RFP, including all Addenda and Attachments, shall be posted on the Oregon Procurement Information Network System (ORPIN). Agency is not required to mail the RFP, its Addenda or Attachments. Notification of any substantive clarifications provided in response to any question will be provided and published at the ORPIN web site below. For complete RFP documentation please go to the ORPIN web site: <http://orpin.oregon.gov/open.dll/welcome> and view **Agency Opportunity** number **09-5113-03**.

Proposers without electronic access to ORPIN may obtain access to ORPIN and download copies at the location listed on the front page of the RFP. Proposers may also order hard copies from the SPC for a fee.

3.2.1 Documents Outside of ORPIN.

Prior to the close of the RFP, if a Proposer finds an exhibit attachment or addendum cannot be viewed or downloaded through **ORPIN** the Proposer shall send email or fax notification to the SPC and request the specific item. The needed item will be provided in response to the written request using the provided return information.

3.2.2 Addenda on ORPIN.

Addenda are incorporated within the RFP and may be viewed and downloaded on ORPIN by registered suppliers. Proposers should consult ORPIN regularly until Closing to ensure that they have not missed any Addenda announcements.

Any oral communications shall be considered unofficial and non-binding. Proposers shall rely only on written statements issued by the SPC and posted on ORPIN.

3.2.3 ORPIN Usage.

Proposers unfamiliar with ORPIN may contact the State Procurement Office (SPO) at the Department of Administrative Services, 1225 Ferry St. SE - U140, Salem, OR 97301-4285; telephone (503) 378-4642. Proposers may also look for updates about ORPIN on the SPO website: <http://procurement.oregon.gov/>.

3.2.4 ORPIN Registration.

Proposers are responsible for ensuring that their registration information is current and correct. SPO accepts no responsibility for missing or incorrect information contained in the supplier's registration information in ORPIN.

3.3 Questions, Modifications and Protests relating to the RFP, Contract Provisions or Specifications

3.3.1 Submittal of Questions and Requests.

Questions, including requests for explanations of the meaning or interpretation of provisions of the RFP, shall be submitted in writing, arrive by the date and time specified in Section 1.2, and be addressed to the attention of the SPC. Faxes (including Proposer's fax number) and emails are acceptable.

Note: with the exception of Negotiations of those terms permitted under Section 4.7, this is the Proposer's only opportunity to request any change or protest any requirement of the RFP, including but not limited to the solicitation process, proposal requirements or terms and conditions. Proposals that take exception to the requirements of the RFP, including but not limited to the solicitation process, proposal requirements or terms and conditions may be deemed non-responsive and may be rejected at the sole discretion of Agency.

3.3.1 Methods of Seeking Modifications to RFP, Contractual Provisions or Specifications.

3.3.1.1 Procedure.

The appropriate means of seeking modifications to provisions of the RFP are through a written (a) request for clarification; (b) formal submittal of requests for changes to the RFP, contractual terms or specifications; or (c) formal submittal of protests of the RFP, contractual terms or specifications.

3.3.1.2 Request for Clarification.

Any Proposer requiring clarification of any provision of the RFP, contractual terms or specifications may submit to the SPC a written request for clarification. To be considered, the request for clarification shall be received by the SPC by the deadline specified in Section 1.2 or any extension made by subsequent Addenda.

3.3.1.3 Request for Changes to RFP, Contractual Terms or Specifications.

Any Proposer may submit to the SPC a written request for changes to the RFP, contractual terms or specifications. To be considered, the request for changes shall be received by the SPC by the deadline specified in Section 1.2 or any extension made by subsequent Addenda. The request shall include the reason for requested changes, supported by factual documentation, any proposed changes and shall contain all other information required by ORS 279B.405 and OAR 125-247-0730.

3.3.1.4 Protest of RFP, Contractual Terms or Specifications.

Proposers may submit to the SPC a written protest of RFP, contractual terms or specifications. To be considered, Protests shall:

3.3.1.4.1 Identify the Proposer's name and reference the RFP number;

3.3.1.4.2 Contain evidence that supports the grounds on which the protest is based and specify the relief sought, including a statement of the proposed changes to the process or RFP provisions, requirements or terms and conditions that the Proposer believes shall remedy the conditions upon which the protest is based;

3.3.1.4.3 Be signed by the Proposer's authorized representative;

3.3.1.4.4 Be submitted to the SPC by the Solicitation Protest due date specified in Section 1.2.

3.3.1.4.5 Be delivered or faxed to the SPC at the address specified on the first page of the RFP.

Agency shall not consider solicitation protests that do not meet the requirements of this Section. Agency shall resolve all solicitation protests in accordance with OAR 125-247-0730. Agency is not responsible for the successful transmission of faxed protests. Unless this specific due date is extended by Addenda to the RFP, Agency shall not consider solicitation protests to the originally-issued RFP submitted after the Solicitation Protest due date specified in Section 1.2. *Please note: Late or electronically transmitted (emailed) protests will not be accepted.*

3.3.1.4 .6 Method of Submitting Requests for Modification of RFP

Provisions. Envelopes containing requests for clarification, requests for change, [and protests] shall be marked as follows:

Request for Clarification /Change /Protest
RFP Number
Closing

Envelopes shall be received by the SPC by the date and time specified in Section 1.2. This deadline may be extended by Addendum. No requests for clarification, requests for change or protests regarding the RFP, contractual terms or specifications shall be considered if received after the date specified in this Section or the date specified in a subsequent Addendum.

3.3.1.5.7 Response to Requests for Clarification or Change and Protests.

Agency shall respond to each properly-submitted written request for clarification, request for change, and protest in accordance with ORS 279B.405. Where appropriate, Agency shall issue revisions and clarify RFP provisions via Addenda posted on ORPIN. Agency may also informally respond to Proposer questions. **Informal responses, however, do not affect the provisions of the RFP. The RFP, contractual terms and specifications can only be changed via formal addenda issued by Agency.**

3.4 Submission of Proposals

Proposals shall be received by the SPC no later than the closing date and time specified in ORPIN at the address listed on the front page of the RFP. Proposals may be delivered via U.S. Mail or courier or hand-delivered. Proposals shall be sent to the attention of the SPC's name. Late, faxed or electronically transmitted Proposals shall not be accepted.

3.5 Withdrawal of Proposals

If a Proposer wishes to withdraw a submitted Proposal, it shall do so prior to the Closing date and time. The Proposer shall submit a written request to withdraw, signed by the Proposer, on the Proposer's letterhead, to the SPC at the address listed on the front page of the RFP, as required by OAR 125-247-0440(2).

3.6 Opening of Proposals

Proposals shall be opened and the names of all Proposers shall be read at the date and time listed in the Schedule, Section 1.2. Proposals will not be read aloud (OAR 125-247-0450(2)). Proposals shall be opened at the following location:

The Wasco County Court House
511 Washington Street
The Dalles OR, 97058

3.7 Evaluation and Award

The evaluation and award process is described in Section 4.

3.8 Public Information, Confidentiality, and Trade Secrets

All Proposals are public information after the Proposals have been opened, and all protests are public information after the protest period ends. Proposals shall be opened by the SPC at the date and time listed in the Schedule, Section 1.2. Copies of Proposals, however, shall not be provided until the evaluation process has been completely closed and a Notice of Intent to Award has been issued pursuant to OAR 125-247-0630. Copies of public information may be requested by any person. Proposers shall label any information that it wishes to protect from disclosure to third parties as a trade secret under ORS 192.501(2) with the following: **"This material constitutes a trade secret under ORS 192.501(2) and is not to be disclosed except as required by law."** Agency shall take reasonable measures to hold in confidence all such labeled information, but the State shall not be liable for release of any information when required by law or court order to do so, whether pursuant to the Oregon Public Records Law or otherwise and shall also be immune from liability for disclosure or release of information under the circumstances set out in ORS 646.473(3).

3.9 Cost of Preparing Proposals

All costs incurred in preparing and submitting a Proposal in response to the RFP are the responsibility of the Proposer and shall not be reimbursed by Agency.

3.10 Reservation of Agency Rights

Agency reserves all rights regarding the RFP, including, without limitation, the right to:

- a. Amend, delay or cancel the RFP without liability if Agency finds it is in the best interest of the Agency to do so;
- b. Reject any or all Proposals received upon finding that it is in the best interest of the Agency to do so;
- c. Waive any minor informality or non-conformance with the provisions or procedures of the RFP, and seek clarification of any Proposal, if required;
- d. Reject any Proposal that fails substantially to comply with all prescribed RFP procedures and requirements;
- e. Negotiate a Statement of Work based on the Scope of Work described in Section 1.4 and to negotiate separately in any manner necessary to serve the best interest of the public;
- f. Amend any Contracts that are a result of the RFP;
- g. Engage consultants by selection or procurement independent of the RFP process or any Contracts or agreements under it to perform the same or similar services; and
- h. To extend any Contracts that result from the RFP without an additional RFP process for up to a total of 2 years, pursuant to OAR 125-246-0560.

Although price is a consideration in determining the apparent successful Proposer, the intent of the RFP is to identify a Proposal from a Proposer that has a level of specialized skill, knowledge and resources to perform the work described in the RFP. Qualifications, performance history, expertise, knowledge and the ability to exercise sound professional judgment are primary considerations in the selection process. Due to the technical nature of some of these tasks, the Proposer with the lowest Price Proposal may not necessarily be awarded a Contract. Agency reserves the sole right to determine the best Proposal.

3.11 Contract Form

The apparent successful Proposer shall be asked to sign a Contract substantially in the contract form that is attached as Attachment B. The terms and conditions included in Attachment B, other than those identified in Section 4.7.3 of this RFP, are not subject to negotiation.

3.12 No Contractual Obligation

Agency is not obligated as a result of the submission of a Proposal to enter into a Contract with any Proposer, and has no financial obligation to any Proposer arising from the RFP.

Section 4: Evaluation and Award

4.1 Evaluation Process

4.1.1 Evaluation Overview.

Agency shall conduct an evaluation of the Proposals received in response to the RFP.

Agency shall evaluate and score all Proposals on the completeness, quality, and applicability of their content in accordance with the following Sections:

- 4.2: Evaluation of Minimum Requirements (Pass/Fail)
- 4.3: Evaluation of Technical Proposal (Scored)
- 4.4: Evaluation, Scoring, and Ranking of Price Proposal
- 4.5: Reference Checks for the Proposer's Company
- 4.6: Ranking of Proposals

Each Section is explained in more detail below.

4.1.2 Evaluation Committee.

Agency shall establish an evaluation committee which may consist of Agency staff, government partners and community partners to review, evaluate and score each Proposal.

4.1.3 Disqualification.

Any attempt by a Proposer to improperly influence a member of the evaluation committee during the proposal review and evaluation process shall result in proposal rejection.

4.2 Evaluation of Minimum Requirements (Pass/Fail)

The evaluation committee shall review all Proposals on a pass/fail basis and determine if each Proposal meets the minimum proposal requirements described in Section 2.2 of the RFP. Proposer's failure to comply with the instructions or to submit a complete Proposal may result in the Proposal being deemed non-responsive. Only those Proposals determined to be responsive to the Minimum Requirements shall be considered for further evaluation in Section 4.3. See the Reservation of Agency Rights in Section 3.10.

4.3 Evaluation of Technical Proposal (Scored)

The evaluation committee shall score all Proposals using the quantity and quality of information described in this Section. Points assigned by each evaluation committee member shall be added together and divided by the total number of evaluation committee members to compute an average score for the evaluation questions.

The evaluation committee may request additional clarification from Proposers for any portion of the Proposals. If a Proposal is unclear, Proposer may be asked to provide clarification. No new information or documentation may be submitted, however, and clarifications may not be used to rehabilitate a non-responsive Proposal. Proposers shall remain available during the evaluation period to respond to requests for additional clarification. Proposers shall submit written signed clarification(s) within 24 hours of request (Monday-Friday) following receipt of the request. Failure to provide clarification may result in a lower score. The evaluation committee shall assign points to its evaluation of each Proposal as follows:

<u>Points possible</u>	<u>Point Basis</u>
10	Written Proposal Presentation – all items easily located and clearly identified
20	Proposer’s experience in providing requested supplies and services
50	Proposer’s approach and plans to meet the requirements of the RFP
10	Key Persons’ qualifications (education, degrees, experience, certifications)
20	Time Table
90	Reference check

4.3.2 Evaluation of Presentations, Demonstrations and Interviews.

The Agency may conduct and score presentations, demonstrations or interviews (collectively called “events”) at the discretion of Agency. If any events are conducted, the following procedures shall apply. Agency reserves the right to provide further procedures, or change any of the following procedures, and if it does so, Agency shall notify the Proposer of such further procedures or changes when it notifies the Proposer of the time and date of the event.

The high-scoring Proposer(s) shall be invited to provide an event to the evaluation committee. All costs associated with the event are the responsibility of the Proposer. If applicable, Proposer shall provide all audio/visual equipment necessary for the event. Agency shall provide an adequate room for the event. Agency suggests that Proposer have a back-up event (visual aids, handouts) prepared in the event of technical difficulties. Agency reserves the right to not reschedule any event due to technical difficulties absent extraordinary conditions.

Each Proposer shall be given a maximum of 1 hour for its event. Following the event, the Proposer shall allow a maximum of 1 hour for the evaluation committee to ask questions. Items to be covered in the event shall include, but need not be limited to: Aspects of installation and application of the roof membrane; clarification of the work schedule time line.

Each member of the evaluation committee shall award points based on his or her assessment of how well the event covered each subject area. Price proposal information shall not be available to the evaluation committee during the event evaluation.

SCORING:

Evaluation points provided by each evaluation committee member shall be added together and divided by the total number of evaluation committee members to compute an average score for the demonstration. This average score shall be combined with all other scores to arrive at a total cumulative score.

4.4 Evaluation, Scoring, and Ranking of Price Proposal

The lowest Price proposal price or rate shall be awarded the maximum number of Price Points available under the RFP. Price Proposals with higher prices or rates shall be awarded a percentage of the maximum Price Points awarded based on the following formula:

$$(L/X)*Y = A$$

where:

X = Price Proposal being scored

L = Lowest Price Proposal among all Proposals

A = Awarded points

Y = Total Points Possible

If Agency requests clarification of any pricing information included in Proposer's Price Proposal, Proposer shall provide the clarification within 5 business days (Monday through Friday, state-observed holidays excluded) or the Proposal may be rejected as non-responsive at the sole discretion of Agency.

4.4.1 Reciprocal Preference.

In accordance with OAR 125-246-0310, when evaluating Proposals, Agency shall add a percentage increase to the Price Proposal of a non-resident Proposer equal to the percentage, if any, of the preference that would be given to that Proposer in the state in which Proposer resides.

4.5 Reference Checks for the Proposer's Company

Proposer shall provide References that can rate Proposer's performance in these categories:

- a. Work schedule adherence (up to 20 points)
- b. Quality of work (up to 30 points)
- c. Flexibility (up to 20 points)
- d. Responsiveness (up to 30 points)

Agency reserves the right to request references in addition to those provided by the Proposer (References), to investigate any references whether or not furnished by the Proposer, and to investigate the past performance of any Proposer. Agency may investigate the qualifications of a Proposer, including but not limited to: successful performance of similar services; compliance with specifications and contractual obligations; its completion or delivery of services on schedule; and its lawful payment of suppliers, subcontractors, and workers.

Agency may postpone the award or execution of the Contract after the announcement of the apparent successful Proposer in order to complete its investigation. See other Reservation of Agency's Rights in Section 3.10.

The committee may evaluate the References using a scale of 1 to 100 with 100 being the highest score. Each Proposer may receive a maximum of 100 points from evaluation of the References. Each proposer's reference scores will be averaged (proposer's reference #1 scored 90 points; reference #2 scored 80 points; reference #3 scored 85 points. The proposer's score would be 85 points...the average).

The evaluation committee may attempt to contact two sources for each reference given, for a maximum of 4 References. The committee may make up to three attempts to contact each of the reference sources. These attempts shall be made during normal business hours. If the three attempts are unsuccessful, the Proposer shall receive zero points for that Reference source. Each reference that is contacted and questioned shall be asked questions from the categories above.

4.6 Ranking of Proposals

The evaluation committee shall add together the points awarded to determine the total score and ranking of each Proposal.

4.6.1 Preference for Oregon Supplies and Services.

If Agency receives Proposals identical in price, fitness, availability and quality and chooses to award a Contract, Agency shall award the Contract in accordance with the procedures outlined in OAR 125-246-0300.

4.6.2 Responsive and Responsible Determinations.

4.6.2.1 Responsive.

To be considered responsive, the Offer shall substantially comply with all requirements of the RFP and all prescribed public solicitation procedures. In making such evaluation, Agency may waive minor informalities and irregularities. Prior to award of a Contract, Agency intends to evaluate whether the apparent successful Proposer meets the applicable standards of responsibility identified in OAR 125-247-0500. In doing so, Agency may investigate Proposer and request information in addition to that already required in the RFP, when Agency, in its sole discretion, considers it necessary or advisable.

4.6.2.2 Responsible.

Agency reserves the right, pursuant to OAR 125-247-0500, to investigate and evaluate, at any time prior to award and execution of the Contract, the apparent successful Proposer's responsibility to perform the Contract. Submission of a signed Proposal shall constitute approval for Agency to obtain any information Agency deems necessary to conduct the evaluation. Agency shall notify the apparent successful Proposer in writing of any other documentation required, which may include but is not limited to: recent profit-and-loss history; current balance statements; assets-to-liabilities ratio, including number and amount of secured versus unsecured creditor claims; availability of short and long-term financing; bonding capacity; credit information; material; equipment; facility and personnel information; performance record of Contract performance; etc. Failure to promptly provide this information shall result in proposal rejection.

Agency may postpone the award of the Contract after announcement of the apparent successful Proposer in order to complete its investigation and evaluation. Failure of the apparent successful Proposer to demonstrate Responsibility, as required under OAR 125-247-0500, shall render the Proposer non-responsible and constitute grounds for offer rejection, as required under ORS 297B.100.

4.7 Award Notification and Process

4.7.1 First Selection.

Following the identification of an apparent successful Proposer, Agency may elect to notify this Proposer and request a signed Contract substantially in accordance with the form set forth as Attachment B.

4.7.2 Successive Selection and Rejection.

If the apparent successful Proposer does not accept the Contract offered within 5 business days of the apparent successful Proposer's receipt of the Contract, or such later date as Agency may authorize, Agency may make another selection. All Proposers shall be notified of the status of their Proposal. If all Proposals are rejected, the evaluation committee shall promptly notify all Proposers. No information shall be given to any Proposer (or any other individual) relative to their standing with other Proposers during the RFP process.

4.7.3 Negotiation.

In addition to the Negotiation of the RFP, Agency may elect to negotiate the following terms and conditions:

- 4.7.3.1** Method of Payments
- 4.7.3.2** Term of Contract
- 4.7.3.3** Extensions
- 4.7.3.4** Indemnification
- 4.7.3.5** Termination
- 4.7.3.6** Invoicing
- 4.7.3.7** Prices
- 4.7.3.8** Units
- 4.7.3.9** Insurance
- 4.7.3.10** Warranty terms and conditions beyond the minimum requirements
- 4.7.3.11** Project Phasing

If necessary, Contract Negotiations shall take place within 10 days of the award notification. In the event that mutually agreeable terms cannot be reached within a reasonable time period, as judged by Agency, then Agency reserves the right to cancel the award with the Proposer.

4.7.4 Award Protests. (OAR 125-247-0740)

Agency shall notify every Proposer of its selection status. A Proposer who claims to have been adversely affected or aggrieved by the selection of a competing Proposer may protest the selection by submitting, within seven (7) calendar days after receiving notice of the selection a written, signed protest by U.S. Mail or courier, or by hand-delivery to the SPC at the address listed on the front page of the RFP. To be adversely affected or aggrieved, a Proposer shall demonstrate that all higher ranked Proposals were ineligible for selection as per ORS 279B.410(1)(a) and (b). Agency shall not consider a protest submitted after the deadline. Protests shall be resolved according to Oregon Administrative Rules. Faxed or electronically transmitted protests shall not be accepted.

4.7.6 Insurance Certification.

The apparent successful Proposer shall provide all required proofs of insurance to Agency within seven (7) calendar days of the Intent to Award Notice. Failure to present the required documents within the seven (7) calendar-day period may result in proposal rejection. Proposers are encouraged to consult their insurance agent(s) about the insurance requirements contained in the RFP prior to proposal submission.

4.7.8 Award.

After expiration of the seven (7) calendar-day intent-to-award protest period and resolution of all protests, Agency intends to proceed with the final award. Agency reserves the right to award a Contract to the responsible Proposer that has met the minimum proposal requirements (Section 2.2) and has received the highest total score for the technical proposal requirements and pricing (Sections 2.3 and 2.4) in accordance with OAR 125-247-[0260/261].

4.8 Reservation of Rights regarding the Evaluation Process and Criteria

4.8.1 Revised Rounds of Negotiations.

Agency reserves the right to implement revised rounds of negotiations at any time in accordance with OAR 125-247-0261(6), if Agency determines that to do so is in the best interest of Agency. If Agency elects to implement revised rounds of negotiations, then Agency shall advise Proposers of the revised rounds of negotiations process and requirements in the RFP. The Rule allows for certain revisions, successive rounds of Proposals, and new scoring to determine the best Proposal for purposes of awarding a Contract.

4.8.2 Competitive Range Process.

Agency reserves the right to implement a competitive range process in accordance with OAR 125-247-0261(2) and incorporate within that process one or more evaluation criteria described in Section 4.3, if Agency determines that to do so is in the best interest of Agency. If Agency elects to implement the competitive range process, then before the Evaluation Process begins, Agency shall advise Proposers of the competitive range process to be implemented and which evaluation criteria shall be incorporated within that competitive range process.

Section 5: Attachments

Attachment A – Proposal Cover Sheet

Attachment B – Contract Sample

All Attachments are incorporated by reference herein.

Attachment A - Proposal Cover Sheet

Proposer Information

Organization Name: _____

Primary Contact Person: _____ Title: _____

Address: _____

City, State, Zip: _____

Telephone: _____ Fax: _____

E-mail Address: _____

Name and title of the person(s) authorized to represent the Proposer in any negotiations and sign any Purchase Orders that may result:

Name: _____ Title: _____

Minimum Proposal Requirements: This Proposal:

- Includes current resumes for each of the Proposers Key Persons.
- Meets all Minimum Proposal Requirements described in Section 2.2;
- Addresses all Technical Proposal Requirements described in Section 2.3, including but not limited to Section 1.4, Scope of Work; and
- Includes a Price Proposal described in Section 2.4 (separate from the rest of the Proposal).

Regarding Section 2.3.1, References, provide at least three (3) customer references with telephone numbers (please verify numbers) **for the organization.** Customer references shall be able to describe and verify the quality of your [Supplies and Services] and customer service.

<p><u>REFERENCE No. 1:</u> <i>Organization Name:</i> _____ <i>Contact Person:</i> _____ <i>Project Title:</i> _____</p>	<p><i>Telephone:</i> _____ <i>Fax:</i> _____ <i>Email:</i> _____</p>
<p><u>REFERENCE No. 2:</u> <i>Organization Name:</i> _____ <i>Contact Person:</i> _____ <i>Project Title:</i> _____</p>	<p><i>Telephone:</i> _____ <i>Fax:</i> _____ <i>Email:</i> _____</p>
<p><u>REFERENCE No. 3:</u> <i>Organization Name:</i> _____ <i>Contact Person:</i> _____ <i>Project Title:</i> _____</p>	<p><i>Telephone:</i> _____ <i>Fax:</i> _____ <i>Email:</i> _____</p>

Representations, Attestations, and Certifications: The undersigned further acknowledges, attests and certifies individually and on behalf of the Proposer that:

1. No attempt has been made or shall be made by the Proposer to induce any other person or organization to submit or not submit a Proposal.
2. Information and prices included in this Proposal shall remain valid for one hundred and twenty (120) days after the proposal due date or until a Contract is approved, whichever comes first.
3. The undersigned recognizes that this is a public document and open to public inspection.
4. The Proposer acknowledges receipt of all Addenda issued under the RFP.
5. Proposer does not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation or national origin, nor has Proposer or will Proposer discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a minority, women or emerging small business enterprise certified under ORS 200.055.
6. **Affirmative Action Program:** Agency is an equal-employment-opportunity employer and value diversity in its work force. Agency requires its Contractors to have an operating policy as an equal employment opportunity employer. Firms of 50 people or less do not need to have a formal equal employment opportunity program, but shall have an operating policy supporting equal employment opportunity. _____ (Name of Firm) has an operating policy supporting equal employment opportunity. Firms of 50 people or more shall also have a formal equal employment opportunity program.
 Yes No Does your firm have 50 or more employees?
 Yes No Does your firm have a formal equal employment opportunity program?
 Yes No This Proposal has been printed on recycled paper.
7. The Proposer, acting through its authorized representative, has read and understands all RFP instructions, specifications, and terms and conditions contained within the RFP and all Addenda, if any;
8. The Proposer agrees to and shall comply with, all requirements, specifications and terms and conditions contained within the RFP, including all Addenda, if any;
9. The Proposal submitted is in response to the specific language contained in the RFP, and Proposer has made no assumptions based upon either (a) verbal or written statements not contained in the RFP, or (b) any previously-issued RFP, if any.
10. The Proposer agrees that if awarded the Contract, Proposer shall be authorized to do business in the State of Oregon at the time of the award;
11. Agency shall not be liable for any claims or be subject to any defenses asserted by Proposer based upon, resulting from, or related to, Proposer's failure to comprehend all requirements of the RFP.

12. The Agency shall not be liable for any expenses incurred by Proposer in either preparing and submitting its Proposal, or in participating in the proposal evaluation/selection or Contract negotiation process, if any.

13. Recycled Products Certification

Vendors must use recyclable products to the maximum extent economically feasible in the performance of the Contract work set forth in this document.

Authorized Agencies must use, or require persons with whom they Contract with to use in the performance of the Contract work, to the maximum extent economically feasible, recycled paper products as well as other recycled plastic resin products. (ORS 279B.270(1)(e)).

“Recycled paper” means a paper product with not less than fifty percent of its fiber weight consisting of secondary waste materials; or twenty-five percent of its fiber weight consisting of post-consumer waste. (ORS 279A.010(1)(g)).

ORS 279A.010 (1) (ii) states: "Recycled product' means all materials, goods and supplies, not less than 50 percent of the total weight of which consists of secondary and post-consumer waste with not less than 10 percent of total weight consisting of post-consumer waste. 'Recycled product' also includes any product that could have been disposed of as a solid waste, having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of the product's form."

ORS 279A.010(1)(u) states: "'Post-consumer waste' means a finished material which would normally be disposed of as solid waste, having completed its life cycle as a consumer item. 'Post-consumer waste' does not include manufacturing waste."

ORS 279A.010(1)(jj) states: "'Secondary waste materials' means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value, and includes post-consumer waste, but does not include excess virgin resources of the manufacturing process. For paper, 'secondary waste materials' does not include fibrous waste generated during the manufacturing process such as fibers recovered from waste water or trimmings of paper machine rolls, mill broke, wood slabs, chips, sawdust, or other wood residue from a manufacturing process."

I, the undersigned duly authorized representative of the Proposer, hereby certify that the products, if any, offered in this Proposal contain the following minimum percentages:

- a) ____ % (recycled product as defined in ORS 279A.010 (1)(ii)
- b) ____ % (post-consumer waste as defined in ORS 279A.010 (1)(u)
- c) ____ % (secondary waste materials as defined in ORS 279A.010 (1)(jj)

It is the Proposer's responsibility to provide additional signed copies of the Certification of Compliance for each item which contains a different percentage of recycled materials than listed above.

- 14. Office of Foreign Assets Control and US Department of State:** Proposer and Proposer's employees and agents are not included on:
- a) the list entitled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>; or
 - b) the list entitled "Current List of Designated Foreign Terrorist Organizations of the US Department of State" and currently found at <http://www.state.gov/s/ct/rls/fs/37191.htm>.
- 15.** The signatory of this Proposal Cover Sheet is a duly authorized representative of the Proposer, has been authorized by Proposer to make all representations, attestations, and certifications contained in this Proposal document and all Addenda, if any, issued, and to execute this Proposal document on behalf of Proposer.
- 16.** By signature below, the undersigned Authorized Representative hereby certifies on behalf of Proposer that all contents of this Proposal Cover Sheet and the submitted Proposal are truthful, complete and accurate. Failure to provide information required by the RFP may ultimately result in rejection of the Proposal.

THIS OFFER SHALL BE SIGNED IN BLUE OR BLACK INK BY AN AUTHORIZED REPRESENTATIVE OF THE PROPOSER; ANY ALTERATIONS OR ERASURES TO THE OFFER SHALL BE INITIALED IN INK BY THE UNDERSIGNED AUTHORIZED REPRESENTATIVE.

SIGNATURE OF PROPOSER'S DULY AUTHORIZED REPRESENTATIVE FOR ALL SECTIONS:

Authorized Signature: _____ / / 2010

Print Name: _____
 Title: _____

Contact Person (Type or Print): _____

Telephone Number: (____) _____

Fax Number: (____) _____

ATTACHMENT B – CONTRACT FORM

WASCO COUNTY CONTRACT FOR THE PURCHASE OF SERVICES ("Contract")

This Contract is between Wasco County ("County"), and _____ ("Contractor"). This Contract is effective on the date it has been signed by all parties. This Contract expires on ____ [insert date] _____. The parties may extend the term of this Contract provided that the total Contract term does not extend beyond ____ [insert date or event] _____,

Contractor agrees to perform, and County agrees to pay for, the services and deliverables described in section 1 (the "Services"). Contractor also agrees to deliver the goods described in section 1 (the "Goods").

1. STATEMENT OF SERVICES.

Contractor shall perform Services as described below.

A. GENERAL INFORMATION.

(Insert project background information, County objectives and any other general information that may be helpful to describe the context of this contractual relationship. Be specific and complete.)

B. REQUIRED SERVICES, DELIVERABLES AND DELIVERY SCHEDULE.

(Describe specific services to be performed, deliverables to be provided, Goods to be delivered, the delivery schedule for the services, deliverables and Goods, including documents and reports, if any, to be created and delivered as part of the services. Be specific, clear, concise and complete when describing the intended performance obligations of the parties.)

C. ACCEPTANCE CRITERIA AND PROCESS.

ACCEPTANCE OF DELIVERABLES AND GOODS: County shall inspect and either accept or reject each deliverable and Goods delivered within ten (10) calendar days from the date Contractor delivers the deliverable or Goods to County. If County does not provide written notice of acceptance or rejection of the deliverable or Goods to Contractor within ten (10) calendar days following the date of delivery, County is deemed to have accepted the deliverable or Goods. If County rejects the deliverable or Goods, then County's written notice of rejection shall, at a minimum, itemize the apparent defects and include:

- i. a description of nonconformance between the deliverable or Goods and the Contract requirements and specifications for that deliverable or Goods, including warranties;

ii. a description of any other nonconformance of the deliverable or Goods (including late delivery); and

iii. a statement indicating whether Contractor may cure the nonconformance and if so, the method in which and time period within which Contractor shall cure.

Contractor's failure to deliver the deliverables and Goods in accordance with the requirements of this Contract is a material breach of this Contract.

D. SPECIAL REQUIREMENTS.

i. Performance Bond - A Performance Bond equal to the full contract price conditioned upon the faithful performance of the contract in accordance with the plans specifications and conditions thereof will be required from the successful bidder. Said performance bond shall be issued by a company currently licensed to do business in the State of Oregon, of standard form, drawn in favor of Wasco County. Said bond shall be delivered to the Contract Administrator (s) prior to the commencement of work and no later than fifteen (15) calendar days after the notification of award of bid.

ii. Payment Bond - A Payment Bond in an amount equal to the full contract price, solely for the protection of claimants under ORS 279C.600 will be required from the successful bidder. Said payment bond shall be issued by a company currently licensed to do business in the State of Oregon, of standard form, drawn in favor of Wasco County.

Said bond shall be delivered to the Contract Administrator (s) prior to the commencement of work and no later than fifteen (15) calendar days after the notification of award of bid

iii. Before starting work the Contractor shall file with the Construction Contractor's Board, and maintain in full force and effect, the separate public works bond required by Oregon Laws, 2005, Chapter 360, and OAR 839-025-0015, unless otherwise exempt under those provisions. The Contractor shall also include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractors Board before starting work, unless otherwise exempt.

2. COMPENSATION. The total amount available for payment to Contractor under section 2.A and for authorized reimbursement to Contractor under section 2.C is \$_____.

A. METHOD OF PAYMENT FOR SERVICES.

County shall pay Contractor the amounts specified for each of the following deliverables and Goods that County has accepted in accordance with section 1.C:

B. BASIS OF PAYMENT FOR SERVICES.

Full completion. County shall pay Contractor all amounts due under this Contract in one payment upon County's approval of Contractor's invoice to County but only after County has determined that Contractor has completed, and County has accepted, all Services and Contractor has delivered and County has accepted all Goods required under this Contract in accordance with section 1.C.

C. EXPENSE REIMBURSEMENT.

County will not reimburse Contractor for any expenses under this Contract.

D. GENERAL PAYMENT PROVISIONS.

i. County's Payment. County shall pay Contractor for Services performed and Goods delivered at the rates and prices specified in section 2. Contractor shall look solely to County for payment of all amounts County owes to Contractor. Contractor shall not be compensated by any County or department of State other than County for Services performed and Goods delivered.

ii. If Contractor is a nonresident alien as defined in 26 USC § 7701(b)(1)(B), then Contractor shall, upon execution of this Contract, deliver to County a completed and signed W-8 form, 8233 form, or W-9 form, as applicable, from the Internal Revenue Service ("IRS"), as evidence that County is not required by 26 USC 1441 to withhold part of Contractor's payment. Such forms are currently available at <http://www.irs.gov>. County may withhold payments to Contractor pending County's receipt from Contractor of the applicable, completed and signed form. If County does not receive the applicable, completed and signed form from Contractor, or if the IRS provides notice to County that Contractor's information on the form provided is incorrect, County will withhold as federal income tax 30% of all amounts County owes to Contractor under this Contract.

iii. Funds Available and Authorized; Payments. Contractor understands and agrees that County's payment of amounts under this Contract is contingent on County receiving funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow County, in the exercise of its reasonable administrative discretion, to make payments under this Contract.

E. INVOICES.

i. Contractor shall send invoices to County no more often than monthly for Services completed and Goods delivered and accepted by County in accordance with Section 1. Contractor shall include in each invoice:

- a. The Solicitation number if any, the Contract number if any;
- b. A detailed description of Services performed, including the name or names of the individuals who performed Services and prepared the deliverables to which the invoice applies, the dates Services were performed, all deliverables delivered during the period of the invoices, the rate or rates for Services performed, and the total cost of Services;

- c. Itemization and explanation of all expenses for which Contractor claims reimbursement authorized under this Contract;
- d. The quantity of Goods ordered, the quantity of Goods delivered, the date the Goods were delivered, the price per unit, if applicable; and
- e. The total amount due and the payment address.

ii. Contractor shall send all invoices to County's Contract Administrator at the address specified in section 7 or to any other address as County may indicate in writing to Contractor. Contractor's claims to County for overdue payments on invoices are subject to ORS 293.462.

3. GENERAL TERMS AND CONDITIONS.

A. INTELLECTUAL PROPERTY & OPEN SOURCE; TITLE TO GOODS.

i. Definitions. As used in this Contract, the following terms have the meanings set forth below:

- a. "Contractor Intellectual Property" means any intellectual property owned by Contractor and developed independently from Services.
- b. "Open Source Elements" means any Work Product subject to any open source initiative certified license, including Work Product based upon any open source initiative certified licensed work.
- c. "Third Party Intellectual Property" means any intellectual property owned by parties other than County or Contractor.
- d. "Work Product" means all Services and Goods Contractor delivers or is required to deliver to County pursuant to this Contract.

i. New Works. All intellectual property rights in the Work Product created by Contractor under this Contract shall be the exclusive property of County. All Work Product authored by Contractor under this Contract shall be deemed "works made for hire" to the extent permitted by the United States Copyright Act. To the extent County is not the owner of the intellectual property rights in such Work Product, Contractor hereby irrevocably assigns to County any and all of its rights, title, and interest in such Work Product. Upon County's reasonable request, Contractor shall execute such further documents and instruments reasonably necessary to fully vest such rights in County. Contractor forever waives any and all rights relating to such Work Product created under this Contract, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

ii. Contractor Intellectual Property. If intellectual property rights in the Work Product are Contractor Intellectual Property, Contractor hereby grants to County an irrevocable, non-exclusive, perpetual, royalty-free license to use, make, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Contractor Intellectual Property, and to authorize others to do the same on County's behalf.

iii. Third Party Intellectual Property. To the extent Contractor has the authority, Contractor shall sublicense or pass through to County all Third Party Intellectual Property. Contractor represents and warrants that it has provided written disclosure to County of all Third Party Intellectual Property that must be independently licensed by County to fully enjoy the benefit of the Work Product. If Contractor failed to provide such written disclosure, Contractor shall secure on the County's behalf and in the name of the County, an irrevocable, non-exclusive, perpetual, royalty-free license to use, make, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property, and to authorize others to do the same on County's behalf.

iv. Open Source Approval and Notice. Any Open Source Elements in the Work Product must be approved in advance and in writing by County. If County approves the use of Open Source Elements, Contractor shall:

- a. Notify County in writing that the Work Product contains Open Source Elements;
- b. Identify the specific portion of the Work Product that contain Open Source Elements; and
- c. Provide a copy of the applicable license for each Open Source Element to County.

vi. Title to Goods. Title to Goods passes to County in accordance with ORS 72.4010.

B. OTHER REPRESENTATIONS AND WARRANTIES.

i. All express and implied warranties that are applicable to goods under ORS Chapter 72 apply to the Goods delivered under this Contract. Contractor represents and further warrants that:

- a. Contractor has the authority to enter into and perform in accordance with this Contract and that this Contract, when executed and delivered, is a valid and binding obligation of Contractor that is enforceable in accordance with its terms;
- b. Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence and perform Services in a timely, professional and workmanlike manner in accordance with standards applicable to Contractor's industry, trade or profession;
- c. Contractor is and shall be, at all times during the term of this Contract, qualified, professionally competent, and duly licensed to perform Services; and
- d. When used as authorized by this Contract, no Work Product infringes nor will County's use, duplication or transfer of the Work Product infringe any copyright, patent, trade secret or other proprietary right of any third party.

ii. The warranties specified in this section are in addition to, and not in lieu of, any other warranties provided. All warranties are cumulative and shall be interpreted broadly to give County the greatest warranty protection available.

C. COMPLIANCE WITH APPLICABLE LAWS AND STANDARDS.

- i. Contractor shall comply with all federal, state and local laws, regulations, and ordinances applicable to this Contract or to Contractor's obligations under this Contract, as those laws, regulations and ordinances may be adopted or amended from time to time.
- ii. County's performance under this Contract is conditioned upon Contractor's compliance with the obligations intended for contractors under ORS 279B.220, 279B.225 (if applicable to this Contract), 279B.230 and 279B.235 (if applicable to this Contract), which are incorporated by reference herein. Contractor shall, to the maximum extent economically feasible in the performance of this Contract, use recycled paper (as defined in ORS 279A.010(1)(ee)), recycled PETE products (as defined in ORS 279A.010(1)(ff)), and other recycled plastic resin products and recycled products (as "recycled product" is defined in ORS 279A.010(1)(gg)).
- iii. This project is subject to ORS 279C.800 to 279C.870 (prevailing wage rate). No proposal will be received or considered unless the proposal contains a statement that the existing state prevailing wage rate will be paid to workers in each trade or occupation required for the public works employed in the performance of the contract.

Under ORS 279C.825, the commissioner of the Bureau of Labor and Industries shall establish a fee to be paid by the contractor on all qualifying public works contracts. The fee is 0.1 percent of the contract price. The bureau can assess no more than \$5000 and no less than \$100 per contract, regardless of the contract size. No proposal will be received or considered unless the proposal contains a statement that the fee shall be paid to the bureau.

Under ORS 279C.830 (3), the successful contractor and every subcontractor must have a public works bond filed with the Construction Contractors Board before starting work and no proposal will be received or considered unless the proposal contains a statement that the bonds shall be filed if successful.

D. AMENDMENTS.

- i. All amendments to this Contract are Unanticipated Amendments unless subsections ii and iii of this section D are completed for Anticipated Amendments. OAR 125-246-0560 applies to all Contract amendments.
- ii. Circumstances Requiring Amendments. County may request Contractor to provide additional quantities of Work in the event the parties expend the maximum, not-to-exceed compensation payable to Contractor, and additional quantities of Work must be performed to meet County program needs. County may also request Contractor to provide additional quantities of Work that may be required to meet County program needs or may determine a need for Contractor to perform new Work within the scope of the solicitation, to the extent permitted by applicable statutes and administrative rules.

Also, County may request a change in the Statement of Work to conform to legislative, administrative rule requirements or to meet an operational or practice change. In addition, County may decrease the quantity of Work or delete Work, and correspondingly decrease the maximum, not-to-exceed compensation payable to Contractor if County program needs are less than originally anticipated by County, and/or if legislative action so requires in the exercise of County's reasonable administrative discretion. County may also increase the rate payable to Contractor to meet legislative action, changes in applicable rules, operations and practice, changes in the market place or increases in County standard payment rates.

iii. Amendment Method. Amendments shall be made by written instrument and shall not be in effect until signed by all parties to this Contract.

E. TIME IS OF THE ESSENCE.

Contractor agrees that time is of the essence in the performance of this Contract.

F. FORCE MAJEURE.

Neither County nor Contractor shall be responsible for any failure to perform or for any delay in the performance of any obligation under this Contract caused by fire, riot, acts of God, terrorism, war, or any other cause which is beyond the breaching party's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate the cause of Contractor's delay or breach and shall, upon the cessation of the cause, continue performing under this Contract. County may terminate this Contract upon written notice to Contractor after reasonably determining that the delay or breach will likely prevent successful performance of this Contract.

G. INSURANCE.

Contractor shall obtain the insurance required under section 4 prior to performing under this Contract and shall maintain the required insurance throughout the duration of this Contract and all warranty periods.

H. INDEPENDENT CONTRACTOR STATUS; RESPONSIBILITY FOR TAXES AND WITHHOLDING.

i. Contractor shall perform all Services as an independent Contractor. Although County may (a) determine and modify the delivery schedule for Services to be performed and (b) evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing any Services required under this Contract. Contractor certifies, represents and warrants that Contractor is an independent contractor of County under all applicable State and federal law. Contractor is not an "officer", "employee", or "agent" of County as those terms are used in ORS 30.265.

ii. If Contractor is currently performing work for State or the federal government, Contractor by signature to this Contract represents and warrants: Contractor's performance of this Contract creates no potential or actual conflict of interest as defined by ORS 244 and that no rules or regulations of Contractor's employing County (state or federal) would prohibit Contractor's performance of this Contract.

iii. Contractor is responsible for all federal and state taxes applicable to compensation or payments paid to Contractor under this Contract, and County will not withhold from compensation or payments to Contractor any amount(s) to cover Contractor's federal or state tax obligations unless Contractor is subject to backup withholding. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Contract.

I. INDEMNIFICATION.

i. GENERAL INDEMNITY. CONTRACTOR SHALL DEFEND, SAVE, HOLD HARMLESS, AND INDEMNIFY COUNTY, ITS AGENCIES, OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER ("CLAIMS") RESULTING FROM, ARISING OUT OF, OR RELATING TO THE ACTS OR OMISSIONS OF CONTRACTOR OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS CONTRACT.

ii. INDEMNITY FOR INFRINGEMENT CLAIMS. WITHOUT LIMITING THE GENERALITY OF SECTION 3.I.i, CONTRACTOR SHALL DEFEND, SAVE, HOLD HARMLESS AND INDEMNIFY COUNTY, ITS AGENCIES, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS, AND EXPENSES, INCLUDING ATTORNEYS FEES, ARISING OUT OF OR RELATING TO ANY CLAIMS THAT THE WORK, THE WORK PRODUCT OR ANY OTHER TANGIBLE OR INTANGIBLE ITEM DELIVERED UNDER THIS CONTRACT BY CONTRACTOR THAT MAY BE THE SUBJECT OF PROTECTION UNDER ANY STATE OR FEDERAL INTELLECTUAL PROPERTY LAW OR DOCTRINE, OR COUNTY'S REASONABLE USE THEREOF, INFRINGES ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK, TRADE DRESS, MASK WORK, UTILITY DESIGN, OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY ("INFRINGEMENT CLAIM"); PROVIDED, THAT COUNTY SHALL PROVIDE CONTRACTOR WITH PROMPT WRITTEN NOTICE OF ANY INFRINGEMENT CLAIM.

iii. COUNTY SHALL REASONABLY COOPERATE IN GOOD FAITH, AT CONTRACTOR'S REASONABLE EXPENSE, IN THE DEFENSE OF CLAIMS AND INFRINGEMENT CLAIMS, AND CONTRACTOR SHALL SELECT COUNSEL REASONABLY ACCEPTABLE TO THE WASCO COUNTY DISTRICT ATTORNEY TO DEFEND SUCH CLAIMS AND INFRINGEMENT CLAIMS AND SHALL BEAR ALL COSTS OF SUCH COUNSEL. COUNSEL MUST ACCEPT APPOINTMENT AS A SPECIAL ASSISTANT, DISTRICT ATTORNEY UNDER ORS CHAPTER 180 BEFORE COUNSEL MAY ACT IN THE NAME OF, OR REPRESENT THE INTERESTS OF, COUNTY, ITS AGENCIES, OFFICERS, EMPLOYEES OR AGENTS. COUNTY MAY ELECT TO ASSUME ITS OWN DEFENSE WITH AN ATTORNEY OF ITS OWN CHOICE AND AT ITS OWN EXPENSE AT ANY TIME COUNTY DETERMINES IMPORTANT GOVERNMENTAL INTERESTS ARE AT STAKE. SUBJECT TO THE LIMITATIONS NOTED ABOVE, CONTRACTOR MAY DEFEND SUCH CLAIMS AND INFRINGEMENT CLAIMS WITH COUNSEL OF ITS OWN CHOOSING PROVIDED THAT NO SETTLEMENT OR COMPROMISE OF ANY SUCH CLAIMS AND INFRINGEMENT CLAIMS SHALL OCCUR WITHOUT THE CONSENT OF COUNTY, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD, CONDITIONED OR DELAYED.

J. ASSIGNMENT OF ANTITRUST RIGHTS.

i. CONTRACTOR IRREVOCABLY ASSIGNS TO COUNTY ANY CLAIM FOR RELIEF OR CAUSE OF ACTION WHICH CONTRACTOR NOW HAS OR WHICH MAY ACCRUE TO CONTRACTOR IN THE FUTURE BY REASON OF ANY VIOLATION OF 15 U.S.C. § 1-15 OR ORS 646.725 OR ORS 646.730, IN CONNECTION WITH ANY GOODS OR SERVICES PROVIDED TO CONTRACTOR FOR THE PURPOSE OF CARRYING OUT CONTRACTOR'S OBLIGATIONS UNDER THIS CONTRACT, INCLUDING, AT COUNTY'S OPTION, THE RIGHT TO CONTROL ANY SUCH LITIGATION ON SUCH CLAIM FOR RELIEF OR CAUSE OF ACTION.

ii. CONTRACTOR SHALL REQUIRE ANY SUBCONTRACTORS HIRED TO PERFORM ANY OF CONTRACTOR'S DUTIES UNDER THIS CONTRACT TO IRREVOCABLY ASSIGN TO COUNTY, AS THIRD PARTY BENEFICIARY, ANY RIGHT, TITLE OR INTEREST THAT HAS ACCRUED OR WHICH MAY ACCRUE IN THE FUTURE BY REASON OF ANY VIOLATION OF 15 U.S.C. § 1-15 OR ORS 646.725 OR ORS 646.730, IN CONNECTION WITH ANY GOODS OR SERVICES PROVIDED TO THE SUBCONTRACTOR FOR THE PURPOSE OF CARRYING OUT THE SUBCONTRACTOR'S OBLIGATIONS TO CONTRACTOR IN PURSUANCE OF THIS CONTRACT, INCLUDING, AT COUNTY'S OPTION, THE RIGHT TO CONTROL ANY SUCH LITIGATION ON SUCH CLAIM FOR RELIEF OR CAUSE OF ACTION.

K. EVENTS OF BREACH.

i. Breach by Contractor. Contractor breaches this Contract if:

a. Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;

b. Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under this Contract and Contractor has not obtained the license or certificate within fourteen (14) calendar days after County delivers notice of breach to Contractor or a longer period as County may specify in the notice; or

c. Contractor commits any material breach of any covenant, warranty, obligation or certification under this Contract, fails to perform its obligations under this Contract within the time specified or any extension of that time, and Contractor fails to cure the breach within fourteen (14) calendar days after County delivers notice of breach to Contractor or a longer period as County may specify in the notice.

ii. Breach by County. County breaches this Contract if:

a. County fails to pay Contractor any amount pursuant to the terms of this Contract, and County fails to cure its failure to pay within fourteen (14) calendar days after Contractor delivers notice of breach to County or a longer period as Contractor may specify in the notice; or

b. County commits any material breach of any covenant, warranty, or obligation under this Contract, fails to perform its obligations hereunder within the time specified or any extension thereof, and County fails to cure the breach within fourteen (14) calendar days after Contractor delivers notice of breach to County or a longer period as Contractor may specify in the notice.

L. REMEDIES.

i. County's Remedies. If Contractor is in breach under section 3.K.i, then in addition to the remedies afforded elsewhere in this Contract, County shall be entitled to recover for any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages. County may, at County's option, pursue any or all of the remedies available under this Contract and at law or in equity, including, but not limited to:

- a. Termination of this Contract under section 3.M.ii.;
- b. Withholding payment of all amounts in Contractor's invoices for Services that Contractor is obligated to but has failed to deliver or perform within any scheduled completion dates or has performed inadequately or defectively;
- c. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief; or
- d. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor in an amount equal to County's setoff right, without penalty.

These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If it is determined for any reason that Contractor was not in breach under section 3.K.i, the rights and obligations of the parties shall be the same as if this Contract was terminated pursuant to section 3.M.ii.a.

ii. Contractor's Remedies. If County terminates this Contract for convenience under section 3.M.ii.a, or if County is in breach under section 3.K.ii and whether or not Contractor elects to exercise its right to terminate this Contract under section 3.M.iii, Contractor's sole remedy is one of the following, as applicable:

- a. For Services compensable on an hourly basis, a claim against County for unpaid invoices, hours worked but not yet invoiced, and authorized expenses for Services completed and accepted by County less any claims County has against Contractor.
- b. For deliverable-based Services, a claim against County for the sum designated for completing the deliverable multiplied by the percentage of Services completed and accepted by County, less previous amounts paid and any claims County has against Contractor.

If previous amounts paid to Contractor for Services and Goods exceed the amount due to Contractor under this section 3.L.ii, Contractor shall pay the excess amount to County immediately upon written demand.

iii. ATTORNEYS' FEES.

Except for defense costs and expenses pursuant to section 3.I, neither County nor Contractor is entitled to recover attorney's fees, court and investigative costs, or any other fees or expenses associated with pursuing a remedy for damages arising out of or relating to this Contract.

M. TERMINATION.

i. MUTUAL CONSENT. This Contract may be terminated at any time by mutual written consent of the parties.

ii. County:

a. County may, at its sole discretion, terminate this Contract for its convenience upon 30 days written notice by County to Contractor.

b. County may, in its sole discretion, terminate this Contract, immediately upon notice to Contractor, or at a later date as County may establish in the notice, upon the occurrence of any of the following events:

A. County fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for Services;

B. Federal or state laws, regulations, or guidelines are modified or interpreted in a way that either the purchase of Services by County under this Contract is prohibited, or County is prohibited from paying for Services from the planned funding source; or

C. Contractor is in breach under section 3.K.i.

D. County has sufficient funds currently available and authorized for expenditure to finance the costs of this contract. Contractor understands and agrees that County's payment of amounts under this contract attributable to work performed is contingent on the County's budgetary limitations and other expenditure authority sufficient to allow County, in the exercise of its reasonable administrative discretion, to continue to make payments under this contract. County may terminate this contract without penalty or liability to County, effective upon the delivery of written notice to Contractor, with no further liability if County determines that there are insufficient funds available to make payments under this contract.

Contractor shall stop performance under this Contract as directed by County in any written notice of termination delivered to Contractor under this section 3.M.ii.

iii. Contractor: Contractor may terminate this Contract immediately upon written notice to County, or at a later date as Contractor may establish in the notice, if County is in breach pursuant to section 3.K.ii.

N. ACCESS TO RECORDS.

Contractor shall retain, maintain, and keep accessible all records relevant to this Contract ("Records") for minimum of six (6) years, or a longer period as may be required by applicable law, following Contract termination or full performance, the period required by applicable law following Contract termination or full performance, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever ending is later. Contractor shall maintain all financial Records in accordance with generally accepted accounting principles. During this Record-retention period, Contractor shall permit County, its duly authorized representatives, and the federal government access to the Records at reasonable times and places for purposes of examination and copying.

O. NOTICES.

All notices required under this Contract shall be in writing and addressed to the party's authorized representative. For County, the authorized representative is the County contact person identified in section 7. Contractor's authorized representative is the contact person identified in section 6. Mailed notices are deemed received five (5) days after the post mark date when properly addressed and deposited prepaid into the U.S. postal service. Faxed notices are deemed received upon electronic confirmation of successful transmission to the designated fax number. Notices delivered by personal delivery are deemed received when delivered to the address specified for the receiving party's authorized representative.

P. GOVERNING LAW.

The Contract is governed by and construed in accordance with the laws of State, without regard to principles of conflicts of laws. To the extent not modified by the terms of this Contract, the Uniform Commercial Code as codified in ORS Chapters 71 and 72 governs the Goods sold under this Contract.

Q. VENUE; CONSENT TO JURISDICTION.

Any claim, action, suit or proceeding (collectively, "Proceeding") between County and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court in the State of Oregon for Wasco County; provided, however, if a Proceeding must be brought in a federal forum, then unless otherwise prohibited by law, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. **CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THESE COURTS AND WAIVES ANY OBJECTION TO VENUE IN THESE COURTS AND ANY CLAIM THAT THE FORUM IS AN INCONVENIENT FORUM.** Nothing in these provisions shall be construed as a waiver of County's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or a waiver of any defenses to Proceedings or jurisdiction based thereon.

R. SUBCONTRACTS; ASSIGNMENT; SUCCESSORS.

i. SUBCONTRACTS. Contractor shall not enter into any subcontracts for any of Services required under this Contract without County's prior written consent. In addition to any other provisions County may require, Contractor shall include in any permitted subcontract provisions to ensure that County will receive the benefit of subcontractor's performance as if the subcontractor were Contractor with respect to sections 1.C, 3.A, 3.B, 3.E, 3.I, 3.J, 3.N, 3.P and 3.R. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

ii. Contractor shall not assign, delegate or transfer any of its rights or obligations under this Contract without County's prior written consent. County's written consent does not relieve Contractor of any obligations under this Contract, and any assignee, transferee, or delegate is considered Contractor's agent.

iii. The provisions of this Contract are binding upon, and inure to the benefit the parties and their respective successors and permitted assigns, if any.

S. THIRD PARTY BENEFICIARIES.

County and Contractor are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless the third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract. County is an intended beneficiary of the terms of this Contract.

T. SEVERABILITY.

If any provision of this Contract is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Contract did not contain the particular provision held to be invalid.

U. COUNTERPARTS.

This Contract may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Contract so executed shall constitute an original.

V. INTEGRATION AND MERGER.

This Contract constitutes the entire agreement between the parties on the subject matter thereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract.

W. AMENDMENTS; WAIVER.

This Contract may be amended to the extent permitted by applicable statutes and administrative rules and as the amendment scope and process may be further described in section 1, Statement of Services. No waiver, consent, or amendment of terms of this Contract shall bind either party unless in writing and signed by County and Contractor, and all necessary approvals have been obtained. Waivers and consents shall be effective only in the specific instance and for the specific purpose given. The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

X. SURVIVAL.

In addition to all provisions which by their nature extend beyond Contract termination or full performance, the following provisions shall remain in effect beyond any Contract termination or full performance: sections 2.D, 3.A, 3.B, 3.G, 3.I, 3.J, 3.L, 3.N, 3.P, 3.Q, 3.S, 3.X and 4.

4 INSURANCE.

A. REQUIRED INSURANCE. Contractor shall obtain the insurance specified in this section 5 prior to performing under this Contract and shall maintain it in full force and at its own expense throughout the duration of this Contract and all warranty periods. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in State and that are acceptable to County.

i. WORKERS COMPENSATION. All employers, including Contractor, that employ subject workers who work under this Contract in County shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless the employers are exempt under ORS 656.126(2). Contractor shall require each of its subcontractors, if any, to comply with, and shall ensure that each of its subcontractors, if any, complies with, these requirements.

ii. PROFESSIONAL LIABILITY

Required by County **Not required by County.**

Professional Liability Insurance with a combined single limit, or the equivalent, of not less than \$1,000,000.00 each claim, incident or occurrence This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract.

iii. COMMERCIAL GENERAL LIABILITY.

Required by County **Not required by County.**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to County. This insurance shall include personal and advertising injury liability, products liability and completed operations liability. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Combined single limit per occurrence shall not be less than \$ 1,000,000.00 for each job site or location. Each annual aggregate limit shall not be less than \$ 1,000,000.00.

iv. AUTOMOBILE LIABILITY INSURANCE: AUTOMOBILE LIABILITY.

Required by County **Not required by County.**

Automobile Liability Insurance covering all owned, non-owned, and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance. Combined single limit per occurrence shall not be less than the Oregon Financial Responsibility Law (ORS 806.060) each accident for bodily injury and property damage.

v. EMPLOYERS' LIABILITY.

Required by County **Not required by County.**

If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall obtain employers' liability insurance coverage with combined single limit per occurrence of not less than \$500,000, and annual aggregate limits of not less than \$1 million.

vi. POLLUTION LIABILITY.

Required by County **Not required by County.**

Pollution Liability Insurance covering Contractor's liability for bodily injury, property damage and environmental damage resulting from either sudden or gradual accidental pollution and related cleanup costs incurred by Contractor, all arising out of the Goods delivered or Services (including transportation risk) performed under this Contract. Combined single limit per occurrence shall not be less than \$[enter amount], or the equivalent. Annual aggregate limit shall not be less than \$[enter amount].

B. ADDITIONAL INSURED.

The commercial general liability insurance and automobile liability insurance required under this Contract shall include County, and its agencies, departments, divisions, commissions, branches, officers and employees as Additional Insureds with respect to Contractor's performance obligations under this Contract. Contractor shall ensure that coverage is primary and non-contributory with any other insurance and self-insurance.

C. "TAIL" COVERAGE.

If any of the required liability insurance is on a "claims made" basis, Contractor shall either maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Contract, for a minimum of 24 months following the later of (i) Contractor's completion of all Services and County's acceptance of all Services required under this Contract, or (iii) the expiration of all warranty periods provided under this Contract. Notwithstanding the foregoing 24-month requirement, if Contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then Contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace for the coverage required under this Contract. Contractor shall provide to County, upon County's request, certification of the coverage required under this section 4.C.

D. 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 sixty (60) days' written notice from this Contractor or its insurer(s) to County. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract by County.

E. CERTIFICATE(S) OF INSURANCE.

Contractor shall provide to County Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) must specify all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees). Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

5. RESERVED

6. CERTIFICATIONS AND SIGNATURE OF CONTRACTOR'S AUTHORIZED REPRESENTATIVE.

THIS CONTRACT MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF CONTRACTOR.

The undersigned certifies under penalty of perjury both individually and on behalf of Contractor that:

- A. The undersigned is a duly authorized representative of Contractor, has been authorized by Contractor to make all representations, attestations, and certifications contained in this Contract and to execute this Contract on behalf of Contractor;

B. The undersigned is authorized to act on behalf of Contractor and that Contractor is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 401.792 to 401.816 (Tax For Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 320 (Amusement Device and Transient Lodging Taxes), 321 (Timber and Forestland Tax), 323 (Cigarettes and Tobacco Products Tax), and the elderly rental assistance program under ORS 310.630 to 310.706; and any local taxes administered by the Department of Revenue under ORS 305.620.

C. To the best of the undersigned's knowledge, Contractor has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts.

D. Contractor and Contractor's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>;

E. Contractor's Federal Employee Identification Number or Social Security Number specified below is correct;

F. Contractor is bound by and will comply with all requirements, terms and conditions contained in this Contract; and

G. Contractor ___ is / ___ is not a nonresident alien as defined in 26 USC § 7701(b)(1) (check one). See section 2.D.ii.

Contractor (print Contractor's name): _____

Authorized Signature: _____

By (print name): _____

Title: _____

Date: _____

FEIN ID# or SSN# (required): _____

Contact Person (Type or Print): _____

Contact Telephone Number: (_____) _____

Contact Fax Number: (_____) _____

Contact E-Mail Address: _____

7. SIGNATURE OF COUNTY'S AUTHORIZED REPRESENTATIVE.

Wasco County

Authorized Signature: _____

By (print name): _____

Title: _____

Date: _____

County Contact Person (Type or Print): _____

Contact Telephone Number: (_____) _____

Fax Number: (_____) _____

E-Mail Address: _____