

**NATURAL AREAS PARKS AND EVENTS
REQUEST FOR PROPOSAL (RFP)
FOR PROFESSIONAL LANDSCAPING SERVICES**



Benton County Board of Commissioners

Pat Malone, Commissioner
Nancy Wyse, Commissioner
Xanthippe Augerot, Commissioner

March 27, 2023

ADVERTISEMENT
BENTON COUNTY DEPARTMENT OF NATURAL AREAS PARKS AND EVENTS
REQUEST FOR PROPOSAL (RFP) FOR PROFESSIONAL LANDSCAPING
SERVICES

The Benton County Natural Areas Parks and Events Department is seeking a professional landscaping company to provide complete management and landscaping services for their properties. County reserves the right to amend the contract for an additional time period contingent upon need and the availability of approved funding. The solicitation process is pursuant to Benton County Code, Chapter 2, County Contracts.

A copy of the Request for Proposal for Professional Landscaping Services or information pertaining to the request will be available on March 27, 2023 in the office of the Benton County Department of Natural Areas Parks and Events, located at 110 SW 53rd Street, Corvallis, Oregon 97333. This document and related information will also be available for download on March 27, 2023 at: <https://www.co.benton.or.us/rfps> Bidders shall be responsible for checking the aforementioned website for any Addendums or clarifications to the bid documents.

To be considered for award, the submittal requirements of the Request for Proposal for Professional Landscaping Services must be met. These requirements can be found in Part II - Submittal Requirements.

A **Mandatory Pre-proposal meeting** will be held at the Benton County Courthouse, 120 NW 4th Street, Corvallis, Oregon on April 14th, 2023 at 2:00 pm. Follow up questions from this meeting may be submitted to Devon Durant up to 5:00 pm, April 21, 2023.

Businesses shall submit proposals based only on written information received directly from Benton County Natural Areas Parks and Events. Proposals may be submitted by interested Contractors to: Devon Durant, Landscape Gardner, Benton County Natural Areas Parks and events located at 110 SW 53rd Street, Corvallis, Oregon 97333 until 4:30 p.m. local time, April 28, 2023. Email: devon.durant@bentoncountyor.gov or faxed 541-766-6891. Proposals will not be accepted after this time and date.

Contractor must be a licensed by the Oregon Landscape Contractor's Board. Benton County reserves the right not to select any business, if information submitted is not in compliance with the requirements of the Request or if it is not in the County's interest to make a selection from those businesses responding to the Request.

All interested Contractors must comply with the applicable provisions of ORS 279C.840 or 40 U.S.C. 276a and the applicable provisions of the Equal Employment Opportunity Act of 1972, and the Civil Rights Act of 1964 as amended. Benton County is an equal opportunity employer. Each interested business must submit certification per an equal opportunity employer. Each interested business must submit certification per ORS 279A.110 that the firm has not discriminated against minority, women, or small business enterprises in obtaining any required subcontracts.

Dated this 27th day of March, 2023.

DocuSigned by:

6001704A174D4AA...
03/22/2023

Benton County, Oregon
By: Jesse Ott,
AIC Director of Natural Areas Parks and Events
PUBLISH: Gazette-Times March 27, 2023

REQUEST FOR PROPOSAL (RFP) FOR PROFESSIONAL LANDSCAPING SERVICES

TABLE OF CONTENTS

	PAGE
ADVERTISEMENT	2
PART I. GENERAL INFORMATION	
A. Purpose	4
Selection Schedule	4
B. Project Scope	5
C. County Responsibilities	7
PART II. SUBMITTAL REQUIREMENTS	
A. General Conditions	8
How to Submit Proposals	
B. Content and Format	9
C. Contractor's Proposal form	11
PART III. SELECTION PROCESS	
A. Selection Committee	12
B. Evaluation Criteria	12
C. Interviews (If Conducted)	12
D. Comments and Appeals	13
PART IV. PERSONAL SERVICES CONTRACT	14
Exhibit A-Insurance requirements	end
Appendix A-Sample contract	end
Appendix B-Map	end

PART 1. GENERAL INFORMATION

A. PURPOSE

The Benton County Natural Areas Parks and Events Department is seeking a professional landscaping business to provide “complete management and landscaping services” for their properties. County reserves the right to amend the contract for an additional time period contingent upon need and the availability of approved funding. The solicitation process is pursuant to Benton County Code, Chapter 2, County Contracts.

SELECTION SCHEDULE

Advertise	March 27, 2023
Mandatory Pre-Proposal Meeting	April 14, 2023, at 2:00 pm at the Courthouse
Follow up Question Deadline	April 21, 2023 at 5:00 pm
Proposal deadline	April 28, 2023 at 4:30 p.m. local time
Interviews (If Necessary)	TBD
Selection	May 2023
Notice of Intent to Award	May 2023
Contract Execution	August 1, 2023

The contract is anticipated to start on August 1, 2023, and will cover approximately a two (2) year period with annual check in and review. The County reserves the right to amend the contract for additional years contingent upon need and the availability of approved funding.

Contract payment is based on a unit price (hourly billing rate) reimbursement. The performance is based on deliverable products and outcomes. The selected company and County will negotiate the final description of work tasks and deliverables, within the scope of what is advertised here, for inclusion in the Personal Services Contract and Statement of Work Documents.

This Request for Proposal for Complete Landscaping & Management Services is provided by and is available from Benton County Department of Natural Areas Parks and Events, 110 SW 53rd Street, Corvallis, Oregon 97333. This document and related information will also be available for download on March 18, 2023, via <https://www.co.benton.or.us/rfps>

Inquiries relating to the RFP process or to the substantive technical portions of the RFP should be directed to:

Devon Durant
110 SW 53rd Street
Corvallis OR 97333
541-231-3831
Email: devon.durant@bentoncountyor.gov

Proposers may submit questions in writing no later than 5:00 pm, April 21, 2023. Substantive questions and answers will be made available online at <https://www.co.benton.or.us/rfps>; and when

appropriate, revisions, substitutions, or clarifications will be issued as official addenda which will need to be acknowledged as part of the proposal.

The County may require any clarification or change it needs to understand the selected business' project approach. Any changes or clarifications will be made before executing the contract and may become part of the final contract.

All costs for proposal and interviews (if conducted) to secure this project are the Contractor's responsibility.

B. PROJECT SCOPE

Benton County Courthouse 120 NW 4th St, Corvallis, OR 97330

- Mow and bag weekly as able (depending on soil saturation) March-November
- Edge once monthly March-Nov (hard edge against sidewalk and soft edging around tree wells)
- Shear all applicable Shrubs (to be noted on walk through and as needed) 4 times annually
- Fertilize lawn Spring and Fall (total twice annually)
- Spot spray for weeds 4 times annually Spring-Fall
- Maintain 2 ft. clearance of all shrubs from building for safety and access
- Deadhead Rose Garden bi-weekly once flowering begins
- Saturday leaf cleanup and removal, bi-weekly Nov-Dec

Benton County Crisis Center 205 NW 5th Street Corvallis, Oregon 97330

- Mow and bag weekly March-November
- Edge bi-monthly March-Nov (hard edge against sidewalk and soft edging around tree wells)
- Shear all applicable shrubs (to be noted on walk through and as needed) 4 times annually
- Fertilize lawn Spring and Fall (total twice annually)
- Spot spray for weeds, 4 times annually Spring-Fall
- Maintain 2 ft. clearance of all shrubs from building for safety and access
- Saturday leaf cleanup and removal, bi-weekly Nov-Dec

Benton County Law Enforcement Building

**180 NW 5th St,
Corvallis, OR 97330**

- Shear all applicable shrubs (to be noted on walk through and as needed) 4 times annually
- Spot spray for weeds 4 times annually Spring-Fall
- Maintain 2 ft. clearance of all shrubs from building for safety and access
- Saturday leaf cleanup and removal, bi-weekly Nov-Dec

Benton County Sunset Building

**4077 SW Research Way,
Corvallis, OR 97333**

- Mow and bag weekly as able (depending on soil saturation) March-November
- Edge once monthly March-Nov (hard edge against sidewalk and soft edging around tree wells)
- Shear all applicable Shrubs (to be noted on walk through and as needed) 4 times annually
- Fertilize lawn Spring and Fall (total twice annually)
- Spot spray for weeds 4 times annually, Spring-Fall
- Maintain 2 ft. clearance of all shrubs from building for safety and access
- Saturday leaf cleanup and removal, bi-weekly Nov-Dec

Benton County Health Center

**530 NW 27th Street
Corvallis, OR 97330**

- Shear all applicable shrubs (to be noted on walk through and as needed) 4 times annually
- Spot spray for weeds 4 times annually, Spring-Fall
- Maintain 2 ft. clearance of all shrubs from building for safety and access
- Saturday leaf cleanup and removal, bi-weekly Nov-Dec

Benton County Avery Facility

**360 SW Avery Avenue
Corvallis, OR 97333**

- Mow and bag weekly as able (depending on soil saturation) March-November
- Edge once monthly March-Nov (hard edge against sidewalk and soft edging around tree wells)
- Shear all applicable shrubs (to be noted on walk through and as needed) 4 times annually
- Fertilize lawn Spring and Fall (total twice annually)
- Spot spray for weeds 4 times annually Spring-Fall
- Maintain 2 ft. clearance of all shrubs from building for safety and access
- Saturday leaf cleanup and removal, bi-weekly Nov-Dec
- Three times annually, string trim and cleanup around storm water treatment facility

Benton County Kalapuya Building
4500 SW Research Way,
Corvallis, OR 97333

- Mow and bag weekly as able (depending on soil saturation) March-November
- Edge once monthly March-Nov (hard edge against sidewalk and soft edging around tree wells)
- Shear all applicable shrubs (to be noted on walk through and as needed) 4 times annually
- Fertilize lawn Spring and Fall (total twice annually)
- Spot spray for weeds 4 times annually Spring-Fall
- Maintain 2 ft. clearance of all shrubs from building for safety and access
- Saturday leaf cleanup and removal, bi-weekly Nov-Dec
- 3 times annually, rough mow berm and swale on south side of property

Notes:

- All work to be done under the direction and consultation of Benton County Natural Areas Parks and Events Department
- All hard surfaces at all sites to be blown off at the end of any visit in which work is performed (excluding parking lots or unless not applicable)
- Any litter on turf areas needs to be picked up and disposed of prior to mowing
- Parking lot sweeping to occur under separate contract through Benton County Facilities
- All spraying to be done by or under the direct supervision of Licensed Pesticide Applicator. Spray reports will be submitted in writing or electronically to the Natural Areas and Parks Department on an annual basis to Devon Durant, Landscape Gardener, for Benton County.
- An approved herbicide list shall be received and approved annually.
- Any lawn herbicide application shall be done by the Benton County Natural Areas & Parks.
- Equipment shall be cleaned and sterilized prior to work on County Grounds.

C. COUNTY RESPONSIBILITIES

Benton County Natural Areas Parks and Events is intending to provide the project management services described in this RFP.

PART II. - SUBMITTAL REQUIREMENTS

A. GENERAL CONDITIONS

1. County reserves the right, at any time during the solicitation or contract award process, to reject any or all proposals or cancel the solicitation, without liability, if there is good cause or if doing so would be in the public interest.
2. The Proposers should adhere to the format described herein.
3. One copy of the information should be submitted to:
Devon Durant
Landscape Gardener
Benton County Natural Areas Parks and Events
110 SW 53rd Street
Corvallis, Oregon 97333
Email: devon.durant@bentoncountyor.gov
on or before 4:30 p.m., local time April 28, 2023. Proposals received after this time will not be accepted.
4. Submittals shall be one page and one side of a single 8-½"x11" page and the minimum font size is 12 for the main text.
5. County intends to select a Contractor on the basis of the information provided by each business; however, interviews with contractors may be conducted after preliminary review of the submittals. The number of contractors interviewed will be based on the criteria used to evaluate proposals, stated in Part III of this Request for Professional Services.
6. Contractor selection will occur in May 2023.
7. Execution of the Contractor Services contract typically occurs within 30 days after selection, but shall be completed in conjunction with an approved Statement of Work.
8. Any proposal may be withdrawn at any time before the "Proposal Due" date and time specified in the Schedule by providing written request to the County. The request shall be executed by a duly authorized representative of the company. Withdrawal of a proposal will not prejudice the right of the proposer to submit a new proposal.
9. This proposal will be made a part of a file open to public inspection. If a proposal contains any information that is considered a trade secret under ORS 192.501(2), each sheet of such information must be marked with the following legend:
"This data constitutes a trade secret and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192."
Nondisclosure of documents or any portion of a document submitted as part of a proposal may depend upon official or judicial determinations made pursuant to Oregon Public Records Law. The above restriction may not include cost or price information which must be open to public inspection.
Identifying the proposal in whole as a trade secret is not acceptable. Failure to identify a portion of the proposal as a trade secret shall be deemed a waiver of any future claim of that information as a trade secret.

B. CONTENT AND FORMAT

In order to establish readily recognizable common denominators for evaluation, arrange the submittal in the general order described herein:

1. A separate Letter of Transmittal signed by an authorized representative including statements that;
 - (a) The Proposer understands the scope and identifies the types of services to be provided.
 - (b) The Proposer agrees to all terms and conditions contained in the request and its attachments,
 - (c) The Proposer and any sub-consultants, if selected, will satisfy insurance coverage requirements for the services offered. (Exhibit A)
 - (d) The Proposer certifies per ORS 279A.110 that the firm has not discriminated against minority, women or small business enterprises in obtaining any subcontracts.
 - (e) Whether the Proposer is a resident bidder, as defined in ORS 279A.120.
 - (f) Every public contract shall contain a condition that the Contractor shall:
 - 1) Make payment promptly, as due, to all persons supplying to such contractor labor or material for the prosecution of the work provided for in such contract.
 - 2) Pay all contributions or amounts due the Industrial Accident Fund from such contractor or subcontractor incurred in the performance of the contract.
 - 3) Not permit any lien or claim to be filed or prosecuted against the state, or county or subdivision thereof, on account of any labor or material furnished.
 - 4) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

2. Qualifications

Demonstrate qualifications and experience relating to the requested services for the project. Specifically, the services of landscaping and herbicide application. References may be included in the evaluation of this criterion. Response should address the following:

- Contractor qualifications and relevant individual experience, including sub-consultants;

3. Performance Examples

The Contractor will provide a brief professional work history of relevant projects as it relates to the capabilities of the business and any sub-consultants to provide the requested services. This work history should cover projects undertaken by the staff members to be utilized for this project. Examples could include:

- Similar Projects, by type and size, with a total of at least 3 project examples performed within the last ten years that best characterize the work quality.
 - Internal procedures and/or policies related to work quality, customer satisfaction, safety procedures; and cost control.
 - Project Manager's experience with similar contracts and interdisciplinary teams.
 - Site Manager's name and their qualifications.
 - Other on-going projects;
 - References of at least 3 current clients for examples similar to this project to demonstrate the Contractor's performance.
4. Supportive Information
- Proposer's additional project support material (may include pictures.)
5. Completion of Contractor's Proposal form.

CONTRACTOR'S PROPOSAL FORM

CONTRATOR NAME: _____

Item No.	Item	Descriptions of item	Total Price (in figures)
1..	Lump Sum	Benton County Courthouse	
2.	Lump Sum	Benton County Crisis Center Building	
3.	Lump Sum	Benton County Law Enforcement Building	
4.	Lump Sum	Benton County Sunset Building	
5.	Lump Sum	Benton County Health Center	
6.	Lump Sum	Benton County Avery Facility	
7.	Lump Sum	Benton County Kalapuya Building	

Total Proposal _____

PART III - SELECTION PROCESS

A. SELECTION COMMITTEE

1. The Selection Committee will consist of the Landscape Gardener, Natural Areas Parks and Events Director, and Facilities Manager. The committee will evaluate the proposals and conduct interviews if necessary.
2. The selection process may be canceled at any time if the County determines it is in the public interest to do so.

B. EVALUATION CRITERIA

Submittals received on time will be reviewed against the Pass/Fail criteria. Submittals meeting those criteria will be forwarded to the Selection Committee for scoring against the below evaluation criteria and subsequent ranking.

MANDATORY	
<input type="checkbox"/> Letter of Transmittal	Pass/Fail
<input type="checkbox"/> Proposal Format	Pass/Fail
<input type="checkbox"/> Contractor's Proposal	Pass/Fail
SCORED CRITERIA	
EVALUATION CRITERIA	MAX. SCORE
<input type="checkbox"/> Professional Qualifications	50
<input type="checkbox"/> Project Understanding	25
<input type="checkbox"/> Approach/Resource Allocation	20
<input type="checkbox"/> Supportive Information	5
TOTAL SCORE	100 Points

C. INTERVIEWS (IF CONDUCTED)

Interviews may be conducted and scored at the discretion of the County. A short-list of up to three (3) businesses may be derived from the businesses with the top scores based on the scoring criteria set forth in Section B above. If interviews are conducted, only the short-listed business will be requested to attend and the following will apply: Interview scores will have a maximum value of **20 points** and will be combined with the Scored Criteria to arrive at a total score. The final total scores will be ranked to determine the apparent successful Proposer(s). Further details will be included with notification of time and date of the interview.

D. COMMENTS AND APPEALS

Any business interested in submitting information for this project who believes that there are specifications contained within this Request for Proposals for Landscaping Services which limit competition, may submit written comment to the Natural Areas and Parks Director seven days before the submittal deadline.

The County reserves the right to accept or reject any and all proposals; to add or delete proposal items and/or quantities; to amend the RFP; to waive any minor irregularities, informalities, or failure to conform to the RFP; to extend the deadline for submitting proposals; to postpone award of a bid; and to reject, for good cause and without liability; therefore, any and all proposals and upon finding that doing so is in the public interest to cancel the procurement at any time prior to contract execution.

Every Proposer who submits a proposal shall be notified of its selection status. Any Proposer who claims to have been adversely affected or aggrieved by the selection of a competing Proposer(s) shall have seven (7) calendar days after receiving notification to submit a written protest. To be adversely affected or aggrieved, the Proposer must demonstrate that all higher-ranked Proposers were ineligible for selection. The County shall not consider a protest submitted after the deadline established in this section.

PART IV. PERSONAL SERVICES CONTRACT

The Contractor shall perform work under this contract only by a County issued and fully executed Personal Services Contract (Appendix A) with attached negotiated Statement of Work. If Contractor refuses an assignment, an authorized representative of Contractor shall submit a written justification for the refusal within two days of receipt of the assignment offer, or according to other County direction accompanying the assignment. The Statement of Work will identify the specific items of work for this Contract. The contract will have a maximum monetary limit as established by this proposal process. The County reserves the right to amend the contract if required.

In the event that Contractor refuses an assignment, documents this decision appropriately and to the County's satisfaction, County reserves the right to offer the project to any other firm whose contract came from this RFP or meets the requirements of the County Code.

The Contractor will submit their bid on the provided proposal form. This fee schedule shall be part of the contract.

Upon receiving notification from the County that a work authorization is to be issued, the Contractor shall conclude any negotiations and submit final cost estimates within no more than 10 working days unless otherwise allowed by the County. No work on a project will begin before County and Consultant required signatures are obtained on the Personal Services Contract or amendment to the contract and an official notice-to-proceed has been received from the County.

EXHIBIT A – CERTIFICATION OF INSURANCE REQUIREMENTS

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

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

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

If this box is checked, the limits shall be \$1,000,000 per occurrence and \$1,000,000 in annual aggregate.

Required by County Not Required by County

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

If this box is checked, the limits shall be \$1,000,000 per occurrence and \$2,000,000 in annual aggregate.

If this box is checked, the limits shall be \$5,000,000 per occurrence and \$5,000,000 in annual aggregate.

Required by County Not Required by County

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

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

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

Required by County Not Required by County

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

Required by County Not Required by County

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

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

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

Certificate holder should be: Benton County 360 SW Avery Ave., Corvallis OR 97333. Certificates of Insurance can be faxed to 541-766-6891 or emailed to Public Works to: Leanna.Buck@co.benton.or.us

Contractor's Acceptance: see attached signature page

Completed at County by: Vance M. Croney

APPENDIX A

BENTON COUNTY

SAMPLE PERSONAL SERVICES CONTRACT

This is an agreement by and between BENTON COUNTY, OREGON, a political subdivision of the State of Oregon, hereinafter called COUNTY, and _____ hereinafter called CONTRACTOR.

WHEREAS, COUNTY has need for the services of an individual with the particular training, ability, knowledge, and experience possessed by CONTRACTOR,

NOW, THEREFORE, in consideration of the mutual covenants contained herein the parties agree as follows:

1. TERM OF CONTRACT: This contract shall become effective upon signature, and shall terminate on June 30, 20xx.
2. SERVICES TO BE PROVIDED: Per the attached contractor proposal dated _____, contractor to provide _____
3. PAYMENT: A sum not to exceed \$ _____, to be paid _____ until completion of the services contemplated by this contract.
4. ASSIGNMENT/DELEGATION: Neither party shall assign, subcontract or transfer any interest in or duty under this agreement without the prior written consent of the other, and no assignment shall be of any force or effect whatsoever unless and until the other party has so consented.

5. STATUS OF CONTRACTOR: The parties intend that CONTRACTOR, in performing the services specified in this agreement, shall act as an independent contractor. Although COUNTY reserves the right to (i) determine and modify the delivery schedule for work to be performed and (ii) evaluate the quality of the completed performance, only CONTRACTOR shall have the control of the work and the manner in which it is performed. CONTRACTOR is not to be considered an agent or employee of the COUNTY and is not entitled to participate in any pension plan, insurance, bonus, or similar benefits COUNTY provides its employees.

CONTRACTOR will not be eligible for any federal social security, state workers' compensation, unemployment insurance, or Public Employees Retirement System benefits from amounts paid under this contract, except as a self-employed individual.

If this payment is to be charged against Federal funds, CONTRACTOR certifies that it is not currently employed by the Federal government and the amount charged does not exceed its normal charge for the type of service provided.

COUNTY will report the total amount of all payments to CONTRACTOR, including any expenses, in accordance with Federal Internal Revenue Service and State of Oregon Department of Revenue regulations. CONTRACTOR shall be responsible for any Federal or State taxes applicable to amounts paid under this contract.

6. **WARRANTY:** COUNTY has relied upon representations by CONTRACTOR regarding its professional ability and training as a material inducement to enter into this contract. CONTRACTOR represents and warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state, and local laws, it being understood that acceptance of CONTRACTOR's work by COUNTY shall not operate as a waiver or release of such warranty.

7. **INDEMNIFICATION.** CONTRACTOR shall hold harmless, indemnify, and defend COUNTY, its officers, agents, and employees from any and all liability, actions, claims, losses, damages or other costs including attorney's fees and witness costs (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity arising from, during or in connection with the performance of the work described in this contract, except liability arising out of the sole negligence of the COUNTY and its employees. Such indemnification shall also cover claims brought against COUNTY under state or federal workers' compensation laws. If any aspect of this indemnity or the above warranty shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification or the above warranty.

8. **INSURANCE:** CONTRACTOR and any subcontractors shall maintain insurance acceptable to the COUNTY as provided in Exhibit A. Such insurance shall remain in full force and effect throughout the term of this contract.

If CONTRACTOR employs one or more workers as defined in ORS 656.027 and such workers are subject to the provisions of ORS Chapter 656, CONTRACTOR shall maintain currently valid workers' compensation insurance covering all such workers during the entire period of this contract.

9. **METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS, AND MAKING PAYMENTS:** All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills, and payments sent by mail should be addressed as follows:

COUNTY: Benton County Public Works
360 SW Avery Avenue
Corvallis, OR 97333

CONTRACTOR:

and when so addressed, shall be deemed given upon deposit in the United States Mail, postage prepaid. In all other instances, notices, bills, and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills, and payments are to be given by giving notice pursuant to this paragraph.

10. TERMINATION: At any time, with or without cause, COUNTY, in its sole discretion shall have the absolute right to terminate this agreement by giving written notice to CONTRACTOR. If COUNTY terminates pursuant to this paragraph, CONTRACTOR shall be entitled to payment for all services satisfactorily rendered and expenses incurred through the date of termination; provided, that there shall be deducted from such payment the amount of damage, if any, sustained by COUNTY due to any breach of the agreement by CONTRACTOR.

11. Should the CONTRACTOR fail to complete this contract within the time fixed for completion, due allowance being made for unavoidable delays, he shall become liable to COUNTY in the amount of ~~\$-0-~~ per calendar day for each day said work remains incomplete beyond the time for completion. If it appears to the CONTRACTOR that s/he will not complete the work in the time agreed, s/he shall make written application to COUNTY at least ten (10) calendar days prior to expiration of the time for completion, stating the reasons why and the amount of extension s/he believes should be granted. The COUNTY may then, with discretion, grant, or deny such extension.

12. OWNERSHIP OF WORK PRODUCT: COUNTY shall be the owner of and shall be entitled to possession of all work products of CONTRACTOR that result from this contract ("the work products"). In addition, if any of the work products contain intellectual property of CONTRACTOR that is or could be protected by federal law, CONTRACTOR hereby grants COUNTY a perpetual, royalty-free, fully paid, nonexclusive and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, use and re-use all such work products, including but not limited to databases, templates, file formats, scripts, links, procedures, materials, training manuals and other information, designs, plans or works provided or delivered to COUNTY or produced by CONTRACTOR under this contract.

12. NONDISCRIMINATION: CONTRACTOR shall comply with all applicable federal, state and local laws, rules, and regulations on

nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, disability, sexual orientation, gender identity or source of income.

13. STATUTORY AND REGULATORY COMPLIANCE: CONTRACTOR shall comply with all federal, state and local laws, ordinances and regulations applicable to the work under this contract, including, without limitation, the applicable provisions of ORS chapters 279A, B and C, particularly 279C.500, 279C.510, 279C.515, 279C.520 and 279C.530, as amended. In addition, CONTRACTOR expressly agrees to comply with Title VI of the CIVIL RIGHTS ACT of 1964 and comparable state and local laws. CONTRACTOR shall also comply with Section V of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (Pub. Law No. 101-336), ORS 659A.142, ORS 659A.145, ORS 659A.400 to ORS 659A.406 and all regulations and administrative rules established pursuant to those laws. Contractor certifies that it is not disqualified or debarred from entering into this contract under ORS 279B.130, 279C.440 and/or any applicable Federal compliance requirements in accordance with 2 CFR part 180.

14. EXTRA (CHANGED) WORK: Only the Public Works Department Director or his/her designee may authorize extra (and/or changed) work. Failure of the CONTRACTOR to secure Director authorization for extra work shall constitute a waiver of any and all right to adjustment in the contract price or contract time due to such unauthorized extra work and the CONTRACTOR thereafter shall be entitled to no compensation whatsoever for the performance of such work.

CONTRACTOR further expressly waives any and all right or remedy by way of restitution and quantum merit for any and all extra work performed by CONTRACTOR without the express and prior written authorization of the Director.

15. CONFLICT OF INTEREST: CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services. The CONTRACTOR further covenants that in the performance of this contract it shall not employ any person having any such interest.

16. AUDIT: CONTRACTOR shall maintain records to assure conformance with the terms and conditions of this agreement, and to assure adequate performance and accurate expenditures within the contract period. CONTRACTOR agrees to permit Benton County, the State of Oregon, the federal government, or their duly authorized representatives to audit all records pertaining to this agreement to assure the accurate expenditure of funds. CONTRACTOR shall notify COUNTY of any independent audit report of

CONTRACTOR'S activities or finances prepared for CONTRACTOR and agrees to submit such reports to the Director upon request.

17. GOVERNING LAW: This contract shall be governed and construed by the laws of the State of Oregon.

18. SEVERABILITY: If any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected.

19. MERGER: This writing and the attached exhibits constitute the entire and final contract between the parties. No modification of this agreement shall be effective unless and until it is made in writing and signed by both parties.

CONTRACTOR

BENTON COUNTY

Signature

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

Printed name

Title _____

Date: _____

Date: _____

Reviewed as to form:

Tax ID# _____

County Counsel

EXHIBIT A – CERTIFICATION OF INSURANCE REQUIREMENTS

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

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

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

If this box is checked, the limits shall be \$1,000,000 per occurrence and \$1,000,000 in annual aggregate.

Required by County Not Required by County

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

If this box is checked, the limits shall be \$1,000,000 per occurrence and \$2,000,000 in annual aggregate.

If this box is checked, the limits shall be \$5,000,000 per occurrence and \$5,000,000 in annual aggregate.

Required by County Not Required by County

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

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

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

Required by County Not Required by County

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

Required by County Not Required by County

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

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

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

Certificate holder should be: Benton County 360 SW Avery Ave., Corvallis OR 97333. Certificates of Insurance can be faxed to 541-766-6891 or emailed to Public Works at Gabrielle.Dibble@co.benton.or.us

Contractor's Acceptance: see signature page _____ Completed at County by: Vance M. Croney

SPECIAL PROVISIONS (FEMA DISASTER PROVISIONS)

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

1. Administrative, Contractual, or Legal Remedies

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

Termination for Default.

a. **Default.** If the CONTRACTOR refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, otherwise fails to timely satisfy the Contract provisions, or commits any other substantial breach of this Contract, the COUNTY may notify the CONTRACTOR in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the COUNTY, the COUNTY may terminate the CONTRACTOR'S right to proceed with the Contract or such part of the Contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the COUNTY may procure similar goods or services in a manner and upon the terms deemed appropriate by the COUNTY. The CONTRACTOR shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

b. **CONTRACTOR'S duties.** Notwithstanding termination of the Contract and subject to any directions from the COUNTY, the CONTRACTOR shall take timely and reasonable necessary action to protect and preserve property in the possession of the CONTRACTOR in which the COUNTY has an interest.

c. **Compensation.** Payment for completed goods and services delivered and accepted by the COUNTY shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the COUNTY. If the parties fail to agree, the COUNTY shall set an amount. The COUNTY may withhold from amounts due the CONTRACTOR such sums as the COUNTY deems to be necessary to protect the COUNTY against loss because of

outstanding liens or claims and to reimburse the COUNTY for the excess costs expected to be incurred by the COUNTY in procuring similar goods and services.

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

e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of the contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the contract.

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

2. Termination for Cause and for Convenience

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

3. Equal Employment Opportunity

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

a. CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

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

b. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

c. CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the CONTRACTOR's legal duty to furnish information.

d. CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CONTRACTOR's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.