



OREGON

"Delivering Excellence Everyday"

MARION COUNTY BOARD OF COMMISSIONERS

Wednesday, April 22, 2026
Board Session 9:00 a.m.

Senator Hearing Room
555 Court Street NE, Salem

PUBLIC COMMENT

CONSENT

BOARD OF COMMISSIONERS

Board Appointments – Planning Commission

1. Approve orders appointing Terrence Behrens and Kent Kaufman to the Marion County Planning Commission with terms beginning May 1, 2026, and ending May 1, 2030.

BUSINESS SERVICES

2. Approve the Public Improvement Agreement with Garland DBS, Inc. in the amount of \$265,544 to provide exterior painting services for Marion County Public Works buildings 4, 5, and 12 through September 30, 2026.

HEALTH AND HUMAN SERVICES

3. Approve Amendment #5 to the Contract for Services with Garten Services, Inc. to add \$110,000 for a new contract total of \$1,410,000 to continue to provide janitorial services at multiple county locations on a scheduled, as needed, and on-call emergency basis through September 30, 2026.

LEGAL COUNSEL

4. Approve an order authorizing the participation in a national opioid settlement with six remnant defendants, and authorizing Marion County Legal Counsel, Steve Elzinga, to sign the participation form on behalf of Marion County.

PUBLIC WORKS

5. Schedule final consideration to adopt an administrative ordinance on May 6, 2026, for Comprehensive Plan Amendment / Zone Change, Case #24-007 / Bruce Ernst.

6. Approve a Purchase Order (PO) with Nelson Truck Equipment in the amount of \$126,575.29, to replace an undelivered prior 2024 PO with another manufacturer, for the purchase of one 40-ton sliding axle trailer through December 31, 2026.

7. Approve the Engineering and Related Services Contract with Geo-Logic Associates (GLA) in the not-to-exceed amount of \$269,428 for design of the final closure for cell four of the ash monofill located at the North Marion Recycling and Transfer Station site through December 31, 2028.

SHERIFF'S OFFICE

8. Approve the Contract for Services with DPI Security, Inc. in the not-to-exceed amount of \$365,937.30 to provide security services for the Marion County Transition Center, Boarder Program, through April 30, 2029.

TAX OFFICE

9. Approve an order for a property tax refund for F&F Land – Salem, LLC, tax account 532721, in the amount of \$182,546.42

ACTION

ASSESSOR'S OFFICE

10. Consider a resolution approving the Fiscal Year 2026-27 County Assessment Function Funding Assistance (CAFFA) Grant application. –Tom Rohlfing

PUBLIC HEARINGS **Starting no earlier than 9:00 a.m.**

None.

Members of the public may submit written testimony by email to PublicHearings@co.marion.or.us For agenda items where in-person testimony is allowed, the public may sign up to provide testimony by telephone by emailing PublicHearings@co.marion.or.us at least 24 hours before the meeting. The email must specify the meeting date/time and agenda topic for which testimony is being submitted. For telephone testimony requests, the email must also include your name and the phone number that staff should use to call you at the appropriate time.

If you require interpreter assistance, an assistive listening device, large print material or other accommodations, call 503-588-5212 at least 48 hours in advance of the meeting. TTY 503-588-5168 Si necesita servicios de interprete, equipo auditivo, material copiado en letra grande, o culaquier otra acomodacion, por favor llame al 503-588-5212 por lo menos 48 horas con anticipacion a la reunion. TTY 503-588-5168 Marion County is on the Internet at: www.co.marion.or.us



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: April 22, 2026

Department: Public Works

Title: Appoint two new members of the Marion County Planning Commission

Management Update/Work Session Date: March 31, 2026 Audio/Visual aids []

Time Required: 0 min Contact: Austin Barnes Phone: 503-566-4174

Requested Action: Appoint Terry Behrens and Kent Kaufman to the Marion County Planning Commission for four year terms ending May 1st, 2030.

Issue, Description & Background: Terry Behrens and Kent Kaufman both have experience that allow them to provide strong service on the Marion County Planning Commission. Therefore, Planning staff recommend the board appoint them as members as provided on the attached orders.

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: Planning Commission Roster, Applications, Orders

Presenter: Austin Barnes

Department Head Signature: for Brandon Rich



OREGON

Planning Commission

04/02/2026

Volunteer	City	Assignment	Assignment From	Assignment To
Stanley Birch	Salem	Planning Commission	07-02-2008	02-01-2029
Nick Harville	Silverton	Planning Commission	02-01-2025	02-01-2029
George Grabenhorst <i>(Chair)</i>	Salem	Planning Commission	11-10-2004	05-31-2029
Michael Long	Salem	Planning Commission	01-01-2012	02-01-2029
Daisy Goebel	Keizer	Planning Commission	02-01-2025	02-01-2029
Gary Monders	Salem	Planning Commission	01-11-2012	02-11-2029
Terry Behrens	Lyons	Planning Commission	05-01-2026	05-01-2030
Kent Kaufman	Salem	Planning Commission	05-01-2026	05-01-2030
Britany Randall <i>(Co-Chair)</i>	Salem	Planning Commission	05-24-2017	05-31-2029
Volunteer count: 9				



Advisory Board Application

Applicant's Name: **Terrence Behrens**
Adv. Board: **Planning Commission**
City of Residence: **Lyon** Zip: **97358**
Occupation: **Director of Global Technology, Arcadis**
Application Rcd: **February 19, 2026**

The reason I am applying:

Over the years, I've seen substantial change across Marion County, and especially throughout the Santiam Canyon. Serving on the planning commission would be both an honor and a meaningful way to give back to the community and landscape that have shaped my entire life.

More about my personal and professional interests:

I'm committed to helping make Marion County—and especially the Santiam Canyon where I grew up—a place where people can enjoy living, raising a family, working, and building their future.

Tell us more about your community involvement:

N/A

Previous board service at Marion County:

N/A

Qualifications and Skills:

Please See Resume

More about yourself and why you are applying:

I've worked in the Santiam Canyon in many capacities over the years—mills, logging, and farming. After the 2020 fire, I rebuilt my home and barns, completed extensive salvage logging, managed cleanup and replanting, and worked closely with agencies such as Marion County, NRCS, and the Santiam Watershed Council. That experience gave me a much deeper understanding of the complexity involved in managing land, natural resources, and the coordination required across multiple agencies to support recovery and long-term stewardship. I think with my professional experience working with private industry, various government agencies, planning boards and at personal level working with local agencies I bring a unique perspective that will help the commission and provide me an opportunity to give back to the community.

References:

- Sandeep Dave, Vice President at AMTS, professional colleague and friend
 - Tyler Freres, Friend
 - Jeff Begby, Friend
-



Advisory Board Application

Signature

Agreement Statement:

I give my permission for the named references to be contacted, either verbally or in writing. All the information on this application is true to the best of my knowledge and I understand I am applying for a volunteer position with Marion County.

I understand that appointed members of a Marion County advisory board, commission, committee, or council are considered public officials under Oregon law. Marion County will provide orientation and more information upon appointment.

I Agree *



Advisory Board Application

Applicant's Name: **Kent Kaufman**
Adv. Board: **Planning Commission**
City of Residence: **Salem (MacLeay area)** Zip: **97317**
Occupation: **Owner/CEO, Heritage Business Group**
Application Rcd: **February 11, 2026**

The reason I am applying:

I have an interest in the logical/thoughtful growth and success of Marion County and it's people.

More about my personal and professional interests:

I am passionate about helping our community and the people in it (Marion County) to be a thriving and growing place to live and do business. I am 4th generation in this area and own/operate a 2nd generation business.

Tell us more about your community involvement:

Church boards, Trade/Industry boards

Previous board service at Marion County:

No

Qualifications and Skills:

Leadership, land development, construction, homeowner, landlord and tenant, familiar with zoning and permitting.

More about yourself and why you are applying:

I have an agricultural background/upbringing and am interested in the stewardship of land in Marion County as well as the healthy growth of our community.

References:

- Rick Massey. Rick has served on the Planning Commission for 12 years and is retiring at the end of his term at the end of February.
 - Mike Erdman, CEO, Marion/Polk Homebuilders Association.
-

Signature

Agreement Statement:

I give my permission for the named references to be contacted, either verbally or in writing. All the information on this application is true to the best of my knowledge and I understand I am applying for a volunteer position with Marion County.

I understand that appointed members of a Marion County advisory board, commission, committee, or council are considered public officials under Oregon law. Marion County will provide orientation and more information upon appointment.

I Agree *



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: April 22, 2026

Department: Business Services

Title: Public Works Building 4, 5, & 12 Exterior Painting Project

Management Update/Work Session Date: April 7, 2026 Audio/Visual aids []

Time Required: 10 min Contact: Tamra Goettsch Phone: x3200

Requested Action: Consider approval of the Public Improvement Agreement with Garland/DBS, Inc. for the exterior painting of Public Works Buildings 4, 5, and 12 located at 5155 Silverton Rd NE, Salem, OR 97305.

Issue, Description & Background: The exterior paint on Public Works Buildings 4, 5, and 12 is failing and in need of repainting. If not corrected, structural damage to the building will occur leading to higher cost for repairs.

Financial Impacts: Total cost \$265,544.00

Impacts to Department & External Agencies: No other impacts to other departments outside of Public Works with project coordination to be managed by Business Services.

List of attachments: Public Improvement Agreement, Exhibit A

Presenter: Tamra Goettsch

Department Head Signature: [Handwritten Signature]

Contract Review Sheet

Public Improvement Agreements

BS-7076-26

Title: Public Works Building 4, 5, & 12 Exterior Painting Project

Contractor's Name: Garland DBS Inc

Department: Business Services Department

Contact: Vanessa Keck

Analyst: Chalyce MacDonald

Phone #: (503) 566-3910

Term - Date From: Execution

Expires: September 30, 2026

Original Contract Amount: \$ 265,544.00

Previous Amendments Amount: \$ -

Current Amendment: \$ -

New Contract Total: \$ 265,544.00 Amd% 0%

Outgoing Funds Federal Funds Reinstatement Retroactive Amendment greater than 25%

Source Selection Method: 10-0400 Cooperative (OMNIA)

PW1925

Description of Services or Grant Award

Public Works Building 4, 5, & 12 exterior painting project located at 5155 Silverton Rd NE, Salem, OR 97305

Desired BOC Session Date: 4/22/2026

Contract should be in DocuSign by: 4/1/2026

Agenda Planning Date: 4/9/2026

Printed packets due in Finance: 4/7/2026

Management Update: 4/7/2026

BOC upload / Board Session email: 4/8/2026

BOC Session Presenter(s) Tamra Goettsch

Code: Y

REQUIRED APPROVALS

Chalyce MacDonald

03/23/2026

Vanessa Keck

03/24/2026

Finance - Contracts

Date

Contract Specialist

Date

Scott Norris

03/24/2026

Jan Fritz

03/24/2026

Scott Norris (Mar 24, 2026 11:54:55 PDT)

Jan Fritz (Mar 24, 2026 12:51:16 PDT)

Legal Counsel

Date

Chief Administrative Officer

Date

MARION COUNTY PUBLIC IMPROVEMENT AGREEMENT
for
Public Works Building 4, 5, & 12 Exterior Painting Project

This Agreement for the Public Works Building 4, 5, & 12 Exterior Painting Project (the "Agreement"), made by and between Marion County, a political subdivision of the state of Oregon, on behalf of Business Services Department, hereinafter called OWNER, and Garland DBS Inc., hereinafter called the CONTRACTOR (collectively the "Parties"), is effective on the date this Agreement has been signed by all the Parties and all required Marion County governmental approvals have been obtained. Unless otherwise defined in the Invitation to Bid or in this Agreement, the capitalized terms used herein are defined in Section A.1 of the Marion County General Conditions for Public Improvement Contracts.

WITNESSETH:

1. Contract Price, Contract Documents and Work.

The CONTRACTOR, in consideration of the sum of \$265,544.00 (the "Contract Price"), to be paid to the CONTRACTOR by OWNER in the manner and at the time hereinafter provided, and subject to the terms and conditions provided for in the Invitation to Bid, this Public Improvement Agreement and other Contract Documents, all of which are incorporated herein by reference, hereby agrees to perform all Work described and reasonably inferred from the Contract Documents.

The Contract Price includes all labor and materials included in the scope outlined in Proposal #25-OR-260208 attached hereto as Exhibit A.

2. Representatives.

Unless otherwise specified in the Contract Documents, the OWNER designates Tamra Goettsch as its Authorized Representative in the administration of this Contract. The above-named individual shall be the initial point of contact for matters related to performance, payment, authorization, and to carry out the responsibilities of the OWNER. CONTRACTOR has named Travis Cox its Authorized Representative to act on its behalf.

County delegates to the individual listed below the authority and responsibility for issuing approvals, providing notices, receiving notices, issuing directives, authorizing change orders, and avoiding and resolving disputes: Wesley Miller

3. Contract Dates.

PROJECT START DATE: April 27, 2026
SUBSTANTIAL COMPLETION: August 31, 2026
FINAL COMPLETION: September 30, 2026

4. Liquidated Damages. RESERVED

5. Integration

The contract documents constitute the entire agreement between the parties. no waiver, consent, modification or change of terms of this contract shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. there are no other understandings, agreements, or

representations, oral or written, not specified herein regarding this contract. contractor, by the signature below of its authorized representative, hereby acknowledges that it has read this contract, understands it, and agrees to be bound by its terms and conditions.

6. Authority to Execute

Contractor covenants, represents, and warrants to Owner that the person(s) executing this Contract on behalf of the Contractor have the actual authority to bind the Contractor to the terms of the Agreement.

In witness whereof, Marion County, a political subdivision of the state of Oregon, on behalf of Board of Commissioners, executes this Agreement and the CONTRACTOR does execute the same as of the day and year of this Agreement first above written.

In witness whereof, Marion County, a political subdivision of the state of Oregon, on behalf of Business Services Department, executes this Agreement and the CONTRACTOR does execute the same as of the day and year of this Agreement first above written.

7. CONTRACTOR DATA:

CONTRACTOR NAME: Garland DBS Inc
CONTRACTOR ADDRESS: 3800 East 91st St
CONTRACTOR ADDRESS: Cleveland, OH 44105
CONTRACTOR'S CCB # & Expiration Date: 192939, Expires 3/14/2027


CONTRACTOR'S SIGNATURE: _____
Date

**MARION COUNTY SIGNATURES
BOARD OF COMMISSIONERS:**

Chair Date

Commissioner Date

Commissioner Date

Authorized Signature:  03/23/2026
Department Director or designee Date

Authorized Signature: Jan Fritz 03/24/2026
Jan Fritz (Mar 24, 2026 12:51:16 PDT)
Chief Administrative Officer Date

Reviewed by Signature: Scott Norris 03/24/2026
[Scott Norris \(Mar 24, 2026 11:54:55 PDT\)](#)
Marion County Legal Counsel Date

Reviewed by Signature: Chalynne McDonald 03/23/2026
Marion County Contracts & Procurement Date

**MARION COUNTY
GENERAL CONDITIONS FOR
PUBLIC IMPROVEMENT CONTRACTS**

September 1, 2014 Edition, Revised February 14, 2022

Changes to the General Conditions (including any additions, deletions, or substitutions) should only be made by Supplemental General Conditions, unless the General Conditions are specifically modified in the Public Improvement Agreement (which has a higher order of precedence under Section A.3 of the General Conditions). The text of these General Conditions should not otherwise be altered.

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MARION COUNTY
GENERAL CONDITIONS FOR PUBLIC IMPROVEMENT CONTRACTS
("General Conditions")

SECTION A GENERAL PROVISIONS

A.1 DEFINITION OF TERMS

In the Contract Documents the following terms shall be as defined below:

ARCHITECT/ENGINEER means the Person appointed by the Owner to make drawings and specifications and, to provide contract administration of the Work contemplated by the Contract to the extent provided herein or by supplemental instruction of Owner (under which Owner may delegate responsibilities of the Owner's Authorized Representative to the Architect/Engineer), in accordance with ORS Chapter 671 (Architects) or ORS Chapter 672 (Engineers) and administrative rules adopted thereunder.

CHANGE ORDER means a written order issued by the Owner's Authorized Representative to the Contractor requiring a change in the Work within the general scope of the Contract Documents, issued under the changes provisions of Section D.1 including Owner's written change directives as well as changes reflected in a writing executed by the parties to this Contract and, if applicable, establishing a Contract Price or Contract Time adjustment for the changed Work.

CLAIM means a demand by Contractor pursuant to Section D.3 for review of the denial of Contractor's initial request for an adjustment of Contract terms, payment of money, extension of Contract Time or other relief, submitted in accordance with the requirements and within the time limits established for review of Claims in these General Conditions.

CONTRACT means the written agreement between the Owner and the Contractor comprised of the Contract Documents which describe the Work to be done and the obligations between the parties.

CONTRACT DOCUMENTS means the Solicitation Document and addenda thereto, the Marion County Public Improvement Agreement Form, General Conditions, Supplemental General Conditions, if any, the accepted Offer, Plans, Specifications, amendments, and Change Orders.

CONTRACT PERIOD as set forth in the Contract Documents, means the total period of time beginning with the issuance of the Notice to Proceed and concluding upon Final Completion.

CONTRACT PRICE means the total of the awarded Offer amount, as increased or decreased by the price of approved alternates and Change Orders.

CONTRACT TIME means any incremental period of time allowed under the Contract to complete any portion of the Work as reflected in the project schedule.

CONTRACTOR means the Person awarded the Contract for the Work contemplated.

DAYS are calendar days, including weekdays, weekends, and holidays, unless otherwise specified.

DIRECT COSTS means, unless otherwise provided in the Contract Documents, the cost of materials, including sales tax, cost of delivery; cost of labor, including social security, old age and unemployment insurance, and fringe benefits required by agreement or custom; worker's compensation insurance; project specific insurance (including, without limitation, Builder's Risk Insurance and Builder's Risk Installation Floater); bond premiums, rental cost of equipment, and machinery required for execution of the work; and the additional costs of field personnel directly attributable to the Work.

FINAL COMPLETION means the final completion of all requirements under the Contract, including Contract Closeout as described in Section K but excluding Warranty Work as described in Section I.2, and the final payment and release of all retainage, if any, released.

FORCE MAJEURE means an act, event or occurrence caused by fire, riot, war, acts of God, nature, sovereign, or public enemy, strikes, freight embargoes or any other act, event or occurrence that is beyond the control of the party to this Contract who is asserting Force Majeure.

NOTICE TO PROCEED means the official written notice from the Owner stating that the Contractor is to proceed with the Work defined in the Contract Documents. Notwithstanding the Notice to Proceed, Contractor shall not be authorized to proceed with the Work until all initial Contract requirements, including the Contract, performance bond and payment bond, and certificates of insurance, have been fully executed and submitted to Owner in a suitable form.

OFFER means a bid in connection with an invitation to bid and a proposal in connection with a request for proposals.

OFFEROR means a bidder in connection with an invitation to bid and a proposer in connection with a request for proposals.

OVERHEAD means those items which may be included in the Contractor's markup (general and administrative expense and profit) and that shall not be charged as Direct Cost of the Work, including without limitation such Overhead expenses as wages or salary of personnel above the level of foreman (i.e., superintendents and project managers), expenses of Contractor's offices at the job site (e.g. job trailer) including expenses of personnel staffing the job site office, and Commercial General Liability Insurance and Automobile Liability Insurance.

OWNER means Marion County acting by and through the governmental entity identified in the Solicitation Document.

OWNER'S AUTHORIZED REPRESENTATIVE means those individuals identified in writing by the Owner to act on behalf of the Owner for this project. Owner may elect, by written notice to Contractor, to delegate certain duties of the Owner's Authorized Representative to more than one party, including without limitation, to an Architect/Engineer. However, nothing in these General Conditions is intended to abrogate the separate design professional responsibilities of Architects under ORS Chapter 671 or of Engineers under ORS Chapter 672.

PERSON means an entity doing business as a sole proprietorship, a partnership, a joint venture, a corporation, a limited liability company or partnership, or any other entity possessing the legal capacity to contract.

PLANS means the drawings which show the location, type, dimensions, and details of the Work to be done under the Contract.

PUNCHLIST means the list of Work yet to be completed or deficiencies which need to be corrected to achieve Final Completion of the Contract.

RECORD DOCUMENT means the as-built Plans, Specifications, testing and inspection records, product data, samples, manufacturer, and distributor/supplier warranties evidencing transfer to Owner, operational and maintenance manuals, shop drawings, Change Orders, correspondence, certificate(s) of occupancy, and other documents listed in Subsection B.9.1 of these General Conditions, recording all Services performed.

SOLICITATION DOCUMENT means an invitation to bid or request for proposal or request for quotes.

SPECIFICATION means any description of the physical or functional characteristics of the Work, or of the nature of a supply, service, or construction item. Specifications may include a description of any requirement for inspecting, testing, or preparing a supply, service or construction item for delivery and the quantities or qualities of materials to be furnished under the Contract. Specifications generally will state the results or products to be obtained and may, on occasion, describe the method and manner of doing the work to be performed. Specifications may be incorporated by reference and/or may be attached to the Contract.

SUBCONTRACTOR means a Person having a direct contract with the Contractor, or another Subcontractor, to perform one or more items of the Work.

SUBSTANTIAL COMPLETION means the date when the Owner accepts in writing the construction, alteration, or repair of the improvement to real property or any designated portion thereof as having reached that state of completion when it may be used or occupied for its intended purpose. Substantial Completion of facilities with operating systems occurs only after thirty (30) continuous Days of successful, trouble-free operation of the operating systems as provided in Section K.4.2.

SUBSTITUTIONS means items that in function, performance, reliability, quality, and general configuration are the same or better than the product(s) specified. Approval of any substitute item shall be solely determined by the Owner's Authorized Representative. The decision of the Owner's Authorized Representative is final.

SUPPLEMENTAL GENERAL CONDITIONS means those conditions that remove from, add to, or modify these General Conditions. Supplemental General Conditions may be included in the Solicitation Document or may be a separate attachment to the Contract.

WORK means the furnishing of all materials, equipment, labor, transportation, services, and incidentals necessary to successfully complete any individual item or the entire Contract and the carrying out of duties and obligations imposed by the Contract Documents.

A.2 SCOPE OF WORK

The Work contemplated under this Contract includes all labor, materials, transportation, equipment, and services for, and incidental to, the completion of all construction work in connection with the project

described in the Contract Documents. The Contractor shall perform all Work necessary so that the project can be legally occupied and fully used for the intended use as set forth in the Contract Documents.

A.3 INTERPRETATION OF CONTRACT DOCUMENTS

- A.3.1 Unless otherwise specifically defined in the Contract Documents, words which have well-known technical meanings or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings. Contract Documents are intended to be complementary. Whatever is called for in one, is interpreted to be called for in all. However, in the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following descending order of precedence:
- A.3.1.1 Contract amendments and Change Orders, with those of later date having precedence over those of an earlier date;
 - A.3.1.2 The Supplemental General Conditions;
 - A.3.1.3 The Marion County Public Improvement Agreement Form;
 - A.3.1.4 The General Conditions
 - A.3.1.5 The Plans and Specifications
 - A.3.1.6 The Solicitation Document and any addenda thereto;
 - A.3.1.7 The accepted Offer.
- A.3.2 In the case of an inconsistency between Plans and Specifications or within either document not clarified by addendum, the better quality or greater quantity of Work shall be provided in accordance with the Owner or Owner's Authorized Representative's interpretation in writing.
- A.3.3 If the Contractor finds discrepancies in, or omissions from the Contract Documents, or if the Contractor is in doubt as to their meaning, the Contractor shall at once notify the Owner or Owner's Authorized Representative. Matters concerning performance under, and interpretation of requirements of, the Contract Documents will be decided by the Owner's Authorized Representative, who may delegate that duty in some instances to the Architect/Engineer. Responses to Contractor's requests for interpretation of Contract Documents will be made in writing by Owner's Authorized Representative (or the Architect/Engineer) within any time limits agreed upon or otherwise with reasonable promptness. Interpretations and decisions of the Owner's Authorized Representative (or Architect/Engineer) will be consistent with the intent of and reasonably inferable from the Contract Documents. Contractor shall not proceed without direction in writing from the Owner's Authorized Representative (or Architect/Engineer).
- A.3.4 References to standard specifications, manuals, codes of any technical society, organization or association, to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, laws or regulations in effect in the jurisdiction where the project is occurring on the first published date of the Solicitation Document, except as may be otherwise specifically stated.

A.4 EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE

- A.4.1 It is understood that the Contractor, before submitting an Offer, has made a careful examination of the Contract Documents; has become fully informed as to the quality and quantity of materials and the character of the Work required; and has made a careful examination of the location and conditions of the Work and the sources of supply for materials. The Owner will in no case be responsible for any loss or for any unanticipated costs that may be suffered by the Contractor resulting from the Contractor's failure to acquire full information in advance regarding all conditions pertaining to the Work. No oral agreement or conversation with any officer, agent, or personnel of the Owner, or with the Architect/Engineer either before or after the execution of this Contract, shall affect or modify any of the terms or obligations herein contained.
- A.4.2 Should the Plans or Specifications fail to particularly describe the materials, kind of goods, or details of construction of any aspect of the Work, Contractor shall have the duty to make inquiry of the Owner and Architect/Engineer as to what is required prior to performance of the Work. Absent Specifications to the contrary, the materials or processes that would normally be used to produce first quality finished Work shall be considered a part of the Contract requirements.
- A.4.3 Any design errors or omissions noted by the Contractor shall be reported promptly to the Owner's Authorized Representative, including without limitation, any nonconformity with applicable laws, statutes, ordinances, building codes, rules, and regulations.
- A.4.4 If the Contractor believes that additional cost or Contract Time is involved because of clarifications or instructions issued by the Owner's Authorized Representative (or Architect/Engineer) in response to the Contractor's notices or requests for information, the Contractor must submit a written request to the Owner's Authorized Representative, setting forth the nature and specific extent of the request, including all time and cost impacts against the Contract as soon as possible, but no later than thirty (30) Days after receipt by Contractor of the clarifications or instructions issued. If the Owner's Authorized Representative denies Contractor's request for additional compensation, additional Contract Time, or other relief that Contractor believes results from the clarifications or instructions, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process. If the Contractor fails to perform the obligations of Sections A.4.1 to A.4.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations.

A.5 INDEPENDENT CONTRACTOR STATUS

The service or services to be performed under this Contract are those of an independent contractor as defined in ORS 670.600. Contractor represents and warrants that it is not an officer, employee, or agent of the Owner.

A.6 RETIREMENT SYSTEM STATUS AND TAXES

Contractor represents and warrants that it is not a contributing member of the Public Employees' Retirement System and will be responsible for any federal or state taxes applicable to payment received under this Contract. Contractor will not be eligible for any benefits from these Contract payments of federal Social Security, employment insurance, workers' compensation, or the Public Employees' Retirement System, except as a self-employed individual. Unless the Contractor is subject to backup withholding, Owner will not withhold from such payments any amount(s) to cover Contractor's federal or state tax obligations.

A.7 GOVERNMENT EMPLOYMENT STATUS

- A.7.1 If this payment is to be charged against federal funds, Contractor represents and warrants that it is not currently employed by the Federal Government. This does not preclude the Contractor from holding another contract with the Federal Government.
- A.7.2 Contractor represents and warrants that Contractor is not an employee of the Marion County for purposes of performing Work under this Contract.

SECTION B ADMINISTRATION OF THE CONTRACT

B.1 OWNER'S ADMINISTRATION OF THE CONTRACT

- B.1.1 The Owner's Authorized Representative will provide administration of the Contract as described in the Contract Documents (1) during construction (2) until final payment is due and (3) during the one-year period for correction of Work. The Owner's Authorized Representative will act on behalf of the Owner to the extent provided in the Contract Documents, unless modified in writing in accordance with other provisions of the Contract. In performing these tasks, the Owner's Authorized Representative may rely on the Architect/Engineer or other consultants to perform some or all of these tasks.
- B.1.2 The Owner's Authorized Representative will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. The Owner's Authorized Representative will not make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Owner's Authorized Representative will neither have control over or charge of, nor be responsible for the construction means, methods, techniques, sequences, or procedures, or for the safety precautions and programs in connection with the Work.
- B.1.3 Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, the Owner and Contractor shall endeavor to communicate with each other through the Owner's Authorized Representative or designee about matters arising out of or relating to the Contract. Communications by and with the Architect/Engineer's consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner's Authorized Representative.
- B.1.4 Based upon the Architect/Engineer's evaluations of the Contractor's Application for Payment, or unless otherwise stipulated by the Owner's Authorized Representative, the Architect/Engineer will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

B.2 CONTRACTOR'S MEANS AND METHODS; MITIGATION OF IMPACTS

- B.2.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work under the

Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures.

- B.2.2 The Contractor is responsible to protect and maintain the Work during construction and to mitigate any adverse impacts to the project, including those caused by authorized changes, which may affect cost, schedule, or quality.
- B.2.3 The Contractor is responsible for the actions of all its personnel, laborers, suppliers, and Subcontractors on the project. The Contractor shall enforce strict discipline and good order among Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of persons who are unfit or unskilled for the tasks assigned to them.
- B.2.4 Contractor agrees that it will commence performance of the Work in a timely manner and will achieve the Contract Times in the Contract Documents.

B.3 MATERIALS AND WORKMANSHIP

- B.3.1 The intent of the Contract Documents is to provide for the construction and completion in every detail of the Work described. All Work shall be performed in a professional manner and unless the means or methods of performing a task are specified elsewhere in the Contract Documents, Contractor shall employ methods that are generally accepted and used by the industry, in accordance with industry standards.
- B.3.2 The Contractor is responsible to perform the Work as required by the Contract Documents. Defective Work shall be corrected at the Contractor's expense.
- B.3.3 Work done and materials furnished shall be subject to inspection and/or observation and testing by the Owner's Authorized Representative to determine if they conform to the Contract Documents. Inspection of the Work by the Owner's Authorized Representative does not relieve the Contractor of responsibility for the Work in accordance with the Contract Documents.
- B.3.4 Contractor shall furnish adequate facilities, as required, for the Owner's Authorized Representative to have safe access to the Work including without limitation walkways, railings, ladders, tunnels, and platforms. Producers, suppliers, and fabricators shall also provide proper facilities and access to their facilities.
- B.3.5 The Contractor shall furnish Samples of materials for testing by the Owner's Authorized Representative and include the cost of the Samples in the Contract Price.

B.4 PERMITS

Contractor shall obtain and pay for all necessary permits and licenses, except for those specifically excluded in the Supplemental General Conditions, for the construction of the Work, for temporary obstructions, enclosures, opening of streets for pipes, walls, utilities, environmental Work, etc., as required for the project. Contractor shall be responsible for all violations of the law, in connection with the construction or caused by obstructing streets, sidewalks or otherwise. Contractor shall give all requisite notices to public authorities. The Contractor shall pay all royalties and license fees. The

Contractor shall defend all suits or claims for infringement of any patent or other proprietary rights and save harmless and blameless from loss, on account thereof, Marion County, and its departments, divisions, members, and employees.

B.5 COMPLIANCE WITH GOVERNMENT LAWS AND REGULATIONS

- B.5.1 Contractor shall comply with all federal, state, and local laws, codes, regulations and ordinances applicable to the Work and the Contract. Failure to comply with such requirements shall constitute a breach of Contract and shall be grounds for Contract termination. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following as applicable: i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Section 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Health Insurance Portability and Accountability Act of 1996; (iv) the Americans with Disabilities Act of 1990, as amended; (v) ORS Chapter 659A; as amended (vi) all regulations and administrative rules established pursuant to the foregoing laws; and (vii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Owner's performance under the Contract is conditioned upon Contractor's compliance with the provisions of ORS 279C.505, 279C.510, 279C.515, 279C.520, and 279C.530, which are incorporated by reference herein.
- B.5.2 Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations; and
- B.5.2.1 Contractor shall not discriminate against Disadvantaged, Minority, Women or Emerging Small Business enterprises, as those terms are defined in ORS 200.005, or a business enterprise that is owned or controlled by or that employs a disabled veteran, as that term is defined in ORS 408.225, in the awarding of subcontracts.
- B.5.2.2 Contractor shall maintain, in current and valid form, all licenses and certificates required by law, regulation, or this Contract when performing the Work.
- B.5.3 Unless contrary to federal law, Contractor shall certify that it shall not accept a bid from Subcontractors to perform Work as described in ORS 701.005 under this Contract unless such Subcontractors are registered with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 at the time they submit their bids to the Contractor.
- B.5.4 Unless contrary to federal law, Contractor shall certify that each landscape contractor, as defined in ORS 671.520(2), performing Work under this Contract holds a valid landscape contractor's license issued pursuant to ORS 671.560.
- B.5.5 The following notice is applicable to Contractors who perform excavation Work. ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (503)232-1987.
- B.5.6 Failure to comply with any or all of the requirements of B.5.1 through B.5.5 shall be a breach of Contract and constitute grounds for Contract termination. Damages or costs resulting from such noncompliance shall be the responsibility of Contractor.

B.6 SUPERINTENDENCE

Contractor shall keep on the site, during the progress of the Work, a competent superintendent and any necessary assistants who shall be satisfactory to the Owner and who shall represent the Contractor on the site. Directions given to the superintendent by the Owner's Authorized Representative shall be confirmed in writing to the Contractor.

B.7 INSPECTION

- B.7.1 Owner's Authorized Representative shall have access to the Work at all times.
- B.7.2 Inspection of the Work will be made by the Owner's Authorized Representative at its discretion. The Owner's Authorized Representative will have authority to reject Work that does not conform to the Contract Documents. Any Work found to be not in conformance with the Contract Documents, in the discretion of the Owner's Authorized Representative, shall be removed and replaced at the Contractor's expense.
- B.7.3 Contractor shall make or obtain at the appropriate time all tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of public authorities having jurisdiction. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work. The Contractor shall give the Owner's Authorized Representative timely notice of when and where tests and inspections are to be made so that the Owner's Authorized Representative may be present for such procedures. Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor, and promptly delivered to the Owner's Authorized Representative.
- B.7.4 As required by the Contract Documents, Work done, or material used without inspection or testing by the Owner's Authorized Representative may be ordered removed at the Contractor's expense.
- B.7.5 If directed to do so any time before the Work is accepted, the Contractor shall uncover portions of the completed Work for inspection. After inspection, the Contractor shall restore such portions of Work to the standard required by the Contract. If the Work uncovered is unacceptable or was done without sufficient notice to the Owner's Authorized Representative, the uncovering and restoration shall be done at the Contractor's expense. If the Work uncovered is acceptable and was done with sufficient notice to the Owner's Authorized Representative, the uncovering and restoration will be paid for as a Change Order.
- B.7.6 If any testing or inspection reveals failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Owner's Authorized Representative's and Architect/Engineer's services and expenses, shall be at the Contractor's expense.
- B.7.7 When the United States government participates in the cost of the Work, or the Owner has an agreement with other public or private organizations, or if any portion of the Work is being performed for a third party or near third party facilities, representatives of these organizations have the right to inspect the Work affecting their interests or property. Their right to inspect shall not make them a

party to the Contract and shall not interfere with the rights of the parties of the Contract. Instructions or orders of such parties shall be transmitted to the Contractor, through the Owner's Authorized Representative.

B.8 SEVERABILITY

If any provision of this Contract is declared by a court to be illegal or in conflict with any law, 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 the Contract did not contain the particular provision held to be invalid.

B.9 ACCESS TO RECORDS

B.9.1 Contractor shall keep, at all times on the Work site, one record copy of the complete Contract Documents, including the Plans, Specifications, Change Orders and addenda, in good order and marked currently to record field changes and selections made during construction, and one record copy of Shop Drawings, Product Data, Samples and similar submittals, and shall at all times give the Owner's Authorized Representative access thereto.

B.9.2 Contractor shall retain and the Owner and its duly authorized representatives shall have access to, for a period not less than ten (10) years, all Record Documents, financial and accounting records, and other books, documents, papers, and records of Contractor which are pertinent to the Contract including records pertaining to Overhead and indirect costs, for the purpose of making audit, examination, excerpts, and transcripts. If for any reason, any part of the Contract is involved in litigation, Contractor shall retain all such records until all litigation is resolved. The Owner and/or its agents shall continue to be provided full access to the records during litigation.

B.10 WAIVER

Failure of the Owner to enforce any provision of this Contract shall not constitute a waiver or relinquishment by the Owner of the right to such performance in the future nor of the right to enforce any other provision of this Contract.

B.11 SUBCONTRACTS AND ASSIGNMENT

B.11.1 Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound by the terms and conditions of these General Conditions, and to assume toward the Contractor all of the obligations and responsibilities which the Contractor assumes toward the Owner thereunder, unless (1) the same are clearly inapplicable to the subcontract at issue because of legal requirements or industry practices, or (2) specific exceptions are requested by Contractor and approved in writing by Owner. Where appropriate, Contractor shall require each Subcontractor to enter into similar agreements with sub-subcontractors at any level.

B.11.2 At Owner's request, Contractor shall submit to Owner prior to their execution either Contractor's form of subcontract, or the subcontract to be executed with any particular Subcontractor. If Owner disapproves such form, Contractor shall not execute the form until the matters disapproved are resolved to Owner's satisfaction. Owner's review, comment upon or approval of any such form shall not relieve Contractor of its obligations under this Agreement or be deemed a waiver of such obligations of Contractor.

B.11.3 Contractor shall not assign, sell, or transfer its rights, or delegate its responsibilities under this Contract, in whole or in part, without the prior written approval of the Owner. No such written

approval shall relieve Contractor of any obligations of this Contract, and any transferee shall be considered the agent of the Contractor and bound to perform in accordance with the Contract Documents. Contractor shall remain liable as between the original parties to the Contract as if no assignment had occurred.

B.12 SUCCESSORS IN INTEREST

The provisions of this Contract shall be binding upon and shall accrue to the benefit of the parties to the Contract and their respective permitted successors and assigns.

B.13 OWNER'S RIGHT TO DO WORK

Owner reserves the right to perform other or additional work at or near the project site with other forces than those of the Contractor. If such work takes place within or next to the project site, Contractor will coordinate work with the other contractors or forces, cooperate with all other contractors or forces, carry out the Work in a way that will minimize interference and delay for all forces involved, place and dispose of materials being used so as not to interfere with the operations of another, and join the Work with the work of the others in an acceptable manner and perform it in proper sequence to that of the others. The Owner's Authorized Representative will resolve any disagreements that may arise between or among Contractor and the other contractors over the method or order of doing all work (including the Work). In case of unavoidable interference, the Owner's Authorized Representative will establish work priority (including the Work) which generally will be in the sequence that the contracts were awarded.

B.14 OTHER CONTRACTS

In all cases and at any time, the Owner has the right to execute other contracts related to or unrelated to the Work of this Contract. The Contractor of this Contract will fully cooperate with any and all other contractors without additional cost to the Owner in the manner described in section B.13.

B.15 GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflict of laws.

B.16 LITIGATION

Any Claim between Owner and Contractor that arises from or relates to this Contract and that is not resolved through the Claims Review Process in Section D.3 shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the Marion County on any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. CONTRACTOR BY EXECUTION OF THIS CONTRACT HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THE COURTS REFERENCED IN THIS SECTION B.16.

B.17 ALLOWANCES

B.17.1 The Contractor shall include in the Contract Price all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct.

B.17.2 Unless otherwise provided in the Contract Documents:

- B.17.2.1 when finally reconciled, allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- B.17.2.2 Contractor's costs for unloading and handling at the site, labor, installation costs, Overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Price but not in the allowances;
- B.17.2.3 whenever costs are more than or less than allowances, the Contract Price shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect
 - (a) the difference between actual costs and the allowances under Section B.17.2.1 and
 - (b) changes in Contractor's costs under Section B.17.2.2.
- B.17.2.4 Unless Owner requests otherwise, Contractor shall provide to Owner a proposed fixed price for any allowance work prior to its performance.

B.18 SUBMITTALS, SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

- B.18.1 The Contractor shall prepare and keep current, for the Architect's/Engineer's approval (or for the approval of Owner's Authorized Representative if approval authority has not been delegated to the Architect/Engineer), a schedule and list of submittals which is coordinated with the Contractor's construction schedule and allows the Architect/Engineer reasonable time to review submittals. Owner reserves the right to finally approve the schedule and list of submittals. Submittals include, without limitation, Shop Drawings, Product Data, and Samples which are described below:
 - B.18.1.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor (including any sub-subcontractor), manufacturer, supplier, or distributor to illustrate some portion of the Work.
 - B.18.1.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.
 - B.18.1.3 Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.
- B.18.2 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review of submittals by the Architect/Engineer is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, or for approval of safety precautions or, unless otherwise specifically stated by the Architect/Engineer, of any construction means, methods, techniques, sequences or procedures, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect/Engineer's review of the Contractor's submittals shall not relieve the Contractor of its obligations under the Contract Documents. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which

the item is a component. Informational submittals upon which the Architect/Engineer is not expected to take responsive action may be so identified in the Contract Documents. Submittals which are not required by the Contract Documents may be returned by the Architect/Engineer without action.

- B.18.3 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect/Engineer Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect/Engineer without action.
- B.18.4 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
- B.18.5 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect/Engineer.
- B.18.6 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect/Engineer's review or approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect/Engineer in writing of such deviation at the time of submittal and (i) the Architect/Engineer has given written approval to the specific deviation as a minor change in the Work, or (ii) a Change Order has been executed by Owner authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar by the Architect/Engineer's review or approval thereof.
- B.18.7 In the event that Owner elects not to have the obligations and duties described under this Section B.18 performed by the Architect/Engineer, or in the event no Architect/Engineer is employed by Owner on the project, all obligations and duties assigned to the Architect/Engineer hereunder shall be performed by the Owner's Authorized Representative.

B.19 SUBSTITUTIONS

The Contractor may make Substitutions only with the consent of the Owner, after evaluation by the Owner's Authorized Representative and only if price or time change must be made through a Change Order, all other substitutions may be communicated through email. Substitutions shall be subject to the requirements of the bid documents. By making requests for Substitutions, the Contractor represents that the Contractor has personally investigated the proposed substitute product; represents that the Contractor will provide the same warranty for the Substitution that the Contractor would for the product originally specified unless approved otherwise; certifies that the cost data presented is complete and includes all related costs under this Contract including redesign costs, and waives all claims for additional costs related to the Substitution which subsequently become apparent; and will coordinate the installation of the accepted Substitution, making such changes as may be required for the Work to be completed in all respects.

B.20 USE OF PLANS AND SPECIFICATIONS

Plans, Specifications, and related Contract Documents furnished to Contractor by Owner or Owner’s Architect/Engineer shall be used solely for the performance of the Work under this Contract. Contractor and its Subcontractors and suppliers are authorized to use and reproduce applicable portions of such documents appropriate to the execution of the Work, but shall not claim any ownership or other interest in them beyond the scope of this Contract, and no such interest shall attach. Unless otherwise indicated, all common law, statutory and other reserved rights, in addition to copyrights, are retained by Owner.

B.21 FUNDS AVAILABLE AND AUTHORIZED

Owner reasonably believes at the time of entering into this Contract that sufficient funds are available and authorized for expenditure to finance the cost of this Contract within the Owner's appropriation or limitation. Contractor understands and agrees that, to the extent that in the event the Board of Commissioners of the County reduces, changes, eliminates, or otherwise modifies the funding the cost of this contract, the CONTRACTOR agrees to abide by any such decision, including termination of this agreement.

B.22 NO THIRD-PARTY BENEFICIARIES

Owner and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

SECTION C WAGES AND LABOR

C.1 MINIMUM WAGE RATES ON PUBLIC WORKS

Contractor shall comply fully with the provisions of ORS 279C.800 through 279C.870. Documents establishing those conditions, as determined by the Commissioner of the Bureau of Labor and Industries (BOLI), are included as attachments to or are incorporated by reference in the Contract Documents. Contractor shall pay workers at not less than the specified minimum hourly rate of wage, and shall include that requirement in all subcontracts.

C.2 PAYROLL CERTIFICATION; ADDITIONAL RETAINAGE; FEE REQUIREMENTS

C.2.1 In accordance with ORS 279C.845, the Contractor and every Subcontractor shall submit written certified statements to the Owner's Authorized Representative, on the form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker which the Contractor or the Subcontractor has employed on the project and further certifying that no worker employed on the project has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the Contract, which certificate and statement shall be verified by the oath of the Contractor or the Subcontractor that the Contractor or Subcontractor has read the certified statement, that the Contractor or Subcontractor knows the contents of the certified statement and that to the Contractor’s or Subcontractor's best knowledge and belief the certified statement is true. The certified statements shall set out accurately and completely the payroll records for the prior week including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Certified statements for each week during which the Contractor or Subcontractor has employed a

worker on the project shall be submitted once a month, by the fifth business day of the following month.

The Contractor and Subcontractors shall preserve the certified statements for a period of ten (10) years from the date of completion of the Contract.

- C.2.2 Pursuant to ORS 279C.845(7), the Owner shall retain 25 percent of any amount earned by the Contractor on this public works project until the Contractor has filed the certified statements required by section C.2.1. The Owner shall pay to the Contractor the amount retained under this subsection within 14 days after the Contractor files the required certified statements, regardless of whether a Subcontractor has failed to file certified statements.
- C.2.3 Pursuant to ORS 279C.845(8), the Contractor shall retain 25 percent of any amount earned by a first-tier Subcontractor on this public works project until the first-tier Subcontractor has filed with the Owner the certified statements required by C.2.1. Before paying any amount retained under this subsection, the Contractor shall verify that the first-tier Subcontractor has filed the certified statement. Within 14 days after the first-tier Subcontractor files the required certified statement the Contractor shall pay the first-tier Subcontractor any amount retained under this subsection.
- C.2.4 In accordance with statutory requirements, and administrative rules promulgated by the Commissioner of the Bureau of Labor and Industries, the fee required by ORS 279C.825(1) will be paid by Owner to the Commissioner.

C.3 PROMPT PAYMENT AND CONTRACT CONDITIONS

- C.3.1 Pursuant to ORS 279C.505 and as a condition to Owner's performance hereunder, the Contractor shall:
 - C.3.1.1 Make payment promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the Work provided for in this Contract.
 - C.3.1.2 Pay all contributions or amounts due the State Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the Contract.
 - C.3.1.3 Not permit any lien or claim to be filed or prosecuted against the Owner on account of any labor or material furnished. Contractor will not assign any claims that Contractor has against Owner, or assign any sums due by Owner, to Subcontractors, suppliers, or manufacturers, and will not make any agreement or act in any way to give Subcontractors a claim or standing to make a claim against the Owner.
 - C.3.1.4 Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
 - C.3.1.5 Demonstrate that an employee drug testing program is in place as follows:
 - (a) Contractor represents and warrants that Contractor has in place at the time of the execution of this Contract, and shall maintain during the term of this Contract, a Qualifying Employee Drug Testing Program for its employees that includes, at a minimum, the following:
 - (1) A written employee drug testing policy,

- (2) Required drug testing for all new Subject Employees or, alternatively, required testing of all Subject Employees every 12 months on a random selection basis, and
- (3) Required testing of a Subject Employee when the Contractor has reasonable cause to believe the Subject Employee is under the influence of drugs.

A drug testing program that meets the above requirements will be deemed a “Qualifying Employee Drug Testing Program.” For the purposes of this section, an employee is a “Subject Employee” only if that employee will be working on the project job site.

- (b) Contractor shall require each Subcontractor providing labor for the project to:
 - (1) Demonstrate to the Contractor that it has a Qualifying Employee Drug Testing Program for the Subcontractor’s Subject Employees, and represent and warrant to the Contractor that the Qualifying Employee Drug Testing Program is in place at the time of subcontract execution and will continue in full force and effect for the duration of the subcontract, or
 - (2) Require that the Subcontractor’s Subject Employees participate in the Contractor’s Qualifying Employee Drug Testing Program for the duration of the subcontract.

C.3.2 Pursuant to ORS 279C.515, and as a condition to Owner's performance hereunder, Contractor agrees:

C.3.2.1 If Contractor fails, neglects or refuses to pay promptly a person’s claim for labor or services that the person provides to the Contractor or a Subcontractor in connection with the project as such claim becomes due, the proper officer that represents the Owner may pay the amount of the claim and charge the amount of the payment against funds due or to become due Contractor under this Contract. Paying a claim in this manner shall not relieve the Contractor or the Contractor's surety from obligation with respect to an unpaid claim.

C.3.2.2 If the Contractor or a first-tier Subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the public contract for a public improvement within thirty (30) Days after receiving payment from Owner or a contractor, the contractor or first-tier Subcontractor owes the person the amount due plus interest charges that begin at the end of the 10-Day period within which payment is due under ORS 279C.580(4) and that end upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest on the amount due is nine percent per annum. The amount of interest may not be waived.

C.3.2.3 If the Contractor or a Subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the Contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. Every contract related to this Contract must contain a similar clause.

C.3.3 Pursuant to ORS 279C.580, Contractor shall include in each subcontract for property or services the Contractor enters into with a first-tier Subcontractor, including a material supplier, for the purpose of performing a construction contract:

- C.3.3.1 A payment clause that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under the subcontract within ten (10) Days out of amounts the Owner pays to the Contractor under the Contract;
 - C.3.3.2 A clause that requires the Contractor to provide the first-tier Subcontractor with a standard form that the first-tier Subcontractor may use as an application for payment or as another method by which the Subcontractor may claim a payment due from the Contractor;
 - C.3.3.3 A clause that requires the Contractor, except as otherwise provided in this paragraph, to use the same form and regular administrative procedures for processing payments during the entire term of the subcontract. The Contractor may change the form or the regular administrative procedures the Contractor uses for processing payments if the Contractor:
 - (a) Notifies the Subcontractor in writing at least 45 days before the date on which the Contractor makes the change; and
 - (b) Includes with the written notice a copy of the new or changed form or a description of the new or changed procedure.
 - C.3.3.4 An interest penalty clause that obligates the Contractor, if the Contractor does not pay the first-tier Subcontractor within thirty (30) Days after receiving payment from Owner, to pay the first-tier Subcontractor an interest penalty on amounts due in each payment the Contractor does not make in accordance with the payment clause included in the subcontract under Section C.3.3.1 of this subsection. Contractor or first-tier Subcontractor is not obligated to pay an interest penalty if the only reason that the Contractor or first-tier Subcontractor did not make payment when payment was due is that the Contractor or first-tier Subcontractor did not receive payment from Owner or Contractor when payment was due. The interest penalty applies to the period that begins on the day after the required payment date and that ends on the date on which the amount due is paid; and is computed at the rate specified in ORS 279C.515(2).
 - C.3.3.5 A clause which requires each of Contractor's Subcontractors to include, in each of their contracts with lower-tier Subcontractors or suppliers, provisions to the effect that the first-tier Subcontractor shall pay its lower-tier Subcontractors and suppliers in accordance with the provisions of paragraphs C.3.3.1 through C.3.3.4 above and requiring each of their Subcontractors and suppliers to include such clauses in their subcontracts and supply contracts.
- C.3.4 All employers, including Contractor, that employ subject workers who work under this contract in the Marion County shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors complies with these requirements.

C.4 PAYMENT FOR MEDICAL CARE

Pursuant to ORS 279C.530, and as a condition to Owner's performance hereunder, Contractor shall promptly, as due, make payment to any person, partnership, association or corporation furnishing medical, surgical, and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor, all sums of which the Contractor agrees to pay for such services and all moneys and sums which the Contractor has collected or deducted from the wages of personnel pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

C.5 HOURS OF LABOR

As a condition to Owner's performance hereunder, Contractor shall comply with ORS 279C.520, as amended from time to time and incorporated herein by this reference:

Pursuant to ORS 279C.520 and as a condition to Owner's performance hereunder, no person shall be employed to perform Work under this Contract for more than ten (10) hours in any one day or forty (40) hours in any one week, except in cases of necessity, emergency or where public policy absolutely requires it. In such instances, Contractor shall pay the employee at least time and a half pay:

- C.5.1 For all overtime in excess of eight (8) hours a day or forty (40) hours in any one week when the work week is five consecutive Days, Monday through Friday; or
- C.5.2 For all overtime in excess of ten (10) hours a day or forty (40) hours in any one week when the work week is four consecutive Days, Monday through Friday; and
- C.5.3 For all Work performed on Saturday and on any legal holiday specified in ORS 279C.540.

This section C.5 will not apply to Contractor's Work under this Contract if Contractor is currently a party to a collective bargaining agreement with any labor organization.

This Section C.5 shall not excuse Contractor from completion of the Work within the time required under this Contract.

SECTION D CHANGES IN THE WORK

D.1 CHANGES IN WORK

- D.1.1 The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the Owner's Authorized Representative, and then only in a manner consistent with the Change Order provisions of this Section D.1 and after any necessary approvals required by public contracting laws have been obtained. Otherwise, a formal contract amendment is required, which shall not be effective until its execution by the parties to this Contract and all approvals required by public contracting laws have been obtained.
- D.1.2 It is mutually agreed that changes in Plans, quantities, or details of construction are inherent in the nature of construction and may be necessary or desirable during the course of construction. Within the general scope of this Contract, the Owner's Authorized Representative may at any time, without notice to the sureties and without impairing the Contract, require changes consistent with this Section D.1. All Change Order Work shall be executed under the conditions of the Contract Documents. Such changes may include, but are not limited to:
 - D.1.2.1 Modification of specifications and design.
 - D.1.2.2 Increases or decreases in quantities.
 - D.1.2.3 Increases or decreases to the amount of Work.
 - D.1.2.4 Addition or elimination of any Work item.

- D.1.2.5 Change in the duration of the project.
- D.1.2.6 Acceleration or delay in performance of Work.
- D.1.2.7 Deductive changes.

Deductive changes are those that reduce the scope of the Work, and shall be made by mutual agreement whenever feasible, as determined by Owner. In cases of suspension or partial termination under Section J, Owner reserves the right to unilaterally impose a deductive change and to self-perform such Work, for which the provisions of B.13 (Owner’s Right to Do Work) shall then apply.

Adjustments in compensation shall be made under the provisions of D.1.3, in which costs for deductive changes shall be based upon a Direct Costs adjustment together with the related percentage markup specified for profit, Overhead and other indirect costs, unless otherwise agreed to by Owner.

D.1.3 The Owner and Contractor agree that Change Order Work shall be administered and compensated according to the following:

- D.1.3.1 Unit pricing may be utilized at the Owner’s option when unit prices or solicitation alternates were provided that established the cost for additional Work, and a binding obligation exists under the Contract on the parties covering the terms and conditions of the additional Work.
- D.1.3.2 If the Owner elects not to utilize unit pricing, or in the event that unit pricing is not available or appropriate, fixed pricing may be used for Change Order Work. In fixed pricing the basis of payments or total price shall be agreed upon in writing between the parties to the Contract, and shall be established before the Work is done whenever feasible. The mark-ups set forth in D.1.3.3 shall be utilized by the parties as a guide in establishing fixed pricing, and will not be exceeded by Owner without adequate justification. Cost and price data relating to Change Orders shall be supplied by Contractor to Owner upon request, but Owner shall be under no obligation to make such requests.
- D.1.3.3 In the event that unit pricing and fixed pricing are not utilized, then Change Order Work shall be performed on a cost reimbursement basis for Direct Costs. Such Work shall be compensated on the basis of the actual, reasonable and allowable cost of labor, equipment, and material furnished on the Work performed. In addition, the following markups shall be added to the Contractor's or Subcontractor's Direct Costs as full compensation for profit, Overhead and other indirect costs for Work directly performed with the Contractor’s or Subcontractor’s own forces:

- On Labor..... 15%
- On Equipment..... 10%
- On Materials..... 10%

When Change Order Work under D.1.3.3 is invoiced by an authorized Subcontractor at any level, each ascending tier Subcontractor or Contractor will be allowed a 5% supplemental mark-up on each piece of subcontract Work covered by such Change Order.

Payments made to the Contractor shall be complete compensation for Overhead, profit, and all costs that were incurred by the Contractor or by other forces furnished by the Contractor,

including Subcontractors, for Change Order Work. Owner may establish a maximum cost for Change Order Work under this Section D.1.3.3, which shall not be exceeded for reimbursement without additional written authorization from Owner. Contractor shall not be required to complete such Change Order Work without additional authorization.

- D.1.4 Any necessary adjustment of Contract Time that may be required as a result of a Change Order must be agreed upon by the parties before the start of the Change Order Work unless Owner's Authorized Representative authorizes Contractor to start the Work before agreement on Contract Time adjustment. Contractor shall submit any request for additional compensation (and additional Contract Time if Contractor was authorized to start Work before an adjustment of Contract Time was approved) as soon as possible but no later than thirty (30) Days after receipt of the Change Order. If Contractor's request for additional compensation or adjustment of Contract Time is not made within the thirty (30) day time limit, Contractor's requests pertaining to that Change Order are barred. The thirty (30) day time limit for making requests shall not be extended for any reason, including without limitation Contractor's claimed inability to determine the amount of additional compensation or adjustment of Contract Time, unless an extension is granted in writing by Owner. If the Owner's Authorized Representative denies Contractor's request for additional compensation or adjustment of Contract Time, Contractor may proceed to file a Claim under Section D.3, Claims Review Process. No other reimbursement, compensation, or payment will be made, except as provided in Section D.1.5 for impact claims.
- D.1.5 If any Change Order Work under Section D.1.3 causes an increase or decrease in the Contractor's cost of, or the Contract Time required for the performance of, any other part of the Work under this Contract, the Contractor must submit a written request to the Owner's Authorized Representative, setting forth the nature and specific extent of the request, including all time and cost impacts against the Contract as soon as possible, but no later than thirty (30) Days after receipt of the Change Order by Contractor.

The thirty (30) day time limit applies to claims of Subcontractors, suppliers, or manufacturers that may be affected by the Change Order and that request additional compensation or an extension of Contract Time to perform; Contractor has responsibility for contacting its Subcontractors, suppliers, or manufacturers within the thirty (30) day time limit, and including their requests with Contractor's requests. If the request involves Work to be completed by Subcontractors, or materials to be furnished by suppliers or manufacturers, such requests shall be submitted to the Contractor in writing with full analysis and justification for the compensation and additional Contract Time requested. The Contractor will analyze and evaluate the merits of the requests submitted by Subcontractors, suppliers, and manufacturers to Contractor prior to including those requests and Contractor's analysis and evaluation of those requests with Contractor's requests for additional compensation or Contract Time that Contractor submits to the Owner's Authorized Representative. Failure of Subcontractors, suppliers, manufacturers or others to submit their requests to Contractor for inclusion with Contractor's requests submitted to Owner's Authorized Representative within the time period and by the means described in this section shall constitute a waiver of these Subcontractor claims. The Owner's Authorized Representative and the Owner will not consider direct requests or claims from Subcontractors, suppliers, manufacturers or others not a party to this Contract. The consideration of such requests and claims under this section does not give any person, not a party to the Contract the right to bring a claim against the Marion County, whether in this claims process, in litigation, or in any dispute resolution process.

If the Owner's Authorized Representative denies the Contractor's request for additional compensation or an extension of Contract Time, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process.

D.1.6 No request or Claim by the Contractor for additional costs or an extension of Contract Time shall be allowed if made after receipt of final payment application under this Contract. Contractor agrees to submit its final payment application within ninety (90) days after Substantial Completion, unless written extension is granted by Owner. Contractor shall not delay final payment application for any reason, including without limitation nonpayment of Subcontractors, suppliers, manufacturers or others not a party to this Contract, or lack of resolution of a dispute with Owner or any other person of matters arising out of or relating to the Contract. If Contractor fails to submit its final payment application within ninety (90) days after Substantial Completion, and Contractor has not obtained written extension by Owner, all requests or Claims for additional costs or an extension of Contract Time shall be waived.

D.1.7 It is understood that changes in the Work are inherent in construction of this type. The number of changes, the scope of those changes, and the effect they have on the progress of the original Work cannot be defined at this time. The Contractor is notified that numerous changes may be required and that there will be no compensation made to the Contractor directly related to the number of changes. Each change will be evaluated for extension of Contract Time and increase or decrease in compensation based on its own merit.

D.2 DELAYS

D.2.1 Delays in construction include "Avoidable Delays", which are defined in Section D.2.1.1, and "Unavoidable Delays", which are defined in Section D.2.1.2. The effect of Avoidable Delays is described in Section D.2.2 and the effect of Unavoidable Delays is described in Section D.2.3.

D.2.1.1 Avoidable Delays include any delays other than Unavoidable Delays, and include delays that otherwise would be considered Unavoidable Delays but that:

- (a) Could have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its Subcontractors.
- (b) Affect only a portion of the Work and do not necessarily prevent or delay the prosecution of other parts of the Work nor the completion of the whole Work within the Contract Time.
- (c) Do not impact activities on the accepted critical path schedule.
- (d) Are associated with the reasonable interference of other contractors employed by the Owner that do not necessarily prevent the completion of the whole Work within the Contract Time.

D.2.1.2 Unavoidable Delays include delays other than Avoidable Delays that are:

- (a) Caused by any actions of the Owner, Owner's Authorized Representative, or any other employee or agent of the Owner, or by separate contractor employed by the Owner.
- (b) Caused by any site conditions which differ materially from what was represented in the Contract Documents or from conditions that would normally be expected to exist and be

inherent to the construction activities defined in the Contract Documents. The Contractor shall notify the Owner's Authorized Representative immediately of differing site conditions before the area has been disturbed, but not more than fourteen (14) days after the condition has been encountered. The Owner's Authorized Representative will investigate the area and make a determination as to whether or not the conditions differ materially from either the conditions stated in the Contract Documents or those which could reasonably be expected in execution of this particular Contract. If Contractor and the Owner's Authorized Representative agree that a differing site condition exists, any additional compensation or additional Contract Time will be determined based on the process set forth in Section D.1.5 for Change Order Work. If the Owner's Authorized Representative disagrees that a differing site condition exists and denies Contractor's request for additional compensation or Contract Time, Contractor may proceed to file a Claim under Section D.3, Claims Review Process.

- (c) Caused by Force Majeure acts, events or occurrences that could not have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its Subcontractors.
- (d) Caused by adverse weather conditions. Any adverse weather conditions must be substantiated by documentary evidence that weather conditions were abnormal for the specific time period claimed, could not have been anticipated by the Contractor, and adversely impacted the project in a manner that could not be avoided by rescheduling the Work or by implementing measures to protect against the weather so that the Work could proceed. A rain, windstorm, high water, or other natural phenomenon for the specific locality of the Work, which might reasonably have been anticipated from the previous 10-year historical records of the general locality of the Work, shall not be construed as abnormal. The parties agree that rainfall greater than the following levels cannot be reasonably anticipated:
 - (1) Daily rainfall equal to, or greater than, 0.50 inch during a month when the monthly rainfall exceeds the normal monthly average by twenty-five percent (25 %) or more.
 - (2) daily rainfall equal to, or greater than, 0.75 inch at any time.

The Office of the Environmental Data Service of the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce nearest the project site shall be considered the official agency of record for weather information.

D.2.2 Except as otherwise provided in ORS 279C.315, Contractor shall not be entitled to additional compensation or additional Contract Time for Avoidable Delays.

D.2.3 In the event of Unavoidable Delays, based on principles of equitable adjustment, Contractor may be entitled to the following:

D.2.3.1 Contractor may be entitled to additional compensation or additional Contract Time, or both, for Unavoidable Delays described in Section D.2.1.2 (a) and (b).

D.2.3.2 Contractor may be entitled to additional Contract Time for Unavoidable Delays described in Section D.2.1.2 (c) and (d).

In the event of any requests for additional compensation or additional Contract Time, or both, as applicable, arising under this Section D.2.3 for Unavoidable Delays, other than requests for additional compensation or additional Contract Time for differing site conditions for which a review process is established under Section D.2.1.2 (b), Contractor shall submit a written notification of the delay to the Owner's Authorized Representative within two (2) Days of the occurrence of the cause of the delay. This written notification shall state the cause of the potential delay, the project components impacted by the delay, and the anticipated additional Contract Time or the additional compensation, or both, as applicable, resulting from the delay. Within seven (7) Days after the cause of the delay has been mitigated, or in no case more than thirty (30) Days after the initial written notification, the Contractor shall submit to the Owner's Authorized Representative, a complete and detailed request for additional compensation or additional Contract Time, or both, as applicable, resulting from the delay.

If the Owner's Authorized Representative denies Contractor's request for additional compensation or adjustment of Contract Time, the Contractor may proceed to file a Claim under Section D.3, Claims Review Process.

If Contractor does not timely submit the notices required under this Section D.2., then unless otherwise prohibited by law, Contractor's Claim shall be barred.

D.3 CLAIMS REVIEW PROCESS

- D.3.1 All Contractor Claims shall be referred to the Owner's Authorized Representative for review. Contractor's Claims, including Claims for additional compensation or additional Contract Time, shall be submitted in writing by Contractor to the Owner's Authorized Representative within five (5) Days after a denial of Contractor's initial request for an adjustment of Contract terms, payment of money, extension of Contract Time or other relief, provided that such initial request has been submitted in accordance with the requirements and within the time limits established in these General Conditions. Within thirty (30) Days after the initial Claim, Contractor shall submit to the Owner's Authorized Representative, a complete and detailed description of the Claim (the "Detailed Notice") that includes all information required by Section D.3.2. Unless the Claim is made in accordance with these time requirements, it shall be waived.
- D.3.2 The Detailed Notice of the Claim shall be submitted in writing by Contractor and shall include a detailed, factual statement of the basis of the Claim, pertinent dates, Contract provisions which support or allow the Claim, reference to or copies of any documents which support the Claim, the dollar value of the Claim, and the Contract Time extension requested for the Claim. If the Claim involves Work to be completed by Subcontractors, the Contractor will analyze and evaluate the merits of the Subcontractor claim prior to forwarding it and that analysis and evaluation to the Owner's Authorized Representative. The Owner's Authorized Representative and the Owner will not consider direct claims from Subcontractors, suppliers, manufacturers, or others not a party to this Contract. Contractor agrees that it will make no agreement, covenant, or assignment, nor will it commit any other act that will permit or assist any Subcontractor, supplier, manufacturer, or other to directly or indirectly make a claim against Owner.
- D.3.3 The Owner's Authorized Representative will review all Claims and take one or more of the following preliminary actions within ten (10) Days of receipt of the Detailed Notice of a Claim: (1) request additional supporting information from the Contractor; (2) inform the Contractor and Owner in writing of the time required for adequate review and response; (3) reject the Claim in whole or in part

and identify the reasons for rejection; (4) based on principles of equitable adjustment, recommend approval of all or part of the Claim; or (5) propose an alternate resolution.

- D.3.4 The Owner's Authorized Representative's decision shall be final and binding on the Contractor unless appealed by written notice to the Owner within fifteen (15) Days of receipt of the decision. The Contractor must present written documentation supporting the Claim within fifteen (15) Days of the notice of appeal. After receiving the appeal documentation, the Owner, through its Chief Administrative Officer (CAO), shall review the materials and render a decision within thirty (30) Days after receiving the appeal documents.
- D.3.5 The decision of the Owner shall be final and binding unless the Contractor delivers to the Owner its requests for mediation, which shall be a non-binding process, within fifteen (15) Days of the date of the Owner's decision.
- D.3.6 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Contractor and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.
- D.3.7 The mediation process will be considered to have commenced as of the date the Contractor delivers the request. Both parties acknowledge and agree that participation in mediation is a prerequisite to commencement of litigation of any disputes relating to the Contract. Both parties further agree to exercise their best efforts in good faith to resolve all disputes within sixty (60) Days of the commencement of the mediation through the mediation process set forth herein.

In the event that a lawsuit must be filed within this sixty (60) day period in order to preserve a cause of action, the parties agree that notwithstanding the filing, they shall proceed diligently with the mediation to its conclusion prior to actively prosecuting the lawsuit, and shall seek from the Court in which the lawsuit is pending such stays or extensions, including the filing of an answer, as may be necessary to facilitate the mediation process. Further, in the event settlements are reached on any issues through mediation, the parties agree to promptly submit the appropriate motions and orders documenting the settlement to the Court for its signature and filing.

- D.3.8 The mediator shall be an individual mutually acceptable to both parties, but in the absence of agreement each party shall select a temporary mediator and the temporary mediators shall jointly select the permanent mediator. Each party shall pay its own costs for the time and effort involved in mediation. The cost of the mediator shall be split equally between the two parties. Both parties agree to exercise their best effort in good faith to resolve all disputes in mediation. Participation in mediation is a mandatory requirement of both the Owner and the Contractor. The schedule, time and place for mediation will be mutually acceptable, or, failing mutual agreement, shall be as established by the mediator. The parties agree to maintain the confidentiality of mediation, if any, and shall execute all necessary documents to give effect to such confidentiality to the extent allowed by law. In any event, the parties shall not subpoena the mediator or otherwise require the mediator to produce records, notes or work product, or to testify in any future proceedings as to information disclosed or representations made in the course of mediation, except to the extent disclosure is required by law.

D.3.9 Owner may at any time and at its discretion issue a construction change directive adding to, modifying or reducing the scope of Work. Contractor and Owner shall negotiate the need for any additional compensation or additional Contract Time related to the change, subject to the procedures for submitting requests or Claims for additional compensation or additional Contract Time established in this Section D. Unless otherwise directed by Owner's Authorized Representative, Contractor shall proceed with the Work while any request or Claim is pending, including but not limited to, a request or Claim for additional compensation or additional Contract Time resulting from Work under a Change Order or construction change directive. Regardless of the review period or the final decision of the Owner's Authorized Representative, the Contractor shall continue to diligently pursue the Work as identified in the Contract Documents. In no case is the Contractor justified or allowed to cease Work without a written stop work order from the Owner or Owner's Authorized Representative.

SECTION E PAYMENTS

E.1 SCHEDULE OF VALUES

The Contractor shall submit, at least ten (10) Days prior to submission of its first application for progress payment, a schedule of values ("Schedule of Values") for the contracted Work. This schedule will provide a breakdown of values for the contracted Work and will be the basis for progress payments. The breakdown will demonstrate reasonable, identifiable, and measurable components of the Work. Unless objected to by the Owner's Authorized Representative, this schedule shall be used as the basis for reviewing Contractor's applications for payment. If objected to by Owner's Authorized Representative, Contractor shall revise the schedule of values and resubmit the same for approval of Owner's Authorized Representative.

E.2 APPLICATIONS FOR PAYMENT

E.2.1 Owner shall make progress payments on the Contract monthly as Work progresses. Payments shall be based upon estimates of Work completed and the Schedule of Values. All payments shall be approved by the Owner's Authorized Representative. A progress payment shall not be considered acceptance or approval of any Work or waiver of any defects therein. Owner shall pay to Contractor interest on the progress payment, not including retainage, due the Contractor. The interest shall commence thirty (30) Days after the receipt of invoice ("application for payment") from the Contractor or fifteen (15) Days after the payment is approved by the Owner's Authorized Representative, whichever is the earlier date. The rate of interest shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is thirty (30) Days after receipt of the application for payment from the Contract or fifteen (15) Days after the payment is approved by the Owner, whichever is the earlier date, but the rate of interest shall not exceed thirty (30) percent. Notwithstanding the foregoing, in instances when an application for payment is filled out incorrectly, or when there is any defect or impropriety in any submitted application or when there is a good faith dispute, Owner shall so notify the Contractor within fifteen (15) Days stating the reason or reasons the application for payment is defective or improper or the reasons for the dispute. A defective or improper application for payment, if corrected by the Contractor within seven (7) Days of being notified by the Owner, shall not cause a payment to be made later than specified in this section unless interest is also paid. Accrual of interest will be postponed when payment on the principal is delayed because of disagreement between the Owner and the Contractor.

Owner reserves the right, instead of requiring the Contractor to correct or resubmit a defective or improper application for payment, to reject the defective or improper portion of the application for payment and pay the remainder of the application for payment that is correct and proper. Owner makes this election; the Contractor will be required to arrange to receive EFT/ACH payments.

E.2.2 Contractor shall submit to the Owner's Authorized Representative, an application for each payment and, if required, receipts or other vouchers showing payments for materials and labor, including payments to Subcontractors. Contractor shall include, in its application for payment, a schedule of the percentages of the various parts of the Work completed, based on the Schedule of Values which shall aggregate to the payment application total, and shall include, on the face of each copy thereof, a certificate in substantially the following form:

"I, the undersigned, hereby certify that the above bill is true and correct, and the payment therefore, has not been received.

Signed: _____”

E.2.3 Generally, applications for payment will be accepted only for materials that have been installed. Under special conditions, applications for payment for stored materials will be accepted at Owner's sole discretion. Such a payment, if made, will be subject to the following conditions:

E.2.3.1 The request for stored material shall be submitted at least thirty (30) Days in advance of the application for payment on which it appears. Applications for payment shall be entertained for major equipment, components or expenditures only.

E.2.3.2 The Contractor shall submit applications for payment showing the quantity and cost of the material stored.

E.2.3.3 The material shall be stored in a bonded warehouse and Owner's Authorized Representative shall be granted the right to access the material for the purpose of removal or inspection at any time during the Contract Period.

E.2.3.4 The Contractor shall name the Owner as co- insured on the insurance policy covering the full value of the property while in the care and custody of the Contractor until it is installed. A certificate noting this coverage shall be issued to the Owner.

E.2.3.5 Payments shall be made for materials only. The submitted amount of the application for payment shall be reduced by the cost of transportation and for the cost of an inspector to check the delivery at out of town storage sites. The cost of said inspection shall be borne solely by the Contractor.

E.2.3.6 Within sixty (60) Days of the application for payment, the Contractor shall submit evidence of payment covering the material stored.

E.2.3.7 Payment for stored materials shall in no way indicate acceptance of the materials or waive any rights under this Contract for the rejection of the Work or materials not in conformance with the Contract Documents.

E.2.3.8 All required documentation must be submitted with the respective application for payment.

- E.2.4 The Owner reserves the right to withhold all or part of a payment, or may nullify in whole or part any payment previously made, to such extent as may be necessary in the Owner's opinion to protect the Owner from loss because of:
 - E.2.4.1 Work that is defective and not remedied, or that has been demonstrated or identified as failing to conform with the Contract Documents,
 - E.2.4.2 third party claims filed or evidence reasonably indicating that such claims will likely be filed unless security acceptable to the Owner is provided by the Contractor;
 - E.2.4.3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment (in which case Owner may issue checks made payable jointly to Owner and such unpaid persons under this provision, or directly to Subcontractors and suppliers at any level under Section C.3.2.1);
 - E.2.4.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Price;
 - E.2.4.5 damage to the Owner or another contractor;
 - E.2.4.6 reasonable evidence that the Work will not be completed within the Contract Time required by the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
 - E.2.4.7 failure to carry out the Work in accordance with the Contract Documents; or
 - E.2.4.8 assessment of liquidated damages when withholding is made for offset purposes.
- E.2.5 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:
 - E.2.5.1 Take that portion of the Contract Price properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Price allocated to that portion of the Work in the Schedule of Values, less retainage as provided in Section E.5. Pending final determination of cost to the Owner of changes in the Work, no amounts for changes in the Work can be included in application for payment until the Contract Price has been adjusted by Change Order;
 - E.2.5.2 Add that portion of the Contract Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner pursuant to Section E.2.3, suitably stored off the site at a location agreed upon in writing), less retainage as provided in Section E.5;
 - E.2.5.3 Subtract the aggregate of previous payments made by the Owner; and
 - E.2.5.4 Subtract any amounts for which the Owner's Authorized Representative has withheld or nullified payment as provided in the Contract Documents.

- E.2.6 Contractor's applications for payment may not include requests for payment for portions of the Work for which the Contractor does not intend to pay to a Subcontractor or material supplier.
- E.2.7 The Contractor warrants to Owner that title to all Work covered by an application for payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an application for payment all Work for which payments are received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.
- E.2.8 If Contractor disputes any determination by Owner's Authorized Representative regarding any application for payment, Contractor nevertheless shall continue to prosecute expeditiously the Work. No payment made hereunder shall be or be construed to be final acceptance or approval of that portion of the Work to which such partial payment relates or shall relieve Contractor of any of its obligations hereunder.

E.3 PAYROLL CERTIFICATION REQUIREMENT

Payroll certification is required before payments are made on the Contract. Refer to Section C.2 for this information.

E.4 DUAL PAYMENT SOURCES

Contractor shall not be compensated for Work performed under this Contract from any state agency other than the agency that is a party to this Contract.

E.5 RETAINAGE

E.5.1 Retainage shall be withheld and released in accordance with ORS 279C.550 to 279C.580:

- E.5.1.1 Owner reserves the right in its sole discretion to not withhold retainage from progress payments or to begin withholding retainage at any time. If Owner withholds retainage from progress payments the amount to be retained will not exceed five percent of the payment. As Work progresses, Owner may reduce the amount of the retainage and may eliminate retainage on any remaining monthly Contract payments after 50 percent of the Work under the Contract is completed if, in the Owner's opinion, such Work is progressing satisfactorily. Elimination or reduction of retainage shall be allowed only upon written application by the Contractor, which application shall include written approval of Contractor's surety; except that when the Work is 97-1/2 percent completed the Owner may, at its discretion and without application by the Contractor, reduce the retained amount to 100 percent of the value of the Work remaining to be done. Upon receipt of written application by the Contractor, Owner shall respond in writing within a reasonable time.
- E.5.1.2 If retainage is withheld, unless the Contractor requests and the Owner accepts a form of retainage described in options (a) or (b) below, the Owner will deposit that retainage in an interest-bearing account, established through the Owner, in a bank, savings bank, trust company or savings association for the benefit of Owner, with interest from such account accruing to the Contractor as required by ORS 279C.560. In accordance with the provisions of ORS 279C.560 and any applicable administrative rules, unless the Owner finds in writing that accepting bonds, securities or other instruments described in option (a) below or a security bond described in option (b)

below poses an extraordinary risk that is not typically associated with the bond, security or instrument, the Owner will approve the Contractor's written request:

- (a) to be paid amounts which would otherwise have been retained from progress payments where Contractor has deposited acceptable bonds, securities or other instruments of equal value with Owner or in a custodial account or other mutually agreed account satisfactory to Owner, with an approved bank or trust company to be held in lieu of the cash retainage for the benefit of Owner. Interest or earnings on the bonds, securities or other instruments shall accrue to the Contractor. The Contractor shall execute and provide such documentation and instructions respecting the bonds, securities and other instruments as the Owner may require to protect its interests. To be permissible the bonds, securities and other instruments must be of a character approved by the Chief Administrative Officer, including but not limited to:
 - (1) Bills, certificates, notes or bonds of the United States.
 - (2) Other obligations of the United States or agencies of the United States.
 - (3) Obligations of a corporation wholly owned by the federal government.
 - (4) Indebtedness of the Federal National Mortgage Association.
 - (5) General obligation bonds of the State of Oregon or a political subdivision of the State of Oregon.
 - (6) Irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008; or
- (b) that the Contractor be allowed, with the approval of the Owner, to deposit a surety bond for the benefit of Owner, in a form acceptable to Owner, in lieu of all or a portion of funds retained, or to be retained. Such bond and any proceeds therefrom shall be made subject to all claims and liens in the manner and priority as set forth for retainage under ORS 279C.550 to 279C.570 and 279C.600 to ORS 279C.625.

Where the Owner has accepted the Contractor's election of option (a) or (b) above, Owner may recover from Contractor any additional costs incurred through such election by reducing Contractor's final payment. Where the Owner has agreed to Contractor's request to deposit a surety bond under option (b), Contractor shall accept like bonds from Subcontractors and suppliers on the project from which Contractor has required retainage.

- (c) For a contract over \$500,000, if the Contractor requests that the Owner deposit the retainage in an interest-bearing escrow account under ORS 279C.570(2), the Contractor shall execute such documentation and instructions respecting the interest-bearing escrow account as the Owner may require to protect its interests, including but not limited to a provision that no funds may be paid from the account to anyone without the Owner's advance written authorization.

- (d) For a contract of \$500,000 or less, the Owner shall deposit the retainage in an interest-bearing account under ORS 279C.560(5). The Owner will use an interest-bearing account in a bank, savings bank, trust company or savings association as provided under ORS 279C.560(5).

E.5.1.3 The retainage held by Owner shall be included in and paid to the Contractor as part of the final payment of the Contract Price. The Owner shall pay to Contractor interest at the rate of one and one-half percent per month on the final payment due Contractor, interest to commence thirty (30) Days after the Work under the Contract has been completed and accepted and to run until the date Contractor shall notify Owner in writing when the Contractor considers the Work complete and Owner shall, within fifteen (15) Days after receiving the written notice, either accept the Work or notify the Contractor of Work yet to be performed on the Contract. If Owner does not within the time allowed notify the Contractor of Work yet to be performed to fulfill contractual obligations, the interest provided by this subsection shall commence to run thirty (30) Days after the end of the 15-Day period.

E.5.1.4 In accordance with the provisions of ORS 279C.560, if the Owner accepts bonds, securities or other instruments deposited as provided in paragraph (a) of subsection E.5.1.2, the Owner shall reduce the moneys held as retainage in an amount equal to the value of the bonds, securities and other instruments and pay the amount of the reduction to the Contractor in accordance with ORS 279C.570.

E.5.1.5 Contractor agrees that if Contractor elects to reserve retainage from any progress payment due to any Subcontractor or supplier, such retainage shall not exceed five percent of the payment, and the Contractor shall comply with all applicable legal requirements.

E.5.1.6 The Contractor shall comply with all applicable legal requirements for withholding and releasing retainage and for prompt payments, including but not limited to those in ORS Chapters 279C and 701, and 49 CFR 26.29.

E.5.2 As provided in subsections C.2.2 and C.2.3, additional withholding in the amount of 25% of amounts earned shall be withheld and released in accordance with ORS 279C.845(7) when the Contractor fails to file certified statements as required by section C.2.1.

E.6 FINAL PAYMENT

E.6.1 Upon completion of all the Work under this Contract, the Contractor shall notify the Owner's Authorized Representative, in writing, that Contractor has completed Contractor's part of the Contract and shall request final payment. Upon receipt of such notice the Owner's Authorized Representative will inspect the Work, and if acceptable, submit to the Owner a recommendation as to acceptance of the completed Work and the final estimate of the amount due the Contractor. If the Work is not acceptable, Owner will notify Contractor within fifteen (15) Days of Contractor's request for final payment. Upon approval of this final estimate by the Owner and compliance by the Contractor with provisions in Section K.3 AFFIDAVIT/RELEASE OF LIENS AND CLAIMS, and other provisions as may be applicable, the Owner shall pay to the Contractor all monies due under the provisions of these Contract Documents.

E.6.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Owner's Authorized Representative (1) a notarized affidavit/release of liens and claims in a form satisfactory to Owner that states that payrolls, bills for materials and equipment, and other

indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least thirty (30) Days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

- E.6.3 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final application for payment.

SECTION F JOB SITE CONDITIONS

F.1 USE OF PREMISES

Contractor shall confine equipment, storage of materials and operation of Work to the limits indicated by Contract Documents, law, ordinances, permits or directions of the Owner's Authorized Representative. Contractor shall follow the Owner's Authorized Representative's instructions regarding use of premises, if any.

F.2 PROTECTION OF WORKERS, PROPERTY, AND THE PUBLIC

- F.2.1 Contractor shall maintain continuous and adequate protection of all of the Work from damage, and shall protect the Owner's Authorized Representative, workers and property from injury or loss arising in connection with this Contract. Contractor shall remedy acceptably to the Owner, any damage, injury, or loss, except such as may be directly due to errors in the Contract Documents or caused by authorized representatives or personnel of the Owner. Contractor shall adequately protect adjacent property as provided by law and the Contract Documents.
- F.2.2 Contractor shall take all necessary precautions for the safety of all personnel on the job site and shall comply with the Contract Documents and all applicable provisions of federal, state and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed. Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards for protection of workers and the public against any hazards created by construction. Contractor shall designate a responsible employee or associate on the Work site, whose duty shall be the prevention of accidents. The name and position of the person designated shall be reported to the Owner's Authorized Representative. The Owner's Authorized Representative has no responsibility for Work site safety. Work site safety is the responsibility of the Contractor.

- F.2.3 Contractor shall not enter upon private property without first obtaining permission from the property owner or its duly authorized representative. Contractor shall be responsible for the preservation of all public and private property along and adjacent to the Work contemplated under the Contract and shall use every precaution necessary to prevent damage thereto. In the event the Contractor damages any property, the Contractor shall at once notify the property owner and make, or arrange to make, full restitution. Contractor shall immediately and in writing, report to the Owner's Authorized Representative, all pertinent facts relating to such property damage and the ultimate disposition of the claim for damage.
- F.2.4 Contractor is responsible for protection of adjacent work areas including impacts brought about by activities, equipment, labor, utilities, and materials on the site.
- F.2.5 Contractor shall at all times direct its activities in such a manner as to minimize adverse effects on the environment. Handling of all materials will be conducted so no release will occur that may pollute or become hazardous.
- F.2.6 In an emergency affecting the safety of life or of the Work or of adjoining property, the Contractor, without special instruction or authorization from the Owner's Authorized Representative, shall act reasonably to prevent threatened loss or injury, and shall so act, without appeal, if instructed by the Owner's Authorized Representative. Any compensation claimed by the Contractor on account of emergency work shall be determined in accordance with Section D.

F.3 CUTTING AND PATCHING

- F.3.1 Contractor shall be responsible for coordinating all cutting, fitting, or patching of the Work to make its several parts come together properly and fit to receive or be received by work of other contractors or Subcontractors shown upon, or reasonably implied by, the Contract Documents.
- F.3.2 Contractor shall be responsible for restoring all cut, fitted, or patched surfaces to an original condition; provided, however, that if a different condition is specified in the Contract Documents, then Contractor shall be responsible for restoring such surfaces to the condition specified in the Contract Documents.

F.4 CLEANING UP

From time to time as may be ordered by the Owner the Contractor shall, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from the Work. If Contractor fails to do so within twenty-four hours after notification by the Owner the work may be done by others and the cost charged to the Contractor and deducted from payment due the Contractor.

F.5 ENVIRONMENTAL CONTAMINATION

- F.5.1 Contractor will be held responsible for and shall indemnify, defend (with counsel of Owner's choice) and hold harmless Owner from and against any costs, expenses, damages, claims, and causes of action, (including attorney fees), or any of them, resulting from all spills, releases, discharges, leaks and disposal of environmental pollution, including storage, transportation, and handling during the performance of the Contract which occur as a result of, or are contributed by, the negligence or actions of Contractor or its personnel, agents, or Subcontractors or any failure to perform in accordance with the Contract Documents (except to the extent otherwise void under ORS 30.140). Nothing in this section F.5.1 shall limit Contractor's responsibility for obtaining insurance coverages

required under Section G.3 of these General Conditions, and Contractor shall take no action that would void or impair such coverages

- F.5.1.1 Contractor agrees to promptly dispose of such spills, releases, discharge or leaks to the satisfaction of Owner and proper regulatory agencies in a manner that complies with applicable federal, state, and local laws and regulations. Cleanup shall be at no cost to the Owner and be performed by properly qualified personnel.
- F.5.1.2 Contractor shall obtain the Owner's written consent prior to bringing onto the Work site any (i) environmental pollutants or (ii) hazardous substances or materials, as the same or reasonably similar terms are used in any applicable federal, state, or local statutes, rules or ordinances. Notwithstanding such written consent from the Owner, the Contractor, at all times, shall:
 - (a) properly handle, use and dispose of all environmental pollutants and hazardous substances or materials brought onto the Work site, in accordance with all applicable federal, state, or local statutes, rules, or ordinances;
 - (b) be responsible for any and all spills, releases, discharges, or leaks of (or from) environmental pollutants or hazardous substances or materials which Contractor has brought onto the Work site; and
 - (c) promptly clean up, without cost to the Owner, such spills, releases, discharges, or leaks to the Owner's satisfaction and in compliance with all applicable federal, state, or local statutes, rules or ordinances.
- F.5.2 Contractor shall report all reportable quantity releases to applicable federal, state, and local regulatory and emergency response agencies. Reportable quantities are found in 40 CFR Part 302, Table 302.4 for hazardous substances and in OAR 340-142-0050 for all products addressed therein. Upon discovery, regardless of quantity, Contractor must telephonically report all releases to the Owner. A written follow-up report shall be submitted to Owner within 48 hours of the telephonic report. Such written report shall contain, as a minimum:
 - F.5.2.1 Description of items released (identity, quantity, manifest no., and all other documentation required by law.)
 - F.5.2.2 Whether amount of items released is EPA/DEQ reportable, and, if so, when it was reported.
 - F.5.2.3 Exact time and location of release, including a description of the area involved.
 - F.5.2.4 Containment procedures initiated.
 - F.5.2.5 Summary of communications about the release Contractor has had with members of the press or State officials other than Owner.
 - F.5.2.6 Description of cleanup procedures employed or to be employed at the site, including disposal location of spill residue.
 - F.5.2.7 Personnel injuries, if any, resulting from, or aggravated by, the release.

F.6 ENVIRONMENTAL CLEAN-UP

- F.6.1 Unless disposition of environmental pollution is specifically a part of this Contract or was caused by the Contractor (reference F.5 Environmental Contamination), Contractor shall immediately notify Owner of any hazardous substance(s) which Contractor discovers or encounters during performance of the Work required by this Contract. "Hazardous substance(s)" means any hazardous, toxic and radioactive materials and those substances defined as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic substances," or other similar designations in any federal, state, or local law, regulation, or ordinance, including without limitation asbestos, polychlorinated biphenyl (PCB), or petroleum, and any substances, materials or wastes regulated in 40 CFR, Part 261 and defined as hazardous in 40 CFR S 261.3. In addition to notifying Owner of any hazardous substance(s) discovered or encountered, Contractor shall immediately cease working in any particular area of the project where a hazardous substance(s) has been discovered or encountered if continued work in such area would present a risk or danger to the health or wellbeing of Contractor's or any Subcontractor's work force.
- F.6.2 Upon being notified by Contractor of the presence of hazardous substance(s) on the project site, Owner shall arrange for the proper disposition of such hazardous substance(s).

F.7 FORCE MAJEURE

A party to this Contract shall not be held responsible for delay or default due to Force Majeure acts, events or occurrences unless they could have been avoided by the exercise of reasonable care, prudence, foresight, and diligence by that party. The Owner may terminate this Contract upon written notice after determining that delay or default caused by Force Majeure acts, events or occurrences will reasonably prevent successful performance of the Contract.

SECTION G INDEMNITY, BONDING, AND INSURANCE

G.1 RESPONSIBILITY FOR DAMAGES / INDEMNITY

- G.1.1 Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay that may be caused by, or result from, the carrying out of the Work to be done under this Contract, or from any act, omission or neglect of the Contractor, its Subcontractors, personnel, or agents.
- G.1.2 Contractor agrees to indemnify, defend (with counsel approved by Owners), reimburse and hold harmless Owners, their partners, owners, board members, officers, employees, agents and volunteers (the "Indemnified Parties") for, from and against any and all threatened, alleged or actual all claims, suits, allegations, damages, liabilities, costs, expenses, losses and judgments, including, but not limited to, those which relate to personal or real property damage (including to the Project itself or otherwise), personal injury or death, attorney and expert/consultant fees and costs, and both economic and non-economic losses, to the extent caused by the negligence, breach of contract, breach of warranty (express or implied), or other act or omission of Contractor, its employees, Agents and Subcontractors, or anyone for whose acts Contractor is responsible (the Indemnitor). If claims are asserted against any of the Indemnified Parties by an employee of the Indemnitor, the Contractor's indemnification obligation and other obligations under this section shall not be limited by any limitation on the amount or type of damages, compensation, or benefits payable to the employee by or for the Indemnitor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

G.2 PERFORMANCE AND PAYMENT SECURITY; PUBLIC WORKS BOND

- G.2.1 When the Contract Price is \$100,000 or more (or \$50,000 or more in the case of Contracts for highways, bridges and other transportation projects) the Contractor shall furnish and maintain in effect at all times during the Contract Period, a performance bond in a sum equal to the Contract Price, and a separate payment bond also in a sum equal to the Contract Price. The bonds may be required if the Contract Price is less than the above thresholds, if required by the Contract Documents.
- G.2.2 Bond forms furnished by the Owner and notarized by awarded Contractor's surety company authorized to do business in Oregon are the only acceptable forms of performance and payment security, unless otherwise specified in the Contract Documents.
- G.2.3 Before execution of the Contract Contractor shall file with the Construction Contractors 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, and shall verify that the Subcontractor has filed a public works bond before permitting the Subcontractor to start Work.

G.3 INSURANCE

- G.3.1 Primary Coverage: Insurance carried by Contractor under this Contract shall be the primary coverage and non-contributory with any other insurance and self- insurance, and the Owner's insurance is excess and solely for damages or losses for which the Owner is responsible. The coverages indicated are minimums unless otherwise specified in the Contract Documents.
- G.3.2 Workers' Compensation: All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. This shall include Employer's Liability Insurance with coverage limits of not less than \$100,000 for each accident. Contractors who perform the Work without the assistance or labor of any employee need not obtain such coverage if the Contractor certifies so in writing. Contractor shall ensure that each of its Subcontractors complies with these requirements. The Contractor shall require proof of such Workers' Compensation by receiving and keeping on file a certificate of insurance from each Subcontractor or anyone else directly employed by either the Contractor or its Subcontractors.
- G.3.3 Builder's Risk Insurance:
- G.3.3.1 Builder's Risk: During the term of this Contract, for new construction the Contractor shall obtain and keep in effect Builder's Risk insurance on an all risk form, including earthquake and flood, for an amount equal to the full amount of the Contract. Any deductible shall not exceed \$50,000 for each loss, except the earthquake and flood deductible shall not exceed 2 percent of each loss or \$50,000, whichever is more. The policy will include as loss payees the Owner, the Contractor and its Subcontractors as their interests may appear.
- G.3.3.2 Builder's Risk Installation Floater: For other than new construction the Contractor shall obtain and keep in effect during the term of this Contract, a Builder's Risk Installation Floater for coverage of the Contractor's labor, materials and equipment to be used for completion of the

Work performed under this Contract. The minimum amount of coverage to be carried shall be equal to the full amount of the Contract. This insurance shall include as loss payees the Owner, the Contractor and its Subcontractors as their interests may appear.

G.3.3.3 Such insurance shall be maintained until Owner has occupied the facility.

G.3.3.4 A loss insured under the Builder's Risk insurance shall be adjusted by the Owner and made payable to the Owner for the insureds, as their interests may appear. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner. The Owner shall have power to adjust and settle a loss with insurers.

G.3.4 Liability Insurance:

G.3.4.1 Commercial General Liability: Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to the Owner. This insurance shall include personal injury liability, products and completed operations, and contractual liability coverage for the indemnity provided under this Contract (to the extent contractual liability coverage for the indemnity is available in the marketplace) and shall be issued on an occurrence basis. Contractor shall provide proof of insurance of not less than combined single limit, or the equivalent, of not less than: \$200,000; \$500,000; \$1,000,000; \$2,000,000 each occurrence for Bodily Injury and Property Damage. The policy, or an endorsement or amendment to the policy, must provide that the County and its agents, board members, officers, employees, and volunteers are "additional insureds", but only with respect to the Contractor's Services to be provided under this Contract.

G.3.4.2 Automobile Liability: Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Automobile Liability Insurance covering owned, non-owned and/or hired vehicles, as applicable. The coverage may be written in combination with the Commercial General Liability Insurance. Contractor shall provide proof of insurance of not less than the amounts Minimum amounts required by the Oregon Financial Responsibility Law (ORS 806.060 and 806.070); \$200,000; \$500,000; or \$1,000,000 per occurrence, for Bodily Injury and Property Damage, including coverage for all owned, hired, or non-owned vehicles, as applicable. The policy, or an endorsement or amendment to the policy, must provide that the County and its board members, officers, agents, employees, and volunteers are "additional insureds", but only with respect to the Consultant's Services to be provided under this Contract.

G.3.4.3 "Tail" Coverage: If any of the required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of 24 months or the maximum time period available in the marketplace if less than 24 months. Contractor will be responsible for furnishing certification of "tail" coverage as described or continuous "claims made" liability coverage for 24 months following Final Completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this Contract. This will be a condition of the final acceptance of Work or services and related warranty (if any).

- G.3.5 Excess/Umbrella Insurance: A combination of primary and excess/umbrella insurance is acceptable to meet the minimum coverage requirements for Commercial General Liability and Automobile Liability Insurance. In such case, the insurance certificate must include a list of the policies that fall under the excess/umbrella insurance. Sample wording is “The Excess/Umbrella policy is excess over primary Commercial General Liability and primary Automobile Liability Insurance.”
- G.3.6 Additional Insured: The liability insurance coverage, except Professional Liability if included, required for performance of this Contract shall include the Marion County, its departments, divisions, officers, and employees, as Additional Insureds but only with respect to the Contractor's activities to be performed under this Contract.

If Contractor cannot obtain an insurer to name the Marion County, its departments, divisions, officers and employees as Additional Insureds, Contractor shall obtain at Contractor's expense, and keep in effect during the term of this Contract, Owners and Contractors Protective Liability Insurance, naming the Marion County, its departments, divisions, officers and employees as Named Insureds with not less than a \$1,500,000.00 limit per occurrence. This policy must be kept in effect for 12 months following Final Completion. As evidence of coverage, Contractor shall furnish the actual policy to Owner prior to execution of the Contract.

- G.3.7 Certificate(s) of Insurance: As evidence of the insurance coverage required by this Contract, the Contractor shall furnish certificate(s) of insurance to the Owner prior to execution of the Contract. The certificate(s) will specify all of the parties who are Additional Insureds or Loss Payees. Insurance coverage required under this Contract shall be obtained from insurance companies or entities acceptable to the Owner that are allowed to provide such insurance under Oregon law. Eligible insurers include admitted insurers that have been issued a certificate of authority from the Oregon Department of Consumer and Business Services authorizing them to do an insurance business in the state of Oregon, and certain non-admitted surplus lines insurers that satisfy the requirements of applicable Oregon law and are approved by the Owner. The Contractor shall be financially responsible for all deductibles, self-insured retentions and/or self- insurance included hereunder. Any deductible, self- insured retention and/or self-insurance in excess of \$50,000 shall be approved by the Owner in writing prior execution of the Contract and is subject to Owner's approval. The Contractor shall immediately notify the Owner’s Authorized Representative in writing of any change in insurance coverage.

SECTION H SCHEDULE OF WORK

H.1 CONTRACT PERIOD

- H.1.1 Time is of the essence on this Contract. The Contractor shall at all times carry on the Work diligently, without delay and punctually fulfill all requirements herein. Contractor shall commence Work on the site within fifteen (15) Days of Notice to Proceed, unless directed otherwise.
- H.1.2 Unless specifically extended by Change Order, all Work shall be complete by the date contained in the Contract Documents. The Owner shall have the right to accelerate the completion date of the Work, which may require the use of overtime. Such accelerated Work schedule shall be an acceleration in performance of Work under Section D.1.2.6 and shall be subject to the Change Order process of Section D.1.

H.1.3 The Owner shall not waive any rights under the Contract by permitting the Contractor to continue or complete in whole or in part the Work after the date described in Section H.1.2 above.

H.2 SCHEDULE

Contractor shall provide, by or before the pre- construction conference, a detailed schedule for review and acceptance by the Owner. The submitted schedule must illustrate Work by significant project components, significant labor trades, long lead items, broken down by building and/or floor where applicable. Each schedule item shall account for no greater than 5 % of the monetary value of the project or 5 % of the available Contract Time. Schedules with activities of less than one day or valued at less than 1% of the Contract will be considered too detailed and will not be accepted. Schedules lacking adequate detail, or unreasonably detailed, will be rejected. Included within the schedule are the following: Notice to Proceed, Substantial Completion, and Final Completion. Schedules will be updated monthly and submitted with the monthly payment application. Acceptance of the Schedule by the Owner does not constitute agreement by the Owner, as to the Contractor's sequencing, means, methods, or allocated Contract Time. Any positive difference between the Contractor's scheduled completion and the Contract completion date is float owned by the Owner. Owner reserves the right to negotiate the float if it is deemed to be in Owner's best interest to do so. In no case shall the Contractor make a request for additional compensation for delays if the Work is completed within the Contract Time but after Contractor's scheduled completion.

H.3 PARTIAL OCCUPANCY OR USE

The Owner may occupy or use any completed or partially completed portion of the Work at any stage, provided such occupancy or use is consented to by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have reasonably accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, insurance or self-insurance, maintenance, heat, utilities, and damage to the Work, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents with respect to such portion of the Work. Approval by the Contractor to partial occupancy or use shall not be unreasonably withheld. Immediately prior to such partial occupancy or use, the Owner and Contractor shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work. Partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

SECTION I CORRECTION OF WORK

I.1 CORRECTION OF WORK BEFORE FINAL PAYMENT

The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects, and that the Work will conform to the requirements of the Contract Documents. Work failing to conform to these requirements shall be deemed defective. Contractor shall promptly remove from the premises and replace all defective materials and equipment as determined by the Owner's Authorized Representative, whether incorporated in the Work or not. Removal and replacement shall be without loss or expense to the Owner, and Contractor shall bear the cost of repairing all Work destroyed or damaged by such removal or replacement. Contractor shall be allowed a period of no longer than thirty (30) Days after Substantial Completion for completion of defective (punch list) work, unless otherwise agreed. At the end of that period, or earlier if requested by the Contractor, Owner

shall arrange for inspection of the Work by the Architect/Engineer. Should the Work not be complete, and all corrections made, the costs for all subsequent re-inspections shall be borne by the Contractor. If Contractor fails to complete the punch list work within the above time period, Owner may perform such work and Contractor shall reimburse Owner all costs of the same within ten (10) days after demand without affecting Contractor's obligations.

I.2 WARRANTY WORK

- I.2.1 Neither the final certificate of payment nor any provision of the Contract Documents shall relieve the Contractor from responsibility for defective Work and, unless a longer period is specified, Contractor shall correct all defects that appear in the Work within a period of one year from the date of issuance of the written notice of Substantial Completion by the Owner except for latent defects which will be remedied by the Contractor at any time they become apparent.
- I.2.2 The Owner shall give Contractor notice of defects with reasonable promptness. Contractor shall perform such warranty work within a reasonable time after Owner's demand. If Contractor fails to complete the warranty work within such period as Owner determines reasonable, or at any time in the event of warranty work consisting of emergency repairs, Owner may perform such work and Contractor shall reimburse Owner all costs of the same within ten (10) Days after demand without affecting Contractor's obligations.
- I.2.3 This provision does not negate guarantees or warranties for periods longer than one year including without limitation such guarantees or warranties required by other sections of the Contract Documents for specific installations, materials, processes, equipment or fixtures.
- I.2.4 In addition to Contractor's warranty, manufacturer's warranties shall pass to the Owner and shall not take effect until affected Work has been accepted in writing by the Owner's Authorized Representative.
- I.2.5 The one-year period for correction of Work shall be extended with respect to portions of Work performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work and shall be extended by corrective Work performed by the Contractor pursuant to this Section, as to the Work corrected. The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.
- I.2.6 Nothing contained in this Section I.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the period for correction of Work as described in this Section I.2 relates only to the specific obligation of the Contractor to correct the Work and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.
- I.2.7 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Price will be reduced as appropriate and equitable. Such adjustment shall be affected whether or not final payment has been made.

SECTION J SUSPENSION AND/OR TERMINATION OF THE WORK

J.1 OWNER'S RIGHT TO SUSPEND THE WORK

- J.1.1 The Owner and/or the Owner's Authorized Representative has the authority to suspend portions or all of the Work due to the following causes:
 - J.1.1.1 Failure of the Contractor to correct unsafe conditions;
 - J.1.1.2 Failure of the Contractor to carry out any provision of the Contract;
 - J.1.1.3 Failure of the Contractor to carry out orders;
 - J.1.1.4 Conditions, in the opinion of the Owner's Authorized Representative, which are unsuitable for performing the Work;
 - J.1.1.5 Time required to investigate differing site conditions;
 - J.1.1.6 Any reason considered to be in the public interest.
- J.1.2 The Owner shall notify Contractor and the Contractor's Surety in writing of the effective date and time of the suspension and Owner shall notify Contractor and Contractor's surety in writing to resume Work.

J.2 CONTRACTOR'S RESPONSIBILITIES

- J.2.1 During the period of the suspension, Contractor is responsible to continue maintenance at the project just as if the Work were in progress. This includes, but is not limited to, protection of completed Work, maintenance of access, protection of stored materials, temporary facilities, and clean-up.
- J.2.2 When the Work is recommenced after the suspension, the Contractor shall replace or renew any Work damaged during the suspension, remove any materials or facilities used as part of temporary maintenance, and complete the project in every respect as though its prosecution had been continuous and without suspension.

J.3 COMPENSATION FOR SUSPENSION

Depending on the reason for suspension of the Work, the Contractor or the Owner may be due compensation by the other party. If the suspension was required due to acts or omissions of Contractor, the Owner may assess the Contractor actual costs of the suspension in terms of administration, remedial work by the Owner's forces or another contractor to correct the problem associated with the suspension, rent of temporary facilities, and other actual costs related to the suspension. If the suspension was caused by acts or omissions of the Owner, the Contractor shall be due compensation which shall be defined using Section D, Changes in Work. If the suspension was required through no fault of the Contractor or the Owner, neither party owes the other for the impact.

J.4 OWNER'S RIGHT TO TERMINATE CONTRACT

- J.4.1 The Owner may, without prejudice to any other right or remedy, and after giving Contractor seven (7) Days' written notice and an opportunity to cure, terminate the Contract in whole or in part under the following conditions:

- J.4.1.1 If Contractor should voluntarily or involuntarily, seek protection under the United States Bankruptcy Code and Contractor as debtor-in- possession or the Trustee for the estate fails to assume the Contract within a reasonable time;
 - J.4.1.2 If Contractor should make a general assignment for the benefit of Contractor's creditors;
 - J.4.1.3 If a receiver should be appointed on account of Contractor's insolvency;
 - J.4.1.4 If Contractor should repeatedly refuse or fail to supply an adequate number of skilled workers or proper materials to carry on the Work as required by the Contract Documents, or otherwise fail to perform the Work in a timely manner;
 - J.4.1.5 If Contractor should repeatedly fail to make prompt payment to Subcontractors or for material or labor, or should disregard laws, ordinances or the instructions of the Owner or its Authorized Representative; or
 - J.4.1.6 If Contractor is otherwise in material breach of any part of the Contract.
- J.4.2 At any time that any of the above occurs, Owner may exercise all rights and remedies available to Owner at law or in equity, and in addition, Owner may take possession of the premises and of all materials and appliances and finish the Work by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive further payment until the Work is completed. If the Owner's cost of finishing the Work exceeds the unpaid balance of the Contract Price, Contractor shall pay the difference to the Owner.

J.5 TERMINATION FOR CONVENIENCE

- J.5.1 Owner may terminate the Contract in whole or in part whenever Owner determines that termination of the Contract is in the best interest of the public.
- J.5.2 The Owner will provide the Contractor with seven (7) Days' prior written notice of a termination for public convenience. After such notice, the Contractor shall provide the Owner with immediate and peaceful possession of the premises and materials located on and off the premises for which the Contractor received progress payment under Section E. Compensation for Work terminated by the Owner under this provision will be according to Section E. In no circumstance shall Contractor be entitled to lost profits for Work not performed due to termination.

J.6 ACTION UPON TERMINATION

- J.6.1 Upon receiving a notice of termination, and except as directed otherwise by the Owner, Contractor shall immediately cease placing further subcontracts or orders for materials, services, or facilities. In addition, Contractor shall terminate all subcontracts or orders to the extent they relate to the Work terminated and, with the prior written approval of the Owner, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts and orders.
- J.6.2 As directed by the Owner, Contractor shall upon termination transfer title and deliver to the Owner all Record Documents, information, and other property that, if the Contract had been completed, would have been required to be furnished to the Owner.

SECTION K CONTRACT CLOSE OUT

K.1 RECORD DOCUMENTS

As a condition of final payment (refer also to section E.6), Contractor shall comply with the following: Contractor shall provide to Owner's Authorized Representative, one hard copy set and one electronic set of Record Documents of the entire project. Record Documents shall depict the project as constructed and shall reflect each and every change, modification, and deletion made during the construction. Record Documents are part of the Work and shall be provided prior to the Owner's issuance of final payment. Record Documents include all modifications to the Contract Documents unless otherwise directed.

K.2 OPERATION AND MAINTENANCE MANUALS

As part of the Work, Contractor shall submit two completed operation and maintenance manuals ("O & M Manuals") and one (1) digital copy for review by the Owner's Authorized Representative prior to submission of any pay request for more than 75% of the Work. No payments beyond 75% will be made by the Owner until the O & M Manuals have been received. The O & M Manuals shall contain training information, phone list of consultants, manufacturers, installer and suppliers, manufacturer's printed data, schematic diagrams of systems, appropriate equipment indices, warranties and bonds. The Owner's Authorized Representative shall review and return one O & M Manual for any modifications or additions required. Prior to submission of its final pay request, Contractor shall deliver three (3) complete and approved sets and one (1) digital copy of O & M Manuals to the Owner's Authorized Representative.

K.3 AFFIDAVIT/RELEASE OF LIENS AND CLAIMS

As a condition of final payment, the Contractor shall submit to the Owner's Authorized Representative a notarized affidavit/release of liens and claims form, in a form satisfactory to Owner, which states that all Subcontractors and suppliers have been paid in full, all disputes with property owners have been resolved, all obligations on the project have been satisfied, all monetary claims and indebtedness have been paid, and that, to the best of the Contractor's knowledge, there are no claims of any kind outstanding against the project. The Contractor shall indemnify, defend (with counsel of Owner's choice) and hold harmless the Owner from all claims for labor and materials finished under this Contract. The Contractor shall furnish complete and valid releases or waivers, satisfactory to the Owner, of all liens arising out of or filed in connection with the Work.

K.4 COMPLETION NOTICES

- K.4.1 Contractor shall provide Owner's Authorized Representative notice of both Substantial and Final Completion. The certificate of Substantial Completion shall state the date of Substantial Completion, the responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and the time within which the Contractor shall finish all items on the punchlist accompanying the Certificate. Both completion notices must be signed by the Contractor and the Owner to be valid. The Owner shall provide the final signature on the notices. The notices shall take effect on the date they are signed by the Owner.

- K.4.2 Substantial Completion of a facility with operating systems (e.g., mechanical, electrical, HVAC) shall be that degree of completion that has provided a minimum of thirty (30) continuous Days of successful, trouble-free operation, which period shall begin after all performance and acceptance testing has been successfully demonstrated to the Owner's Authorized Representative. All equipment contained in the Work, plus all other components necessary to enable the Owner to operate the facility in the manner that was intended, shall be complete on the Substantial Completion date. The

Contractor may request that a punch list be prepared by the Owner's Authorized Representative with submission of the request for the Substantial Completion notice.

K.5 TRAINING

As part of the Work, and prior to submission of the request for final payment, the Contractor shall schedule with the Owner's Authorized Representative, training sessions for all equipment and systems, as required in the individual specifications sections. Contractor shall schedule training sessions at least four weeks in advance of the date of training to allow Owner personnel adequate notice. The O & M Manual shall be used as a basis for training. Training shall be a formal session, held after the equipment and/or system is completely installed and operational in its normal operating environment.

K.6 EXTRA MATERIALS

As part of the Work, Contractor shall provide spare parts, extra maintenance materials, and other materials or products in the quantities specified in the specifications, prior to final payment. Delivery point for extra materials shall be designated by the Owner's Authorized Representative.

K.7 ENVIRONMENTAL CLEAN-UP

As part of the Final Completion notice, or as a separate written notice submitted with or before the notice of Final Completion, the Contractor shall notify the Owner that all environmental pollution clean-up performed as a part of this Contract has been disposed of in accordance with all applicable rules, regulations, laws, and statutes of all agencies having jurisdiction over such environmental pollution. The notice shall reaffirm the indemnification given under Section F.5.1 above.

K.8 CERTIFICATE OF OCCUPANCY

The Contractor shall not be granted Final Completion or receive final payment if the Owner has not received an unconditioned certificate of occupancy from the appropriate state and/or local building officials, unless failure to obtain an unconditional certificate of occupancy is due to the fault or neglect of Owner.

K.9 OTHER CONTRACTOR RESPONSIBILITIES

The Contractor shall be responsible for returning to the Owner all items issued during construction such as keys, security passes, site admittance badges, and all other pertinent items. The Contractor shall be responsible for notifying the appropriate utility companies to transfer utility charges from the Contractor to the Owner. The utility transfer date shall not be before Substantial Completion and may not be until Final Completion if the Owner does not take beneficial use of the facility and the Contractor's forces continue with the Work.

K.10 SURVIVAL

All warranty and indemnification provisions of this Contract, and all of Contractor's other obligations under this Contract that are not fully performed by the time of Final Completion or termination, shall survive Final Completion or any termination of the Contract

SECTION L LEGAL RELATIONS & RESPONSIBILITIES

L.1 LAWS TO BE OBSERVED

In compliance with ORS 279C.525, Sections L.2 through L.4 contain lists of federal, state, and local agencies of which the Owner has knowledge that have enacted ordinances or regulations relating to

environmental pollution and the preservation of natural resources that may affect the performance of the Contract:

L.2 FEDERAL AGENCIES

Agriculture, Department of
Forest Service
Soil Conservation Service
Coast Guard
Defense, Department of
Army Corps of Engineers
Energy, Department of
Federal Energy Regulatory Commission
Environmental Protection Agency
Health and Human Services
Department of Housing and Urban Development
Department of Solar Energy and Energy Conservation Bank
Interior, Department of
Bureau of Land Management
Bureau of Indian Affairs
Bureau of Mines
Bureau of Reclamation
Geological Survey
Minerals Management Service
U.S. Fish and Wildlife Service
Labor, Department of
Mine Safety and Health Administration
Occupation Safety and Health Administration
Transportation, Department of
Federal Highway Administration
Water Resources Council

L.3 STATE AGENCIES

Administrative Services, Department of
Agriculture, Department of
Soil and Water Conservation Commission
Columbia River Gorge Commission
Energy, Department of
Environmental Quality, Department of
Fish and Wildlife, Department of
Forestry, Department of
Geology and Mineral Industries, Department of
Human Resources, Department of
Consumer and Business Services, Department of
Land Conservation and Development Commission
Parks and Recreation, Department of
State Lands, Division of
Water Resources Department of

L.4 LOCAL AGENCIES

City Councils

County Courts

County Commissioner, Board of

Design Commissions

Historical Preservation Commission

Planning Commissions

EXHIBIT A



Garland/DBS, Inc.
3800 East 91st Street
Cleveland, OH 44105
Phone: (800) 762-8225
Fax: (216) 883-2055



Marion County
Public Works Building #4, #5, #12
5155 Silverton Rd NE
Salem, OR 97305

Date Submitted: 02/26/2026
Proposal #: 25-OR-260208
MICPA # PW1925
Oregon General Contractor License #: 192939

Purchase orders to be made out to: Garland/DBS, Inc.

Please Note: The following budget/estimate is being provided according to the pricing established under the Master Intergovernmental Cooperative Purchasing Agreement (MICPA) with Racine County, WI and OMNIA Partners, Public Sector (U.S. Communities). Garland/DBS, Inc. administered an informal competitive process for obtaining quotes for the project with the hopes of providing a lower market-adjusted price whenever possible.

Scope of Work:

Surface Preparation & Debris Management:

1. Abrasive Cleaning: Remove existing paint and coatings down to bare metal using chemical stripping or sand-blasting, selecting the most cost-effective method for the site conditions.
2. Substrate Repair: Inspect for and repair any deteriorated panels or rust perforations prior to coating application.
3. Debris Containment: Contain all stripped paint, sand-blast media, and chemical residue. All materials must be disposed of in strict accordance with local code requirements.
4. Decontamination: Pressure wash the bare metal surface to remove all residual chemicals, dust, and debris. The surface must be clean, dry, and free of loose scale, mold, or grease before proceeding.

Priming (Garland Metal Primer):

1. Application: Apply Garland Metal Primer at a rate of 1/4 to 1/2 gallon per 100 sq. ft. using a brush, roller, or spray.
2. Quality Control: Ensure the surface is completely covered. Monitor for sags; if sagging occurs, adjust coverage or apply multiple thin coats.
3. Exposure Limit: The primer must be top-coated within 24 hours. Do not leave the primer exposed to the elements beyond this window.

Finish Coating (Rust-Go VOC Top Coat): Buildings to have a three color paint scheme

1. Final Coat: Apply the second layer at 1/2 gallon per 100 sq. ft. to reach a total system thickness of 1 gallon per 100 sq. ft.

2. Aesthetics: Multiple coats may be required to achieve the desired appearance; avoid excessive re-brushing or re-rolling.

Technical & Environmental Constraints:

1. Temperature Limits: Do not apply materials when ambient temperatures are below 40°F (or 50°F for the primer specifically).
2. Weather: Do not apply if rain is forecasted or if the substrate is damp.
3. Overspray Protection: When spraying, the contractor must take precautions to protect surrounding walls, vehicles, and property.

Administrative & Warranty Requirements:

1. Access: Site access and clearing of the perimeter for building access is to be provided by others.
2. Labor: Prevailing wage rates apply to all phases of this project.
3. Warranty: * Workmanship: The installer shall provide a 2-year workmanship warranty.
4. Material: Upon successful final inspection and acceptance, the manufacturer will issue a 10-year material warranty.
5. Inspections: A pre-installation conference is required two weeks prior to start. The manufacturer will perform periodic site inspections to report on progress and quality.

Proposal Price Based Upon Market Experience: \$ 265,544

Garland/DBS Price Based Upon Local Market Competition:

Hunt Painting	\$	265,544
WCTJ Inc	\$	278,739
Columbia Painting	\$	285,053

Potential issues that could arise during the construction phase of the project will be addressed via unit pricing for additional work beyond the scope of the specifications. This could range anywhere from wet insulation, to the replacement of deteriorated wood nailers.

Please Note – The construction industry is experiencing unprecedented global pricing and availability pressures for many key building components. Specifically, the roofing industry is currently experiencing long lead times and significant price increases with roofing insulation and roofing fasteners. Therefore, this proposal can only be held for 30 days. DBS greatly values your business, and we are working diligently with our long-term suppliers to minimize price increases and project delays which could effect your project. Thank you for your understanding and cooperation.

Clarifications/Exclusions:

1. Permits are excluded. If permits are required this will be addressed via change order.
2. Plumbing, Mechanical, Electrical work is excluded.
3. Masonry work is included to which it obtains to the scope of work.
4. Interior Temporary protection is excluded.
5. Any work not exclusively described in the above proposal scope of work is excluded.

If you have any questions regarding this proposal, please do not hesitate to call me at my number listed below.

Respectfully Submitted,

Benjamin Schaefer

Benjamin Schaefer
Garland/DBS, Inc.
(216) 302-3788



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: April 22, 2026

Department: Health & Human Services

Title: Amendment to Garten Contract for Janitorial Services

Management Update/Work Session Date: April 7, 2026 Audio/Visual aids []

Time Required: 10 Minutes Contact: Diana Lee Adams Hill Phone: 503-576-4652

Requested Action: Approve amendment 5 to add \$110,000 to contract with Garten Services for Janitorial Services.

Issue, Description & Background: Contractor provides janitorial services at various County locations on a scheduled, as-needed, and on-call/emergency basis. This agreement has been amended previously to add services, funding, and extend the term.

Financial Impacts: Add \$110,000 to continue janitorial services.

Impacts to Department & External Agencies: none

List of attachments: Original Agreement, Amendments 1-5

Presenter: Rhett Martin

Department Head Signature: Ryan Matthews

Contract Review Sheet

Contract for Services

HE-4301-21 - Am5

Title: Janitorial Services

Contractor's Name: Garten Services Inc.

Department: Health and Human Services

Contact: Diana Lee Adams Hill

Analyst: Chalyce MacDonald

Phone #: (503) 576-4652

Term - Date From: September 24, 2021

Expires: September 30, 2026

Original Contract Amount: \$ 800,000.00

Previous Amendments Amount: \$ 500,000.00

Current Amendment: \$ 110,000.00

New Contract Total: \$ 1,410,000.00

Amd% 76%

Outgoing Funds Federal Funds Reinstatement Retroactive Amendment greater than 25%

Source Selection Method: 50-0010 General Exemptions (IGAs and QRFs)

Description of Services or Grant Award

Contractor shall provide janitorial services at various County locations on a scheduled, as need, and on-call/emergency basis.

Amendment 1-Add additional services and no additional funds.

Amendment 2-Add additional services and no additional funds.

Amendment 3 - Add additional funds and extend term for two years

Amendment 4 - Remove location 1118 Oak Street from services beginning 10/30/2025

Amendment 5 - Add additional \$110,000.00

Desired BOC Session Date: 4/22/2026

Contract should be in DocuSign by: 4/1/2026

Agenda Planning Date: 4/9/2026

Printed packets due in Finance: 4/7/2026

Management Update: 4/7/2026

BOC upload / Board Session email: 4/8/2026

BOC Session Presenter(s) Rhett Martin

Code: Y

REQUIRED APPROVALS

Chalyce MacDonald

03/18/2026

Finance - Contracts

Date

Diana Lee Adams Hill

Diana Lee Adams Hill (Mar 20, 2026 07:27:12 PDT)

03/20/2026

Contract Specialist

Date

Scott Norris

03/19/2026

Scott Norris (Mar 19, 2026 10:55:05 PDT)

Legal Counsel

Date

Jan Fritz

Jan Fritz (Mar 19, 2026 16:59:42 PDT)

03/19/2026

Chief Administrative Officer

Date



AMENDMENT 5 to HE-4301-21
the CONTRACT FOR SERVICES
between
MARION COUNTY and GARTEN SERVICES INC.

This is Amendment 5 to the Contract for Services (as amended from time to time, the “Contract”), dated September 24, 2021, between Marion County, a political subdivision of the State of Oregon, hereinafter called County, and Garten Services Inc., hereafter called Contractor.

The Contract is hereby amended as follows (new language is indicated by underlining and deleted language is indicated by ~~strikethrough~~):

2. CONSIDERATION.

A. The maximum, not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is \$1,410,000.00. ~~\$1,300,000.00.~~

EXHIBIT A
STATEMENT OF WORK

2. COMPENSATION. The total amount available for payment to Contractor under Exhibit A, section 2.A and for authorized reimbursement to Contractor under Exhibit A, section 2.C is \$1,410,000.00. ~~\$1,300,000.00.~~

Except as expressly amended above, all other terms and conditions of the original Contract and any previously executed amendments are still in full force and effect. Contractor certifies that the representations, warranties and certifications contained in the original Contract are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

MARION COUNTY SIGNATURES
BOARD OF COMMISSIONERS:

Chair Date

Commissioner Date

Commissioner Date

Authorized Signature: *Ryan Matthews* 03/18/2026
Ryan Matthews (Mar 18, 2026 16:04:18 PDT)
Department Director or designee Date

Authorized Signature: *Jan Fritz* 03/19/2026
Jan Fritz (Mar 19, 2026 16:59:42 PDT)
Chief Administrative Officer Date

Reviewed by Signature: Scott Norris 03/19/2026
Scott Norris (Mar 19, 2026 10:55:05 PDT)
Marion County Legal Counsel Date

Reviewed by Signature: Cheryl McDonald 03/18/2026
Marion County Contracts & Procurement Date

GARTEN SERVICES INC. SIGNATURE

Authorized Signature: _____ Date

Title: _____



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: April 22, 2026

Department: Legal Counsel

Title: Six Remnant Opioid Settlement

Management Update/Work Session Date: April 7, 2026 Audio/Visual aids

Time Required: 5 mins Contact: Steve Elzinga Phone: (503) 588-5220

Requested Action: Sign Board Order authorizing County Counsel to sign the opioid settlement.

Issue, Description & Background: A new nationwide opioid settlement has been reached with six remnant defendants: Associated Pharmacies, Inc. (and American Associated Pharmacies); J M Smith Corporation; Louisiana Wholesale Drug Company, Inc.; Morris and Dickson Co.; North Carolina Mutual Wholesale Drug Company, Inc.; and United Natural Foods, Inc. (including subsidiaries SuperValu and Advantage Logistics). Marion County's share would be 0.0601327389%, which would be up to approximately \$59,870.

Funds must be spent or encumbered within five years of receipt.

Financial Impacts: If the County opts in to this settlement, the county will receive up to approximately \$59,870 in opioid settlement funds.

Impacts to Department & External Agencies:

List of attachments: Proposed Board Order

Presenter: Steve Elzinga

Department Head Signature: Steve Elzinga Digitally signed by Steve Elzinga Date: 2026.04.07 15:26:39 -07'00'

BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY, OREGON

In the Matter of Participation in New)
Opioid Manufacturers Settlement)

ORDER No. 26-

This matter came before the Marion County Board of Commissioners at its regularly scheduled public meeting on April 22, 2026, to consider approval of participation in a national opioid settlement with Associated Pharmacies, Inc (and American Associated Pharmacies); J M Smith Corporation; Louisiana Wholesale Drug Company, Inc.; Morris and Dickson Co.; North Carolina Mutual Wholesale Drug Company, Inc.; and United Natural Foods, Inc. (including subsidiaries SuperValu and Advantage Logistics).

WHEREAS, a new proposed settlement has been reached with Associated Pharmacies, Inc (and American Associated Pharmacies); J M Smith Corporation; Louisiana Wholesale Drug Company, Inc.; Morris and Dickson Co.; North Carolina Mutual Wholesale Drug Company, Inc.; and United Natural Foods, Inc. (including subsidiaries SuperValu and Advantage Logistics).

WHEREAS, Marion County must elect to participate in the settlement to share in the settlement funds.

IT IS HEREBY ORDERED that Marion County will participate in the settlement.

IT IS HEREBY ORDERED that County Counsel, Steve Elzinga, is authorized to sign the participation form on behalf of Marion County.

DATED at Salem, Oregon the 22nd day of April, 2026.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: April 22, 2026

Department: Public Works

Title: Schedule final consideration to adopt an administrative ordinance granting Comprehensive Plan Amendment/Zone Change 24-007/Bruce Ernst

Management Update/Work Session Date: N/A Audio/Visual aids []

Time Required: 0 min Contact: Austin Barnes Phone: 503-566-4174

Requested Action: Schedule final consideration to adopt an administrative ordinance granting Comprehensive Plan Amendment/Zone Change 24-007/Bruce Ernst at the next board session, May 6, 2026.

Issue, Description & Background: The Marion County Hearings Officer held a duly noticed hearing on the application on February 5, 2026. On February 24, 2026, the Hearings Officer issued a recommendation to approve Comprehensive Plan Amendment/Zone Change 24-007/Bruce Ernst. The Marion County Board of Commissioners held a duly noticed hearing on the application on March 25, 2026, and considered all the evidence in the record and approved the request. The ordinance and findings have been prepared and the matter needs to be scheduled for final consideration and adoption.

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: Ordinance

Presenter: Austin Barnes

Department Head Signature: for Bruce Mick

**BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY, OREGON**

In the Matter of the)	Case No. 24-007
Application of:)	Comprehensive Plan Amendment
Bruce Ernst)	And Zone Change

AN ADMINISTRATIVE ORDINANCE

ORDINANCE NO. _____

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

SECTION I. Purpose

This matter comes before the Marion County Board of Commissioners ("Board") on the application of Bruce Ernst to change the zone from EFU (Exclusive Farm Use) to C (Commercial) and to change the comprehensive plan designation from Primary Agriculture to Commercial, with an exception to statewide planning Goal 3 (Agricultural Land) on a 1.6-acre section of a 13.85-acre parcel located at 19937 Highway 99E, Aurora (T4S; R1W; Section 23C; Tax lot 200).

SECTION II. Procedural History

The Marion County Hearings Officer held a duly noticed public hearing on February 6, 2026, and on February 24, 2026, issued a recommendation to approve the zone change. Official notice was taken of the Planning Division file and the Hearings Officer's recommendation. The Board held a duly noticed public hearing on March 25, 2026, and heard in-person testimony in favor from the applicant's attorney. The Board has considered all the evidence in the record, all arguments of the parties and is otherwise fully advised in the premises.

SECTION III. Adoption of Findings and Conclusion

After careful consideration of all facts and evidence in the record, the Board adopts as its own the Findings of Fact and Additional Findings of Fact and Conclusions of Law contained in Section V and VI of the Hearings Officer's decision dated February 24, 2026, contained in Exhibit A, attached hereto, and by this reference incorporated herein.

SECTION IV. Action

The requested zone change from EFU (Exclusive Farm Use) to C (Commercial) and comprehensive plan designation change from Primary Agriculture to Commercial is hereby **GRANTED**, subject to conditions identified in Exhibit A, attached hereto, and by this reference incorporated herein.

The property rezoned by this Ordinance is identified on a map in Exhibit B, attached hereto and by this reference incorporated herein. The Official Marion County Zoning Map shall be changed pursuant to Marion County Code Section 16.01.040 to reflect the new zoning subject to conditions identified in Exhibit A, attached hereto, and by this reference incorporated herein.

SECTION V. Effective Date

Pursuant to Chapter 1.10 of the Marion County Code, this is an Administrative Ordinance and shall take effect 21 days after the adoption and final signatures of the Marion County Board of Commissioners.

SIGNED and FINALIZED this _____ day of _____, 2026, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner

Recording Secretary

JUDICIAL NOTICE

Oregon Revised Statutes, Chapter 197.830, provides that land use decisions may be reviewed by the Land Use Board of Appeals by filing a notice of intent to appeal within 21 days from the date this Ordinance becomes final.

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the Application of) Case No. 24-007
) COMPREHENSIVE PLAN AMENDMENT
BRUCE ERNST) AND ZONE CHANGE

RECOMMENDATION

I. Nature of the Application

This matter is before the Marion County Hearings Officer on the Application of Bruce Ernst to change the zone from EFU (Exclusive Farm Use) to C (Commercial) and to change the comprehensive plan designation from Primary Agriculture to Commercial, with an exception to statewide planning Goal 3 (Agricultural Land) on a 1.6-acre section of a 13.85-acre parcel located at 19937 Highway 99E, Aurora (T4S; R1W; Section 23C; Tax lot 200).

II. Relevant Criteria

The standards and criteria relevant to this Application are found in the Marion County Comprehensive Plan (Rural Development Policies), and the Marion County Code (MCC) Title 17, especially MCC 17.123, MCC 17.136, and MCC 17.145. Policies relevant to this Application are also found in the State of Oregon Statewide Planning Goals, and Oregon Administrative Rules (OAR 660-004-018 and OAR 660-004-028).

III. Public Hearing

A public hearing was held on this matter on February 5, 2026. The Planning Division file was made part of the record. The following persons appeared and provided testimony on the Application:

- 1. Austin Barnes Marion County Planning Division
2. Chris Fowler Attorney for Applicant

No documents were presented, marked, or entered into the record as exhibits. No objections were raised as to notice, jurisdiction, conflicts of interest, or to evidence or testimony presented at the hearing.

IV. Executive Summary

Applicant seeks approval of a zone change from EFU (Exclusive Farm Use) to C (Commercial) and to change the comprehensive plan designation from Primary Agriculture to Commercial, with an exception to statewide planning Goal 3 (Agricultural Land) on a 1.6-acre section of a 13.85-acre parcel located at 19937 Highway 99E, Aurora.

The 1.6 subject parcel is very small, oddly shaped, and of extremely limited use because of a railroad right-of-way, and the absence of water rights or an on-site water source. Adjacent properties have all been trending to commercial, agricultural processing, and limited residential

use for 40 years. The parcel has not been farmed, and the existing development pattern limits the ability to conduct any normal farm practices on the parcel.

Based on the totality of the evidence and the cumulative effect of existing conditions and surrounding development, the Hearings Officer finds that the Applicant has satisfied the relevant standards and criteria, and that the Subject Property is irrevocably committed to non-resource use and is not reasonably expected to be used for farm use.

The Hearings Officer recommends that the Marion County Board of Commissioners GRANT the Application to change the zone from EFU (Exclusive Farm Use) to C (Commercial) and to change the comprehensive plan designation from Primary Agriculture to Commercial, with an exception to statewide planning Goal 3 (Agricultural Land) on a 1.6-acre section of a 13.85-acre parcel located at 19937 Highway 99E, Aurora (T4S; R1W; Section 23C; Tax lot 200).

V. Findings of Fact

The Hearings Officer, after careful consideration of the testimony and evidence in the record, issues the following finding of fact:

1. The property is located on the west side of HWY 99E, directly south of its intersection with Fobert Rd NE. The property is currently vacant and covered with various species of trees and shrubs. The property has been the subject of various land use cases, including three Farm Dwelling cases from the 1990's, FD91-013, FD95-003 and FD95-150. It was also the subject of an Administrative Review in 2023, AR23-036 and is considered legal for land use purposes.
2. Properties in all directions except south are zoned EFU and are in various levels of farm production. The area is characterized by filbert orchards and some of the properties have dwellings or packing facilities. To the south is a mobile home park zoned EFU and a parcel zoned C (Commercial) that appears to be used as a personal storage business.
3. Marion County Planning Division requested comments on the proposal from various governmental agencies.

Marion County Public Works Land Development and Engineering Permits (MCPW)
provided the following comments:

ENGINEERING ADVISORIES

- A. PW Engineering has no action items for the proposed Zone Change itself.
- B. The following are PW Engineering guidelines for future development:
 - Applicant will need to meet ODOT, Railroad and Marion County requirements for stormwater discharge
 - Applicant will need to coordinate access and utility extensions to Hwy 99E with ODOT.

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- Transportation System Development Charges (SDCs) will be assessed at the time of application for building permits.

Oregon Department of Transportation (ODOT) commented:

“We do not have any comments from the access management perspective, this segment of highway is not access controlled and the existing access to the site is presumed to be permitted.”

Marion County Building Department commented:

“No Building Inspection concerns. Permit(s) are required to be obtained prior to development and/or utilities installation on private property.”

The Department of Land Conservation and Development (DLCD) provided a letter regarding the original submission from the applicant. The letter indicated that the application was not sufficient in their eyes. The applicant has since provided additional submissions to address their concerns.

All other contacted agencies contacted either failed to respond or stated no objection to the proposal.

V. Additional Findings of Fact and Conclusion of Law

1. This is a recommendation to the Marion County Board of Commissioners (BOC). The BOC is the final decision-making authority.
2. Applicant has the burden of proving compliance with all applicable criteria as explained in *Riley Hill General Contractor, Inc. v. Tandy Corporation*, 303 Or 390, 394-395(1987).

“Preponderance of the evidence” means the greater weight of evidence. It is such evidence that when weighed with that opposed to it, has more convincing force and is more probably true and accurate. If, upon any question in the case, the evidence appears to be equally balanced, or if you cannot say upon which side it weighs heavier, you must resolve that question against the party upon whom the burden of proof rests. (Citation omitted).

Applicant must prove, by substantial evidence in the record, it is more likely than not that each criterion is met. If the evidence for any criterion is equal or less, Applicant has not met his burden and the application must be denied. If the evidence for every criterion is even slightly in Applicant’s favor, the burden of proof is met and the application is approved.

GOAL EXCEPTION

3. Land use applications of this nature must be consistent with Statewide Planning Goals. The subject parcel is covered by Statewide Goal 3 (Agriculture Land). However, ORS

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197.732 and OAR 660-004 provide a mechanism for a Goal exception process that requires specific findings justifying why such lands are not available for resource use. There are three types of exceptions to Statewide Goals that may be granted. The first two are based on the concept that the subject property is “physically developed” or “irrevocably committed” to a certain use. The third is a “reasons” exception where there is a demonstrated need for the proposed use or activity. Applicant states that the proposal qualifies for an irrevocably committed exception.

STATEWIDE PLANNING GOALS

4. Proposals to amend the comprehensive plan must be consistent with the Statewide Planning Goals:

Goal 1: Citizen Involvement. The notice and hearings process provides an opportunity for citizen involvement. The goal is satisfied.

Goal 2: Land use Planning. The subject application would change the zoning. The Hearings Officer makes a recommendation to the Marion County Board of Commissioners who will make the decision on behalf of the County. Marion County Planning division requested comments from various governmental agencies, and their comments are included. The goal is satisfied.

Goal 3: Agricultural Lands. Applicant seeks an exception, which is addressed in detail herein.

Goal 4: Forest Lands. The subject property has not been determined to be forest land. This goal does not apply.

Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources. The Marion County Comprehensive Plan does not identify any significant open spaces, scenic and historic areas and natural resources on the subject property.

Goal 6: Air, Water and Land Resources Quality. The subject property is not within an identified air quality area. The property is not located in the Sensitive Groundwater Overlay Zone. No activities have been proposed on the property that would use significant amounts of groundwater. Any single commercial use of water using less than 5,000 gallons per day is exempt from water right permitting requirements of the Oregon Department of Water Resources, as long as the water is used for a “beneficial purpose without waste” and may be subject to regulation in times of water shortage.

Goal 7: Areas Subject to Natural Disasters and Hazards. The subject property is not within an identified floodplain or geologic hazards area. This goal is not applicable.

Goal 8: Recreation Needs. No Goal 8 resources are identified on the property. This goal does not apply.

Goal 9: Economic Development. Because the proposal is a rural commercial designation supported by a Goal 3 exception and does not involve urbanization or expansion of urban services, it is consistent with Goal 9.

Goal 10: Housing. This goal applies to housing within an urban growth boundary and, thus, does not apply to this proposal.

Goal 11: Public Facilities and Services. The subject parcels do not require an extension of services with a C (Commercial) zone use, this goal is satisfied.

Goal 12: Transportation. If the zone is changed to Commercial, the existing development will not have a significant impact on the roadway system in this area because of the minimal number of trips associated with the existing uses and the adequacy of the roadway to accommodate the probable level of additional traffic. ODOT did not identify any concerns with this proposal either.

Goal 13: Energy Conservation. There is no indication of energy use increase or decrease based on the proposed zone change and comprehensive plan change. This goal does not apply.

Goal 14: Urbanization. Applicant proposes to rezone rural residential land to Commercial outside of the urban growth boundary. The Commercial (C) zone as applied here is a rural commercial designation acknowledged as consistent with Goal 14. The proposal does not extend urban services or create urban densities, Therefore, no Goal 14 exception is required.

Goals 15-19 are not applicable because the subject property is not within the Willamette River Greenway, or near any ocean or coastal-related resources.

COMPREHENSIVE PLAN AMENDMENT

5. All Comprehensive Plan changes are subject to review by the State Department of Land Conservation and Development (DLCD). DLCD was notified as required by State Law.

DLCD provided a letter in response to the notification, and requested additional findings.

Applicant submitted a response with additional information in support of the Application. Planning Staff found that the additional submission by Applicant sufficiently addressed the concerns raised by DLCD in their letter. DLCD did not provide further comment or otherwise indicated that additional findings were required.

6. An exception based upon land that is irrevocably committed must demonstrate compliance with OAR 660-004-0018(2), which addresses planning and zoning for exception areas. Specifically, the applicant must demonstrate that approval of the exception meets the following requirements: The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and the rural uses,

density, and public facilities and services are compatible with adjacent or nearby resource uses.

7. The Marion County Comprehensive Plan (MCCP) establishes procedures to be used when considering plan amendments. Plan changes directly involving 5 or fewer property owners will be considered a quasi-judicial amendment. The amendment will be reviewed by the zone change procedures established in MCC 17.123. A plan amendment of this type may be processed simultaneously with a zone change request with the zone change procedure outlined in Chapter 17.123 of the MCRZO. The subject property is comprised of one tax lot with one owner, all having an existing use, the proposal can therefore be considered under the quasi-judicial amendment process.
8. The MCCP does not contain specific review criteria for plan amendments; however, any amendment must be consistent with its applicable goals and policies. The goals and policies that apply in this case are located in the Rural Development Chapter and include policies for areas designated Commercial:
 - A. *“Strip-type” commercial or residential development along roads in rural areas shall be discouraged.*
 - B. *Rural industrial, commercial, and public uses should be limited primarily to those activities that are best suited to a rural location and are compatible with existing rural developments and agricultural goals and policies.*

No strip-type development is proposed. The majority of the parcels in the area are currently developed with commercial uses or farm uses and any additional development would not be expected to have any additional impact on surrounding agricultural and rural residential lands. This zone change would extend the commercial zoning to the extent possible allowed by vacant lands in the area, this would make the land more compatible with existing uses as there is already commercial zoning to the south. The area already sees commercial traffic on 99E along with the commercial farm businesses. Applicant did not show any proposed development on the site plan but indicated that the proposal will expand an existing commercial node rather than create a “strip type” development. This proposal would be compatible with existing uses in the area.

9. OAR 660-004-0018 (2) requires that “physically developed” and “irrevocably committed” exceptions to goals, plan, and zone designations shall authorize a single numeric minimum lot size and shall limit uses, density, and public facilities and services to those:
 - A. *That are the same as the existing land uses on the exception site;*
 - B. *That meet the following requirements:*

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- i. *The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and*
 - ii. *The rural uses, density, and public facilities and services will not commit adjacent or nearby resource uses to nonresource use as defined in OAR 660-004-0028; and*
 - iii. *The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;*
- C. *For which the uses, density, and public facilities and services are consistent with OAR 660-022-0030, 'Planning and Zoning of Unincorporated Communities', if applicable, or*
- D. *That are industrial development uses, and accessory uses subordinate to the industrial development, in buildings of any size and type, provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.*

Because the subject property is not within an unincorporated community and is not in industrial use, C and D do not apply. Marion County has adopted a rural commercial zone which has been acknowledged as complying with Goal 14, Urbanization. The Commercial (C) zone as applied in Marion County is acknowledged to comply with Goal 14 and does not authorize urban levels of development or public facilities. The zone ensures that rural uses will not exceed density limitations on rural land and will not commit rural uses to requiring an urban level of public facilities. The commercial uses which would be allowed under the county's Commercial zone would be able to be supported on solely a rural level of public services, including rural septic service, and would be similar to the types of uses found in the surrounding land to the south, which is zoned Commercial. The property cannot be farmed in conjunction with any other parcels in the area. No urban public services will be needed to serve the site. The parcels in the area already consist of properties in commercial or residential use. Based on the evidence and findings provided by the applicant and summarized here, the proposal appears to meet the criteria for a goal three exception.

10. OAR 660-004-028 specifies that a local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make the uses allowed by the applicable goal impracticable. It further stipulates that whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent. The findings for a committed exception, therefore, must address the following:

A. The characteristics of the exception area;

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- B. The characteristics of the adjacent area and the lands adjacent to it; and*
- C. The relationship between the exception area and the lands adjacent to it; and*
- D. The other relevant factors set forth in OAR 660-04-028(6).*

OAR 660-004-028(6) referenced above indicates that findings of fact for a committed exception shall address the following factors:

- A. Existing adjacent uses;*
- B. Existing public facilities and services (water and sewer lines, etc.);*
- C. Parcel size and ownership patterns of the exception area and adjacent lands:*

(i) Consideration of parcel size and ownership patterns shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground utilities) on the resulting parcels or other factors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and non-resource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for non-farm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining those parcels.

(ii) Existing parcel sizes and contiguous ownership shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

D. Neighborhood and regional characteristics;

E. Natural or manmade features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

F. Physical Development according to OAR 660-004-025; and

G. Other relevant factors.

Applicant has addressed the characteristics and relationship of the exception area and the lands adjacent to it, consistent with OAR 660-004-028, as shown in 12 (A), (B), (C) and

(D) above. The land is segmented and broken off from the lands around it, due to the existence of a railroad right-of-way to the west and Highway 99E to the east. To the north is a narrow strip of EFU land, too small to be used for anything other than a buffer strip between the railroad and highway. This small strip of land gradually grows slimmer until the two rights-of-way combine. To the south are lands zoned Commercial and developed with storage buildings.

If this zone change were to be approved, the subject property would be consistent with this zoning and create a harmonious area of Commercially zoned land, appropriately buffered and separated from EFU lands in the area such that, no adverse impacts would be expected. The surrounding pattern of development, regardless of zoning designation, constrains the subject property's ability to be used for farm use.

The subject property is physically separated from surrounding farm operations by Highway 99E and a railroad right-of-way, which materially limit its integration into adjacent farm units. It is a small, strangely shaped parcel that has no relationship with other lands in the area. Due to its separation and characteristics, it has been left as wasteland, overgrown with trees and shrubs.

As stated herein, the rural C zone permits uses that do not require public facilities such as sewer or water.

Highway 99E and the railroad have split off this sliver of EFU land from its larger, farmable parent parcel. It is now an island constrained on all sides and too small for practicable farm use. These physical and functional constraints render farm use impracticable under existing conditions and prevent the parcel from operating as part of a viable farm unit. (i) above explains how roads may be used to demonstrate that a parcel is irrevocably committed to a non-resource use, this applies here.

Additionally, Applicant submitted an analysis showing how tractors and other farm equipment are too large to be used on the subject property. The owner of the property is a local farmer with many acres of farmland in active production. He provides a statement to the record demonstrating how the irregular and small size of the parcel, coupled with the busy highway, make it nearly impossible to get equipment on the site to be used for planting and harvesting. The Property is a small trapezoidal shape, and the southern end is too narrow for large vehicles or logging trucks to turn around. If the northern or middle portions of the Property were left clear for roads and turn-around space for logging trucks or other vehicles, there would be no space for logging.

Because the parcel is so small, the equipment would have to be driven to the parcel each time a farming practice needed to be done. There is no room on the parcel to build storage barns as this would take much of the land out of any theoretical crop production. Applicant states that with one access and the size and turning radius of farm equipment, he has never been able to farm that portion of the property. The angles of the turns are highly reflexive, for example it would likely be impossible for even regular equipment, let alone articulated vehicles, to physically make the left-hand turn

from 551/Hubbard Cutoff Road south to 99E north at the light without intruding on the opposite lane of the road, as well as navigating on the subject property itself. Finally, the property has no water rights, making small scale agricultural production nearly impossible on the land. No evidence was presented identifying a specific dryland farm use that could reasonably operate on the subject property under its existing constraints. The record contains no evidence of any economically viable farm use, including dryland farming, that could practically occur on the subject property given its size, configuration, and access limitations.

While no minimum parcel size applies, the size and configuration of the subject property affect its practical operability for farm use. The evidence demonstrates that farm use is not reasonably practicable on the subject property given existing conditions.

To address (ii) above, Applicant does own farmlands adjacent to this parcel that are in active farm production as filbert orchards. Applicant has never been able to farm the subject property due to the factors described above and as stated in the application and submitted materials. The physical factors, roads, shape of parcel and inability to locate farm equipment on it, irrevocably commit this parcel to a non-farm use. The criterion is met.

Based on the totality of the evidence and the cumulative effect of existing conditions and surrounding development, the Hearings Officer concludes that the subject property is irrevocably committed to non-resource use within the meaning of OAR 660-004-0028 and is not reasonably expected to be used for farm use in the future, notwithstanding its EFU zoning designation.

ZONE CHANGE

11. Applicant seeks a zone change from EFU (Exclusive Farm Use) to C (Commercial). The criteria for a zone change are found in the Marion County Code Chapter 17.123.060 and include:
 - A. *The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the goals and policies of the Comprehensive Plan and the description and policies for the applicable land use classification in the Comprehensive Plan; and*
 - B. *The proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area; and*
 - C. *Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property; and*

- D. *The other lands in the county already designated for the proposed use are either unavailable or not as well suited for the anticipated uses due to location, size or other factors; and*
- E. *If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the new zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.*

The Commercial zone is the only zone that implements the rural Commercial designation in the Marion County Comprehensive Plan (MCCP). The MCCP policies that address designating property as Commercial were addressed herein. The proposal is in compliance based on the evidence presented in the goal exception section of this recommendation. There is a small amount of land zoned C in Marion County. Applicant was unable to find any such lands vacant and available. This proposal makes the best use of the vacant land.

The proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area. The property to the south of the Easterly Portion of the Subject Property is zoned Commercial and is approximately 3.89 acres in size. It is currently utilized as a U-haul transportation rental and self-storage facility. It occupies all of the land to the east of the railroad right-of-way between the right-of-way and Highway 99E. It is highly developed, with 11 large buildings and dozens of vehicles on the property at any given time. This parcel's use is similar to the likely proposed use of the Easterly Portion of the Subject Property, or more likely more intense than the eventual use of the Easterly Portion of the Subject Property if it is rezoned to Commercial.

The Commercial (C) zone implements the Commercial Comprehensive Plan designation and is appropriate given the characteristics of the site and surrounding development. The proposed zone change satisfies the criteria of MCC 17.123.060, and adequate public facilities and services can be provided at a rural level without committing surrounding resource lands to non-resource use.

The criteria for a zone change from EFU (Exclusive Farm Use) to C (Commercial) are satisfied.

VII. Recommendation

It is hereby found that Applicant has met the burden of proving the applicable standards and criteria for approval to change the zone from EFU (Exclusive Farm Use) to C (Commercial) and to change the comprehensive plan designation from Primary Agriculture to Commercial, with an exception to statewide planning Goal 3 (Agricultural Land) on a 1.6-acre section of a 13.85-acre parcel located at 19937 Highway 99E, Aurora (T4S; R1W; Section 23C; Tax lot 200).

Therefore, the Hearing Officer recommends that the Marion County Board of Commissioners GRANT the Application subject to the following conditions that are necessary for the public health, safety, and welfare:

1. The applicant shall obtain all permits required by the Marion County Building Inspection Division.
2. All future development on the property must satisfy the specific development standards in the C zone, chapter 17.145 and the general development standards found in chapter 17.112, 17.113 and 17.118 of the Marion County Code.

VIII. Referral

This document is a recommendation to the Marion County Board of Commissioners. The Board will make the final determination on this Application after holding a public hearing. The Planning Division will notify all parties of the hearing date.

DATED at Salem, Oregon, this 24th day of February, 2026.



Jill F. Foster

Marion County Hearings Officer

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing order on the following persons:

Bruce Ernst
PO Box 460
St. Paul, OR 97133

Surveyor's Office (via email)
KInman@co.marion.or.us

Chris Fowler
Sussman Shank
1000 SW Broadway, Ste. 1400
Portland, OR 97205

Fire District: (via email)
Aurora Fire District
jwilliams@aurorafire.org

Daniel Webb
1864 N Redwood St.
Canby, OR 97013

Planning Division (via email)
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abarnes@co.marion.or.us
jspeckman@co.marion.or.us
ediaz@co.marion.or.us

Chad Goffin *(via email)*
Marion County Code Enforcement

Building Inspection (via email)
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Kaldrich@co.marion.or.us
CTate@co.marion.or.us

Area Advisory Committee 6: (via email)
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Friends of French Prairie
fofp99@gmail.com

Public Works LDEP Section (via email)
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mclddep@co.marion.or.us
JShanahan@co.marion.or.us

Roger Kaye
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Salem, OR 97302
Rkaye2@gmail.com

School District: (via email)
North Marion School District 15
Ginger.redlinger@nmarion.k12.or.us

1000 Friends of Oregon
133 SW 2nd Ave
Portland, OR 97204-2597

Code Enforcement (via email)
CGoffin@co.marion.or.us

County Agencies Notified:
Assessor's Office (via email)
assessor@co.marion.or.us

State Agencies Notified: (via email)
DLCD
Karen.grosulak-mccord@dlcd.oregon.gov
Sarah.marvin@state.or.us
Hilary.foote@state.or.us

Tax Collector (via email)
NMcVey@co.marion.or.us

ODOT

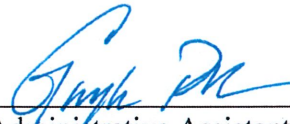
Odotr2planmgr@odot.state.or.us

Special Agencies Notified: *(via email)*

Marion County Farm Bureau

info@marioncofarm.com

By mailing to them copies thereof. I further certify that said copies were placed in sealed envelopes addressed as noted above, that said copies were deposited in the United States Post Office at Salem, Oregon, on the 24th day of February, 2026 and that the postage thereon was prepaid.



Administrative Assistant to the
Hearings Officer

Area to be re-zoned shown in light blue



NOTIFICATION MAP

Input Taxlot(s): 041W23C000200

Owner Name: ERNST, BRUCE W

Situs Address: (No Situs Address)
 City/State/Zip:
 Land Use Zone: EFU
 School District: NORTH MARION
 Fire District: AURORA

Legend Input Taxlots Search Radius Adjacent Taxlots Highways Notify Taxlots Cities		
 search radius = 1,000' scale: 1 in = 608 ft	DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.	



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: 4/29/26

Department: Public Works

Title: Purchase of a 40-ton Sliding Axle Trailer

Management Update/Work Session Date: Audio/Visual aids

Time Required: 5 minutes Contact: Scott Wilson Phone: 503-365-3129

Requested Action: Approve PO #942023 in the amount of \$126,575.29 to Nelson Truck Equipment Co. Inc for the purchase of a Landoll 440B-41 40-ton sliding axle trailer.

Issue, Description & Background: Public Works is requesting approval of Purchase Order #942023 to Nelson Truck Equipment Co. Inc. for a Landoll 440B-41 40-ton sliding axle. This PO replaces a previous PO issued to Globe Trailer Mfg. in September 2024. Globe Trailer Mfg. recently notified Public Works that they are no longer able to manufacture and deliver the specified trailer. The proposed Landoll trailer is a 41-foot sliding axle model designed to handle heavy loads with a low loading angle, ensuring stability during loading and unloading operations. This equipment will enhance operational efficiency by enabling Public Works to transport multiple pieces of equipment, bridge repair components, and concrete structures to job sites, while maintaining maneuverability in remote locations.

Financial Impacts: PO #942023 would be awarded through a cooperative agreement with EWEB (Eugene Water & Electric Board) #24-129-1-GS. This is a budgeted expense in the current fiscal year under CE#24-319.

Impacts to Department & External Agencies: This purchase is essential to replace equipment that has surpassed its useful life and will be replacing our existing 1953 tandem axle flatbed trailer, 0PW433.

List of attachments: Purchase Order #942023

Presenter: Scott Wilson

Department Head Signature: Brian Nicholas Digitally signed by Brian Nicholas Date: 2026.02.12 14:22:28 -08'00'

Contract Review Sheet

Purchase Order #942023

PW-7016-26

Title: Sliding Axle Trailer

Contractor's Name: Nelson Truck Equipment

Department: Public Works Department

Contact: Jeniffer Scales

Analyst: Kathleen George

Phone #: (503) 588-5036

Term - Date From: April 29, 2026

Expires: December 31, 2026

Original Contract Amount: \$ 126,575.29

Previous Amendments Amount: _____

Current Amendment: \$ -

New Contract Total: \$ 126,575.29

Amd% _____

Outgoing Funds Federal Funds Reinstatement Retroactive Amendment greater than 25%

Source Selection Method: 10-0400 Cooperative

Cooperative# 24-129-1-GS

Description of Services or Grant Award

Public Works is requesting approval of Purchase Order #942023 to Nelson Truck Equipment Co. Inc. for a Landoll 440B-41 sliding axle, 40-ton trailer. This request replaces a previous PO issued to Globe Trailer Mfg. in September 2024. Globe Trailer Mfg. recently notified us that they are unable to manufacture and deliver the specified trailer.

The proposed Landoll trailer is a 41-foot sliding axle model designed to handle heavy loads with a low loading angle, ensuring stability during loading and unloading operations.

This equipment will enhance operational efficiency by enabling Public Works to transport multiple pieces of equipment, bridge repair components, and concrete structures to job sites, while maintaining maneuverability in remote locations.

This trailer is under the approved CE#24-319 and will be awarded through the EWEB (Eugene Water & Electric Board) cooperative agreement #24-129-1-GS. CMS# PW-7016-26.

Desired BOC Session Date: 4/29/2026

Contract should be in DocuSign by: 4/8/2026

Agenda Planning Date: 4/16/2026

Printed packets due in Finance: 4/14/2026

Management Update: 4/14/2026

BOC upload / Board Session email: 4/15/2026

BOC Session Presenter(s) Scott Wilson


Code: Y

REQUIRED APPROVALS


04/02/2026
Finance - Contracts Date


04/03/2026
Contract Specialist Date


04/03/2026
Legal Counsel Date


04/03/2026
Chief Administrative Officer Date



**MARION COUNTY
FINANCE DEPARTMENT**

PO Box 14500
555 Court St NE #4247
Salem, OR 97309-5036

NELSON TRUCK EQUIPMENT
1900 NORTH STREET
MARYSVILLE KS 66508

Purchase Order		
Purchase Order No	Revision	Page
942023		1
Ship To: MARION COUNTY PUBLIC WORKS 5155 SILVERTON RD NE SALEM OR 97305		
Bill To: MARION COUNTY PUBLIC WORKS 5155 SILVERTON RD NE SALEM OR 97305		

Customer Acct No	Supplier No	Order Date / Buyer J SCALES	Revised Date / Buyer J SCALES
Payment Terms IMMEDIATE	Ship Via BEST METHOD		F.O.B DESTINATION
Freight Terms PREPAID	Request Or Deliver To ERIC STEWART		Confirm To / Telephone ()

Line #	Description	Delivery Date	Quantity	Unit	Unit Price	Total
1	CE#24-319 2026 LANDOLL 440B-41 SLIDING AXLE EQUIPMENT TRAILER. THIS PURCHASE IS PLACED AGAINST EWEB COOPERATIVE AGREEMENT#24-129-1-GS		1			\$126,575.29
Total						\$126,575.29

INSTRUCTIONS TO VENDOR

1. Please direct any questions concerning this purchase order to invoiced department.
2. Purchase Order Number must appear on all invoices, packages and shipping documents relating to this order.
3. Separate invoices must be submitted for each Purchase Order.
4. Do not overship or substitute.
5. If you cannot supply the items requested, please notify issuing authority at once.

Note : Please notify department contact (above) for all inquiries regarding this Purchase Order

Authorized By: _____
MARION COUNTY PURCHASING
NOT VALID Unless Signed By Purchasing

MARION COUNTY TERMS AND CONDITIONS

1. INSPECTIONS: County may inspect and test the Goods and related Services (collectively, Goods). County may reject non-conforming Goods and require Contractor to correct them without charge or deliver them at a reduced price, as negotiated. If Contractor does not cure any defects within a reasonable time, County may reject the Goods and cancel the PO in whole or in part. This paragraph does not affect or limit County's rights, including its rights under the Uniform Commercial Code, ORS chapter 72 (UCC).

2. DELIVERY: Deliveries will be F.O.B destination. Contractor shall pay all transportation and handling charges. Contractor is responsible and liable for loss or damage until final inspection and acceptance of the Goods. Contractor remains liable for latent defects, fraud, and warranties.

3. PAYMENT: County shall pay Contractor within 30 days from (i) the date the Goods are delivered and accepted or (ii) the date the invoice is received, whichever is later

4. COUNTY PAYMENT OF CONTRACTOR CLAIMS: If Contractor does not pay promptly any claim that is due for Goods or Services furnished to the Contractor by any subcontractor in connection with this PO, the County may pay such claim and charge that payment against any payment due to the Contractor under this PO. The County's payment of a claim does not relieve the Contractor or its surety, if any, from their obligations for any unpaid claims.

5. WARRANTIES: Contractor agrees to perform its services with that highest standard of care, skill and diligence normally provided by a professional individual in the performance of similar services. Contractor represents and warrants that the Goods are new, current, and fully warranted by the manufacturer. Delivered Goods will comply with specifications and be free from defects in labor, material and manufacture. All UCC implied and expressed warranties are incorporated in this PO. Contractor shall transfer all warranties to the County.

6. TERMINATION OF PO: The PO may be terminated under the following conditions: a. By written mutual agreement of both parties. Termination under this provision may be immediate. b. Upon fifteen (15) calendar days written notice by either Party to the other of intent to terminate. c. The County may terminate all or part of this PO for the following reasons: (1) If the consultant fails to provide services, or fails to meet the performance standards as specified in this PO (or subsequent modifications of this PO), within the time specified herein or any extension thereof. Termination under this provision may be immediate; (2) If the consultant fails to start services on the date specified by Marion County in this PO or subsequent modifications to this contract. Termination under this provision may be immediate. (3) Failure of the consultant or Marion County to comply with the provisions of this PO and all applicable federal, state, and local laws and rules may be cause for termination of this contract. Such termination shall be without prejudice to any obligations or liabilities of either party accrued prior to such termination. If this PO is terminated by either party, for reasons other than breach of contract, the County agrees to pay to the consultant all costs and expenses associated with services satisfactorily provided to the effective date of termination.

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

8. GOVERNING LAW, VENUE: This PO shall be governed by the laws of the State of Oregon. Any action commenced in connection with this PO shall be in the Circuit Court of Marion County. All rights and remedies of the County shall be cumulative and may be exercised successively or concurrently. The foregoing

is without limitation to or waiver of any other rights or remedies of the County according to law.

9. FORCE MAJEURE: Neither party is responsible for delay or default caused by an event beyond its reasonable control. County may terminate this PO without liability to Contractor upon written notice after determining the delay or default reasonably prevents performance of this PO.

10. SUBCONTRACTING/NONASSIGNMENT. No portion of the PO may be contracted or assigned to any other individual, firm or entity without the express and prior approval of the County.

11. MAINTENANCE, RETENTION, AND CONFIDENTIALITY OF RECORD. The Contractor agrees to establish and maintain records and statistics as follows: Financial records, which indicate the number of hours of service provided under this contract and other appropriate records pertinent to this contract shall be retained for a minimum of three (3) years after the end of the contract period. If there are unresolved audit questions at the end of the three-year period, the records must be maintained until the questions are resolved. To the extent applicable, client records shall be kept confidential in accordance with ORS 179.505, OAR 309-11-020, 45 CFR 205.50 and 42 CFR Part 2.

12. COMPLIANCE WITH APPLICABLE LAWS: The Contractor shall comply with all applicable Federal, State and local laws, rules and regulations. All provisions of ORS 279B (Public Contracts and Purchasing) are incorporated herein to the extent applicable to POs.

13. WORKERS' COMPENSATION: Contractor shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless exempt under ORS 656.126(2). Contractor shall ensure that its Subcontractors, if any, comply with these requirements.

14. SAFETY AND HEALTH REQUIREMENTS: Contractor represents and warrants that the Goods comply with all federal and Oregon safety and health requirements.

15. MATERIAL SAFETY DATA SHEET: Contractor shall provide County with a Material Safety Data Sheet for any Goods which may release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use (OAR 437- 002-0360 and 29 CFR 1910.1020). Contractor shall label, tag or mark such Goods.

16. AMENDMENTS: All amendments to this PO must be in writing, signed by County.

17. SEVERABILITY: If a court of competent jurisdiction declares any provision of this PO to be invalid, the other provisions and the rights and obligations of the parties remain in effect.

18. WAIVER: Failure of either party to enforce any provision of this PO is not a waiver or relinquishment of that party's rights to such performance in the future or to enforce any other provisions.

19. TAX CERTIFICATION: Contractor hereby certifies under penalty of perjury: (a) the number shown on this form is the correct Federal Employer Identification Number; (b) it is not subject to backup withholding because (i) it is exempt from backup withholding, (ii) it has not been notified by the IRS that it is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that it is no longer subject to backup withholding; and (c) it is not in violation of any Oregon tax laws.

**SIGNATURE PAGE FOR
SLIDING AXLE TRAILER - PW-7016-26
between
MARION COUNTY and NELSON TRUCK EQUIPMENT**

**MARION COUNTY SIGNATURES
BOARD OF COMMISSIONERS:**

Chair _____ Date _____

Commissioner _____ Date _____

Commissioner _____ Date _____

Authorized Signature: *Brian Nicholas* 04/02/2026
Brian Nicholas (Apr 2, 2026 17:02:58 PDT)
Department Director or designee Date

Authorized Signature: *Jan Fritz* _____
Jan Fritz (Apr 3, 2026 10:43:04 PDT)
Chief Administrative Officer Date

Reviewed by Signature: *Andrew Wetendorf* 04/03/2026
Marion County Legal Counsel Date

Reviewed by Signature: *Chalyce McDonald* 04/02/2026
Marion County Contracts & Procurement Date



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: May 6, 2026

Department: Public Works

Title: Landfill Closure Design North Marion Ash Monofill

Management Update/Work Session Date: April 21, 2026 Audio/Visual aids

Time Required: 5 minutes Contact: Andrew Johnson Phone: 503-566-4184

Requested Action: Approve contract with Geo-Logic Associates in the NTE amount of \$269,428.00 for the closure design of Cell IV of the ash monofill at North Marion County Disposal Facility.

Issue, Description & Background: This contract is for the design of final closure for Cell IV of the ash monofill at North Marion County Disposal Facility. The design will address all aspects of closure including grading of the final contours, final closure methodology, ground and storm water mitigation, and regulatory approval. The final closure of Cell IV will directly reduce the leachate generation of that area, thus providing significant budget relief in leachate hauling and disposal. The NTE contract amount is \$269,428.00 and the contract term is through 12/31/2028.

Financial Impacts: Funded from 510 (Environmental Services) fund. Final closure will directly reduce the leachate generation and costs associated with hauling and disposal.

Impacts to Department & External Agencies: None

List of attachments:

Presenter: Andrew Johnson

Department Head Signature: Brian Nicholas Digitally signed by Brian Nicholas Date: 2026.03.25 06:29:17 -07'00'

Contract Review Sheet

Contract for Services

PW-6861-26

Title: Landfill Closure Design North Marion Ash Monofill

Contractor's Name: Geologic Associates, Inc.

Department: Public Works Department

Contact: Janet Wilson

Analyst: Kathleen George

Phone #: (503) 566-4139

Term - Date From: Execution

Expires: December 31, 2028

Original Contract Amount: \$ 269,428.00

Previous Amendments Amount: \$ -

Current Amendment: \$ -

New Contract Total: \$ 269,428.00 Amd% 0%

Outgoing Funds Federal Funds Reinstatement Retroactive Amendment greater than 25%

Source Selection Method: 30-0220 Formal Selection A&E

PW1601-25

Description of Services or Grant Award

This contract is for design of the final closure of Cell IV of the ash monofill at North Marion. The design will address all aspects of closure including grading of the final contours, final closure methodology, ground and storm water mitigation, and regulatory approval.

The final closure of Cell IV will directly reduce the leachate generation of that area, thus providing significant budget relief in leachate hauling and disposal.

The not to exceed contract amount is \$269,428.00 and the contract term is through 12/31/2028.

Desired BOC Session Date: 5/6/2026

Contract should be in DocuSign by: 4/15/2026

Agenda Planning Date: 4/23/2026

Printed packets due in Finance: 4/21/2026

Management Update: 4/21/2026

BOC upload / Board Session email: 4/22/2026

BOC Session Presenter(s) Andrew Johnson

Code: Y

REQUIRED APPROVALS


03/30/2026

Finance - Contracts Date


04/01/2026

Contract Specialist Date


Scott Norris (Mar 31, 2026 10:57:49 PDT)

Legal Counsel Date


Jan Fritz (Apr 1, 2026 08:54:21 PDT)

Chief Administrative Officer Date

MARION COUNTY

**ENGINEERING AND RELATED SERVICES CONTRACT
Contract Number: PW-6861-26**

Project Title: Landfill Closure Design North Marion Ash Monofill	County Project Number: 106473
Project Location: North Marion County Disposal Facility	Associated RFP Number: PW1601-25
Total Not-to-Exceed (“NTE”) amount for this Contract. This total includes: a) all allowable costs and expenses, profit, and fixed-fee amount, if any; and b) \$0 for contingency tasks, each of which must be separately authorized by County.	\$ 269,428.00

This Contract is between Marion County, hereafter called “County” and Geo-Logic Associates (GLA), a California corporation, hereafter called “Consultant.” County and Consultant together are also referred to as “Parties” and individually referred to as “Party.” The primary contacts for this Contract are identified in Exhibit F, Contact Information and Key Persons.

For purposes of this Contract:

- a) “business days” means calendar days, excluding Saturdays, Sundays and all State of Oregon recognized holidays;
- b) “calendar days” means any day appearing on the calendar, whether a weekday, weekend day, national holiday, State of Oregon holiday or other day;
- c) “Engineering” Services means architectural, engineering, photogrammetric mapping, transportation planning or land surveying services that must be procured using qualifications based selection procedures (see Marion County Public Contracting Rules section 30-0110); and
- d) “Related Services” has the meaning provided in Marion County Public Contracting Rules section 10-0110.

TERMS AND CONDITIONS

- 1. Contract Effective Date and Term.** This Contract is effective on the date it has been signed by the parties and all required approvals have been obtained. No work or compensation under the Contract is authorized until notice to proceed has been issued in writing (email acceptable) by the County. Unless otherwise amended or terminated, this Contract shall expire December 31, 2028.
- 2. Statement of Work.** Consultant shall perform all Services and deliver all deliverables as described in Exhibit A, Statement of Work (the “Services”). The required schedule for performance under the Contract is specified in the Statement of Work.
- 3. Compensation.** The maximum NTE amount, which includes the total of all allowable and reimbursable costs and expenses (and contingency tasks, if any) payable to Consultant under this Contract, is set forth in the table above and detailed further in Exhibit B, Compensation. County reserves the right, in its sole discretion, to amend this Contract to increase this amount for additional Services within the scope of the procurement. The payment methodology and basis for payment to Consultant is described in Exhibit B, Compensation.
- 4. Contract Exhibits.** This Contract includes the following exhibits, each of which is incorporated into this Contract as though fully set forth herein:
 - Exhibit A – Statement of Work
 - Exhibit B – Compensation
 - Exhibit C – Insurance
 - Exhibit D – Special Terms and Conditions (**RESERVED**)
 - Exhibit E – Errors & Omissions (“E&O”) Claims Process

- Exhibit F – Contact Information and Key Persons

5. Order of Precedence. Unless a different order is required by law, this Contract shall be interpreted in the following order of precedence: this Contract (including all amendments, if any) less all Exhibits, attachments and other documents/information incorporated into this Contract, then the Statement of Work and Payment Schedule, then all other Exhibits, then any other attachments or documents/information incorporated into this Contract by reference.

6. Independent Contractor; Conflict of Interest; Responsibility for Taxes and Withholding; Consultant Oversight.

- Consultant, by its signature on the Contract, certifies that it is an independent contractor as defined in ORS 670.600 and as described in IRS Publication 1779, which is available at the following link: <https://www.irs.gov/pub/irs-pdf/p1779.pdf>. Consultant shall perform all required Services as an independent contractor. Although County reserves the right (i) to determine the delivery schedule (as mutually acceptable to County and Consultant) for the Services to be performed and (ii) to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Consultant's performance. Consultant is responsible for determining the appropriate means and manner of performing the Services. Consultant is not an "officer", "employee", or "agent" of County.
- Consultant, by its signature on the Contract, certifies that: (i) Consultant and, to the best of its information, knowledge and belief, its Associates have made any disclosures required under the COI Disclosure Form (available at: https://www.oregon.gov/ODOT/Business/Procurement/DocsLPA/COI_LPA.docx) or any applicable law; and (ii) if a conflict of interest is discovered during the term of the Contract, Consultant shall timely submit a COI Disclosure Form to County disclosing the conflict(s).
- Consultant shall be responsible for all Federal or State of Oregon ("State") taxes applicable to compensation or payments paid to Consultant under the Contract and, unless Consultant is subject to backup withholding, County will not withhold from such compensation or payments any amount(s) to cover Consultant's Federal or State tax obligations. Throughout the duration of the Contract, Consultant shall submit an updated W-9 form (<https://www.irs.gov/pub/irs-pdf/fw9.pdf>) to County whenever Consultant's backup withholding status or any other information changes. Consultant is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Consultant under the Contract, except as a self-employed individual.
- Consultant shall not be responsible for or have control over the means, manner, methods or techniques required of or used by other consultants or contractors under contract with County, unless otherwise expressly agreed to in writing by the Parties. The Parties agree, however, that these Section 6.d. provisions do not in any way revise or adjust Consultant's professional responsibility to report to County any information that comes to Consultant's attention (during performance of this Contract) pertaining to a project, or to performance by other consultants or contractors on a project, that would adversely affect County or a particular project.

7. Subcontracts and Assignment; Successors and Assigns

- Consultant shall obtain County's written consent prior to entering into any subcontracts for any of the Services required by the Contract, or in any manner assigning, selling or transferring any of its rights or interest under the Contract or delegate any of its duties or performance under the Contract. In addition to any other provisions County may require, Consultant shall include, in any permitted subcontract under the Contract, contractual provisions that shall require any subcontractor (which may also be referred to as "subconsultant") to comply with Sections 9, 10, 11, 12, 13, 16, 17, 18, 19, 23, 27 and 29 of these Contract provisions, the limitations of **Exhibit B** - Compensation, and the requirements and sanctions of ORS Chapter 656, Workers' Compensation, in the performance of the subcontractor's Services on the project that is the subject of the Contract, as if the subcontractor were the Consultant. County's consent to any subcontract shall not relieve Consultant of any of its duties or obligations under the Contract, including with respect to any Services, whether performed or to be performed by Consultant or a subcontractor.
- The provisions of the Contract shall be binding upon and shall inure to the benefit of the Parties hereto, and their respective successors and permitted assigns, if any.
- Any purported assignment, delegation or disposition in violation of subsection "a." above is void.

8. Third Party Beneficiaries. There are no third-party beneficiaries of the Contract.

9. Representations and Warranties. Consultant represents and warrants to County that (i) Consultant has the power and authority to enter into and perform the Contract, (ii) the Contract, when executed and delivered is a valid and binding obligation of Consultant, enforceable in accordance with its terms, (iii) the Services under the Contract will be performed in accordance with the professional standard of care set forth in Section 10 below; (iv) Consultant is duly licensed to perform the Services, and if there is no licensing requirement for the profession or Services, is duly qualified and professionally competent to perform the Services; and (v) Consultant is an experienced firm having the skill, legal capacity, professional ability and resources necessary to perform all the Services required under the Contract. The warranties set forth in this Section are in addition to, and not in lieu of, any other warranties provided.

10. Professional Standard of Care; Responsibility of Consultant; Design Within Funding Limit

a. Professional Standard of Care.

Consultant shall perform all Services under the Contract in accordance with the degree of skill and care ordinarily used by competent practitioners of the same professional discipline when performing similar services under similar circumstances, taking into consideration the contemporary state of the practice and the project conditions.

b. Responsibility of Consultant.

(i) Consultant shall be responsible for the professional quality, technical accuracy, and coordination of all designs, drawings, specifications, and other Services furnished by Consultant under the Contract. Consultant shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications and other Services.

(ii) County's review, approval or acceptance of, or payment for, the Services required under the Contract shall not be construed to operate as a waiver of any rights under the Contract or of any cause of action arising out of the performance of the Contract, and Consultant shall be and remain liable to County in accordance with applicable law for all damages to County caused by Consultant's negligent performance of any of the Services furnished under the Contract or negligent failure to perform any of the Services under the Contract.

(iii) The rights and remedies of County provided for under the Contract are in addition to any other rights and remedies provided by law.

(iv) If Consultant is comprised of more than one legal entity (for example, a joint-venture or partnership), each such entity shall be jointly and severally liable under the Contract.

c. Reserved.

11. Ownership of Work Product

a. Definitions. The following terms have the meanings set forth below:

(i) "Consultant Intellectual Property" means any intellectual property owned by Consultant and developed independently from the Contract.

(ii) "Third Party Intellectual Property" means any intellectual property owned by parties other than County or Consultant.

(iii) "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item, and all intellectual property rights therein, that Consultant is required to deliver to County pursuant to the Contract.

b. Work Product. All Work Product created by Consultant pursuant to the Contract, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire," shall be the exclusive property of County. County and Consultant agree that Work Product that constitutes original works of authorship (the "Original Work Product") is "work made for hire" of which County is the author within the meaning of the United States Copyright Act. If for any reason Original Work Product created pursuant to the Contract is not "work made for hire," Consultant hereby irrevocably assigns to County any and all of its rights, title, and interest in all Original Work Product created pursuant to the Contract, whether arising from copyright, patent, trademark, trade secret, or any other State or Federal intellectual property law or doctrine. Upon County's reasonable request, Consultant shall execute such further documents and instruments necessary to fully vest such rights in Original Work Product in County. Consultant forever waives any and all rights relating to Original Work Product created

pursuant to the 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. However, see Sections 11.c and 11.d immediately below, for provisions applicable to Consultant Intellectual Property, Third Party Intellectual Property, Consultant Intellectual Property derivative works and Third Party Intellectual Property derivative works.

- c. **Consultant and Third Party Intellectual Property.** In the event that any Work Product is Consultant Intellectual Property or Third Party Intellectual Property (Consultant Intellectual Property or Third Party Intellectual Property that is applicable to the Services being performed by Consultant under the Contract or included in Work Product deliverable to County under the Contract), or in the event any Consultant Intellectual Property or Third Party Intellectual Property is needed by County to reasonably enjoy and use any Work Product, Consultant hereby agrees that it will grant to, or obtain for, the County an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display Consultant Intellectual Property and or Third Party Intellectual Property, including the right of County to authorize contractors, consultants and others to do the same on County's behalf. This obligation of the Consultant does not apply to a situation involving a third party who enters a license agreement directly with the County. At the request of Consultant, County shall take reasonable steps to protect the confidentiality and proprietary interests of Consultant in any Consultant Intellectual Property licensed under this Section, within the limits of the Oregon Public Records Law (ORS 192.410 through 192.505) and the Oregon Uniform Trade Secrets Act (ORS 646.461 to 646.475).
- d. **Consultant and Third Party Intellectual Property-Derivative Work.** In the event that Work Product created by Consultant under the Contract is a derivative work based on Consultant Intellectual Property or Third Party Intellectual Property, or is a compilation that includes Consultant Intellectual Property or Third Party Intellectual Property, Consultant hereby agrees to grant to, or obtain for, County an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of Consultant Intellectual Property or Third Party Intellectual Property employed in the Work Product, including the right of County to authorize others to do the same on County's behalf.
- e. **Consultant Use of Work Product.** Notwithstanding anything to the contrary in this Section 11, Consultant may refer to the Work Product in its brochures or other literature that Consultant utilizes for advertising purposes and, unless specified otherwise in Exhibit A – Statement of Work, County hereby grants to Consultant a non-exclusive, non-transferable, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display County-owned Work Product on other unrelated projects, except for any "Confidential Information" protected from disclosure under the provisions of Section 12 below, pertaining to Confidentiality and Non-Disclosure.

12. Confidentiality and Non-Disclosure. Consultant and its subcontractors, and their respective employees and agents, shall keep confidential all information, in whatever form, produced, prepared, observed or received to the extent that such information is designated as confidential by the County, by law, or by this Contract. In the event Consultant is required to disclose Confidential Information pursuant to a subpoena or other legal process, Consultant shall immediately notify County of such subpoena or other legal process, provide County with copies of any subpoena, other legal process and any other written materials supporting the subpoena or other legal process, and otherwise cooperate with County in the event County decides to oppose the disclosure of the Confidential Information. In the event County decides not to oppose such subpoena or other legal process or County's decision to oppose the subpoena or legal process has not been successful, Consultant shall be excused from the confidentiality provisions of this Section, to the extent necessary to meet the requirements of the subpoena or other legal process controlling the required disclosure.

13. Indemnity

- a. **Claims for Other Than Professional Liability.** Consultant shall indemnify, defend, save, and hold harmless County, and its officers, agents, and employees, from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of whatsoever nature resulting from or arising out of the acts or omissions of Consultant or its sub-consultants, subcontractors, agents, or employees under this contract.

- b. Claims for Professional Liability.** Consultant shall indemnify, defend, save, and hold harmless County, and its officers, agents, and employees, from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of whatsoever nature arising out of the professionally negligent acts, errors or omissions of Consultant or its sub-consultants, subcontractors, agents, or employees in the performance of professional services under this contract, if Consultant's liability or fault is determined by adjudication, alternative dispute resolution, or by settlement agreement in an amount not exceeding Consultant's proportionate liability or fault.
- c. Indemnity for Infringement Claims.** *Without limiting the generality of section 13(a) or 13(b), Consultant expressly agrees to indemnify, defend, save and hold harmless the County and its officers, agents, and employees from any and all claims, suits, actions, losses, damages, liabilities, costs and expenses, including attorney fees, arising out of or relating to any claims that Consultant's services, the Work Product or any other tangible or intangible items delivered to the County by Consultant that may be the subject of protection under any state or federal intellectual property law or doctrine, or the County's use thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any third party; provided, County shall provide Consultant with prompt written notice of any infringement claim. Provided, however, Consultant shall not be obligated to indemnify, defend, save and hold harmless the County (or other entities identified above) under this section 13(c), based solely on the following: Consultant's compliance with County specifications or requirements, including, but not limited to the required use of tangible or intangible items provided by County.*
- d. Defense Qualification.** *Neither Consultant nor any attorney engaged by Consultant shall defend or purport to defend a claim in the name of the County, without first receiving from the applicable entity, authority to act as legal counsel, nor shall Consultant settle any claim on behalf of the foregoing entities without the approval of these entities. The County may any time and at its election and expense, assume their own defense and settlement.*
- e. County's Acts or Omissions.** *This section 13 does not include indemnification by Consultant of the County or its officers, agents and employees, for the acts or omissions of the County or its officers, agents and employees, whether within the scope of the Contract or otherwise.*

14. Insurance. Consultant shall carry insurance as required on **Exhibit C**.

15. Termination

- a. Termination by Mutual Consent.** The Contract may be terminated at any time, in whole or in part, by mutual written consent of the Parties.
- b. County's Right to Terminate for Convenience.** County may, at its sole discretion, terminate the Contract, in whole or in part, by written notice to Consultant specifying the termination date of the Contract.
- c. County's Right to Terminate for Cause.** County may terminate the Contract, in whole or in part, immediately upon written notice to Consultant or at such later date as County may establish in such notice, upon the occurrence of any of the following events:
 - (i) In the event the Board of Commissioners of the COUNTY, in the exercise of its reasonable discretion, reduces, changes, eliminates, or otherwise modifies the funding for any of the services identified, the Consultant agrees to abide by any such decision including termination of service;
 - (ii) Federal, State or local laws, regulations or guidelines are modified or interpreted in such a way that either the Services under the Contract are prohibited or County is prohibited from paying for such Services from the planned funding source;
 - (iii) Consultant no longer holds any license or certificate that is required to perform the Services; or
 - (iv) Consultant commits any material breach or default of any covenant, warranty, obligation or agreement under the Contract, fails to perform the Services under the Contract within the time specified or any extension thereof, or so fails to perform the Services as to endanger Consultant's performance under the Contract in accordance with its terms, and such breach, default or failure is not cured within 10 calendar days after County's notice to Consultant, or such longer period as County may specify in such notice.
- d. Cessation of Services.** Upon receiving a notice of termination of the Contract, Consultant shall immediately cease all activities under the Contract, unless County expressly directs otherwise in such

notice of termination. Upon termination of the Contract, Consultant shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract been completed. Upon County's request, Consultant shall surrender to anyone County designates, all documents, information, research, works-in-progress, Work Product and other property, that are deliverables or would be deliverables had the Contract been completed, that are in Consultant's possession or control and may be needed by County to complete the Services.

e. Consultant's Right to Terminate for Cause.

- (i) Consultant may terminate the Contract by giving written notice to County if County fails to pay Consultant pursuant to the terms of the Contract and if County fails to cure within 15 calendar days after receipt of Consultant's written notice, or such longer period of cure as Consultant may specify in such notice.
- (ii) Consultant may terminate the Contract, for reasons other than nonpayment, if County commits any material breach or default of any covenant, warranty, obligation or agreement under the Contract, fails to perform under the Contract within the times specified, or so fails to perform as to endanger Consultant's performance under the Contract, and such breach, default or failure is not cured within 30 calendar days after Consultant's notice to County, or such longer period as Consultant may specify in such notice.

f. Remedies.

- (i) In the event of termination pursuant to Sections 15(a), 15(b), 15(c)(i), 15(c)(ii) or 15(d), Consultant's sole remedy (except as otherwise required by applicable State or Federal law) shall be a claim for payment of the satisfactory Services actually rendered and accepted by County up to the time of termination, less previous amounts paid and any claim(s) which County has against Consultant, except in the event of a termination under Section 15(c)(i) where no payment will be due and payable for Services performed or costs incurred after the last day of the current Fiscal Year. If previous amounts paid to Consultant exceed the amount due to Consultant under this subsection, Consultant shall pay all excess to County upon demand.
- (ii) In the event of termination pursuant to Section 15(c)(iii) or 15(c)(iv), County shall have any remedy available to it in law or equity. Such remedies may be pursued separately, collectively or in any order whatsoever. If it is determined for any reason that Consultant was not in default under Section 15(c)(iii) or 15(c)(iv), the rights and obligations of the Parties shall be the same as if the Contract was terminated pursuant to Section 15(b).

16. Records Maintenance; Access. For not less than ten (10) years after the Contract's expiration or termination, County, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Consultant and the Sub-consultants which pertain to the Contract for the purpose of making audits, examination, excerpts, and transcripts. If, for any reason, any part of this Contract, any Project-related consultant contract or any Project-related construction contract(s) is involved in litigation, Consultant shall retain all pertinent records for not less than seven (7) years or until all litigation is resolved, whichever is longer. Consultant shall provide County and the other entities referenced above with full access to these records in preparation for and during litigation.

17. Performance Evaluations. County will conduct performance evaluation(s) on the Consultant and its subconsultants during the term of the Contract, which will be compiled and maintained by County, and become a written record of Consultant's performance. Generally, the performance evaluations will include criteria related to, but not limited to, quality and technical performance, adherence to contract scope and budget, schedule performance, and business relations (including communications and negotiations performance). County will provide a copy of the performance evaluation results to Consultant within 14 calendar days following completion. Consultant may respond, in writing, or may request a meeting to address any or all findings contained in the completed performance evaluation within 30 calendar days following receipt. County may adjust evaluation score(s) upon County's finding of good cause. County may use performance evaluation findings and conclusions in any way deemed necessary, including, but not limited to, corrective action, requiring submittal of performance improvement plan by Consultant and withholding of retainage. County may use Consultant performance under previous contracts as a selection criterion for future contracts.

18. Compliance with Applicable Law. Consultant shall comply with all federal, state and local laws, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Contract, in effect at the time the Contract is executed and as may be amended, revised, enacted or adopted thereafter. Changes in these legal requirements after the execution of the Contract may or may not be the basis for modifications to Consultant's schedule, scope and fee, depending on a reasonable assessment of the nature of the change, the extent to which the change was anticipated by Consultant or the Parties, and other circumstances then existing. County's performance under the Contract is conditioned upon Consultant's compliance with, and Consultant shall comply with, the obligations applicable to public contracts and intended for contractors under ORS 279C.505, 279C.515, 279C.520 and 279C.530, which are incorporated by reference herein. All rights and remedies available to County under applicable federal, state and local laws are also incorporated by reference herein and are cumulative with all rights and remedies under the Contract. If Consultant discovers a conflict among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Contract, Consultant shall in writing request County to resolve the conflict. Consultant shall specify if the conflict(s) create a problem for the design or other Services required under the Contract. If County concludes there is a conflict among the applicable laws, Federal laws shall govern among the others; State laws shall govern over the others except Federal. The resolution of the conflict of the applicable laws by County shall be final and not subject to further review or challenge.

19. Permits and Licenses

- a. **Permits and licenses to conduct business.** Unless otherwise specified in **Exhibit A**, Statement of Work, Consultant shall obtain, hold, maintain and fully pay for during the term of the Contract all permits and licenses required by law for Consultant to conduct its business and perform the Services under the Contract.
- b. **Permits and licenses required for the project.** Unless otherwise specified in **Exhibit A**, Statement of Work, Consultant shall obtain, hold and maintain during the term of the Contract all permits and licenses required for the project (for example, permits from regulatory authorities and use permits or licenses from owners of real and personal property), but County shall pay for such permits and licenses. Consultant shall review the project site, if applicable, and the nature of the Services that Consultant shall perform under the Contract. Consultant shall advise County throughout the course of the project as to the necessity of obtaining all project permits and licenses, the status of the issuance of any such permits and licenses, and any issues or impediments related to the issuance or continuation of any such permits and licenses.

20. Foreign Contractor. If Consultant is not domiciled in or registered to do business in the State of Oregon as of the Effective Date, Consultant shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to the Contract. Consultant shall demonstrate its legal capacity to perform the Services under this Contract in the State of Oregon prior to executing this Contract.

21. Force Majeure. Neither County nor Consultant shall be held responsible for delay or default in the performance of its obligations due to a cause beyond its reasonable control, including, but not limited to, fire, riot, acts of God, terrorist acts or other acts of political sabotage, or war where such cause was beyond the reasonable control of County or Consultant, respectively. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the Contract.

22. Survival. All rights and obligations shall cease upon termination or expiration of the Contract, except for the rights and obligations set forth in Sections 5, 9, 10, 11, 12, 13, 15(e), 15(f), 16, 22, 23, 26, 27 and 29 and all other rights and obligations which by their context are intended to survive.

23. Time is of the Essence. Consultant agrees that time is of the essence in Consultant's performance of its obligations under the Contract.

24. Notice. Except as otherwise expressly provided in the Contract, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by e-mail, by personal delivery, facsimile, or mailing the same, postage prepaid, to Consultant or County at the e-mail address, the delivery address or facsimile number set forth in the Contract, or to such other addresses or numbers as either Party may hereafter indicate in writing to the other. Any notice or day-to-day communication sent by e-mail shall be deemed received when it is sent. **The recipient of any notice sent by e-mail shall reply by e-mail to confirm receipt of such notice.** Any communication or notice made by personal delivery shall be deemed to be received when actually delivered. Any communication or notice properly addressed and mailed shall be deemed received 5 calendar days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received on the date of the notice of successful transmission generated by the transmitting machine. To be effective, such facsimile transmission must be confirmed by telephone notice to County's Contract Administrator or Consultant's representative, as applicable.

25. Severability. The Parties agree that if any term or provision of the 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, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

26. Dispute Resolution and Errors & Omissions Claims Process. In the event of a dispute between the Parties regarding any aspect of the Contract or performance under the Contract, the Parties agree to attempt in good faith to investigate and resolve any such dispute through direct communications and negotiations.

- a. **Errors & Omissions Related.** In the event those good faith efforts do not resolve disputes related to potential Errors and Omissions, the Parties agree to make good faith efforts to resolve the matter pursuant to **Exhibit E, Errors & Omissions Claims Process.**
- b. **Other Disputes.** In the event good faith efforts do not resolve disputes unrelated to Errors & Omissions, the Parties agree to make a good faith effort to resolve any such dispute through fact finding and non-binding mediation prior to resorting to litigation. The mediator shall be selected by mutual agreement of the Parties. If the Parties fail to agree on a mediator, each Party shall select a mediator and those two persons shall agree on a third-party, who will be the sole mediator. The cost of the mediator shall be split equally between the Parties.

27. Governing Law; Venue; Consent to Jurisdiction. The Contract shall be governed by, and construed and enforced in accordance with, the laws of the State of Oregon, without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between County and Consultant that arises from or relates to the Contract shall be brought and conducted solely and exclusively within the Circuit Court located in the County in which the Project is located; provided, however, if a Claim must be brought in a Federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the County of any form or defense or immunity, whether based on sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution, or otherwise. **CONSULTANT, BY EXECUTION OF THE CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.**

28. Amendments. County may amend the Contract to the extent permitted by applicable statutes, administrative rules and ordinances and as mutually agreed upon by County and Consultant. County may agree to appropriate increases in the maximum compensation payable under the Contract, should any County-approved increase occur in the scope, character, schedule or complexity of Services as outlined in the Statement of Work. Consultant shall not commence any Services authorized under an amendment, and the amendment is not effective, unless it is in writing, signed by the Parties and all approvals required by applicable law have been obtained.

29. False Claims

- a. Consultant understands and acknowledges it is subject to the Oregon False Claims Act ([ORS 180.750](#) to 180.785) and to any liabilities or penalties associated with the making of a false claim under that Act. By its execution of the Contract, Consultant certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or cause to be made that pertains to the

Contract or the Project for which the Services are being performed, including but not limited to Consultant's statement of proposal and any invoices, reports, or other deliverables.

- b. Consultant shall immediately disclose (in writing) to County whenever, in connection with the award, performance or closeout of the Contract, or any subcontract thereunder, Consultant has credible evidence that a principal, employee, agent, or subcontractor of Consultant has committed:
 - (i) A violation of the Oregon False Claims Act; or
 - (ii) A violation of State or Federal criminal or civil law involving fraud, conflict of interest, bribery, gratuity or similar misconduct.
- c. Consultant must include subsections (a) and (b) of this section in each subcontract Consultant may award in connection with the performance of the Contract. In doing so, Consultant may not modify the terms of those subsections, except to identify the subcontractors or sub grantee that will be subject to those provisions.

30. Merger Clause; Waiver; Interpretation. The Contract, including everything incorporated by reference, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding the Contract. No waiver, consent, modification or change of terms of the Contract shall bind either Party, unless such waiver, consent, modification or change of terms is in writing and signed by the Parties. Such a waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. Either Party's failure to enforce any provision of the Contract shall not constitute a waiver by that Party of that or any other provision. The characterization of provisions of the Contract as material provisions or the failure to comply with certain provisions as a material breach of the Contract shall in no way be construed to mean that any other provisions of the Contract are not material or that failure to comply with any other provisions is not a material breach of the Contract.

CONSULTANT CERTIFICATIONS

A. Any individual signing on behalf of Consultant hereby certifies under penalty of perjury:

- (1) Consultant has provided its correct TIN to County;
- (2) Consultant is not subject to backup withholding because (a) Consultant is exempt from backup withholding, (b) Consultant has not been notified by the IRS that Consultant is subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified Consultant that Consultant is no longer subject to backup withholding; and
- (3) s/he is authorized to act on behalf of Consultant, s/he has authority and knowledge regarding Consultant's payment of taxes, and to the best of her/his knowledge, Consultant is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a State tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321, and 323; and local taxes administered by the Department of Revenue under ORS 305.620.

B. Any individual signing on behalf of Consultant hereby certifies they are authorized to sign this Contract and that:

- (1) Consultant has read this Contract, understands it, and agrees to be bound by its terms and conditions.
- (2) Consultant understands and agrees that various documents are not physically attached, but are incorporated by reference and have the same force and effect as if fully set forth herein.
- (3) Consultant understands and has provided to all Associates the COI Disclosure Form available at: <https://www.oregon.gov/ODOT/Business/Procurement/Pages/LPA.aspx>. Consultant and (to the best of the undersigned's information, knowledge and belief) Consultant's Associates are in compliance with the disclosure requirements of the COI Disclosure Form and have no conflicts of interest to disclose. If disclosures regarding this Contract or the related Project are required per the COI Disclosure Form, Consultant has made such disclosures to County on a properly prepared and submitted form and, if determined necessary by County, a mitigation plan has been approved by County.
- (4) Consultant is an independent contractor as defined in ORS 670.600 and as described in IRS Publication 1779.
- (5) In the event that Consultant is a general partnership or joint venture, Consultant signature(s) on this Contract constitutes certifications to the above statements pertaining to the partnership or joint venture, as well as certifications of the above statements as to any general partner or joint venturer signing this Contract.

No Payment shall be made for Services that are performed before all necessary governmental approvals have been obtained, the Contract is fully executed, and Notice-To-Proceed has been issued by County.

Counterparts: The 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 the Contract so executed shall constitute an original.

**MARION COUNTY SIGNATURES
BOARD OF COMMISSIONERS:**

Chair _____ Date _____

Commissioner _____ Date _____

Commissioner _____ Date _____

Authorized Signature: *Brian Nicholas* Brian Nicholas (Mar 30, 2026 16:05:28 PDT) 03/30/2026
Department Director or designee Date

Authorized Signature: *Jan Fritz* Jan Fritz (Apr 1, 2026 08:54:21 PDT)
Chief Administrative Officer Date

Reviewed by Signature: *Scott Norris* Scott Norris (Mar 31, 2026 10:57:49 PDT)
Marion County Legal Counsel Date

Reviewed by Signature: *[Signature]* 03/30/2026
Marion County Contracts & Procurement Date

CONSULTANT SIGNATURE(S)

Signature: _____ Date: _____

Name: _____ Title: _____

Signature: _____ Date: _____

Name: _____ Title: _____

EXHIBIT A – STATEMENT OF WORK

A. PROJECT DESCRIPTION and OVERVIEW of SERVICES

One of the components of the solid waste system in Marion County is the ash monofill located at 17827 Whitney Lane NE in Woodburn, OR. This landfill has accepted ash from the municipal solid waste incinerator (located in Brooks, OR) since 1986. Due to the closure of the waste incinerator, the landfill is no longer accepting material and has been closed temporarily (interim tarping).

The ash monofill is comprised of 4 cells. Cells 1 and 2 were filled and a final closure was installed in 1997. The majority of cell 3 was closed in 2005. Cell 4 (the subject of this RFP) will be closed prior to it being filled to its initial design capacity.

A full-capacity closure design and monitoring plan was completed in 2007 however a new closure design and monitoring plan must be accomplished due to the cell's partially filled state. This design and plan must comply with all regulatory requirements surrounding landfill closures and must be submitted to the Oregon Department of Environmental Quality (DEQ) for approval. Other than County approval during the design process, no other permits are anticipated.

The closure design will address grading for surface water drainage, an impermeable cap, shallow subsurface drainage and deeper groundwater gradient control. There is an existing groundwater gradient control line as well as a shallow subsurface line that will need to be extended further to address the groundwater around cell 4. The design will also need to positively connect to the existing cell 3 top liner. Additionally, survey and volume calculations will be needed for an existing soil stockpile which is intended for use to construct the cell cap.

General Expectation. Consultant commits to provide Services (and oversee and direct the design of the project, if applicable) to obtain the greatest long-term value for the government, and to promote prudent expenditure of public funds within the constraints of the project, program, context, budget and cost-effective sustainability principles. Consultant shall: (i) avoid expenditures for aesthetic effect which are disproportionate to the project as a whole; (ii) use recycled/recyclable products to the maximum extent economically feasible in the performance of this Contract, and (iii) apprise County throughout the project concerning any issues or decisions with potential economic impact to the project.

Project Phasing

This Project is divided into two phases:

- Phase 1 - Preliminary Engineering Through Final Design
- Phase 2 - Construction Contract Administration, Engineering, & Inspection

This Statement of Work addresses Phase 1 of the project. Each subsequent phase is optional, at County's discretion, and may be added via amendment(s) to this Contract.

Acronyms and Definitions

ASTM American Society for Testing and Materials
DBM Design Basis Memorandum
DEQ Oregon Department of Environmental Quality

B. STANDARDS and GENERAL REQUIREMENTS

1. Standards

a. **Preliminary Engineering and Design Phase Services** – Consultant shall complete the engineering and design in accordance with applicable Federal and State standards for ash Monofill final closure.

b. Construction phase Services - Consultant shall complete Construction Engineering, Inspection and Construction Contract Administration ("CEI/CA") Services Consultant's qualified staff shall diligently monitor the work of the construction contractor in order to determine whether the project is constructed in compliance with the construction contract documents and any applicable current standards and County manuals. Consultant shall immediately advise County of any construction which Consultant knows, or with the exercise of professional care should know, fails to conform to the Federal or State standards applicable to construction of the project.

2. Software and Format Requirements

Software standards and formats include but are not limited to the following:

- Each draft and final text-based or spreadsheet-based deliverable shall be provided in MS Office file formats (i.e., MS Word, Excel, etc.) and must be fully compatible with version used by County.
- Consultant shall submit draft and final deliverables in electronic format via e-mail (and hard copy if requested).
- Consultant shall also submit any graphic files accompanying reports separately in .jpg or .tif formats unless specified differently by County.

Consultant's software shall produce deliverables that are fully compatible, readable and useable by County software, requiring no modification or translation of Consultant's deliverables. No loss of data integrity or accuracy shall result from any transfer of data. Compressed data shall be in a "self-expanding executable" format. Additional format requirements may be listed elsewhere in the Statement of Work or in the Contract.

3. Professional Licenses, Registrations and Qualifications

- Consultant and its subconsultants must be duly licensed where required by law to perform the Services, and must be under the "responsible charge" (as that term is defined under ORS Chapter 672) of a person so licensed, as required by the applicable Oregon Revised Statutes and Oregon Administrative Rules, and other applicable laws (or must be otherwise exempt from any licensing requirements applicable to the Services being performed).
- County may require Consultant's Personnel to demonstrate a competency in the particular area/discipline to which they are assigned. This may include, but is not limited to, submittal of license number, resume, and work samples from previously completed projects.

4. General Requirements

- **Endorsement of Data.** Consultant shall place their official Oregon Registered Engineer seal and signature on all engineering design drawings and specifications furnished to County, as well as any other materials where professional standards require such seal and signature.
- **Safety Equipment.** Consultant shall provide and use all safety equipment including (but not limited to) hard hats, safety vests and clothing if required by State and Federal regulations and County policies and procedures for the Services under the Contract.

5. Compliance with Applicable Law (in addition to those identified elsewhere in the Contract.)

Design must be in compliance with any and all applicable EPA and Oregon DEQ regulations and requirements.

6. Design Criteria and Project Assumptions/Conditions

C. REVIEW, COMMENT and SCHEDULE OVERVIEW

- Consultant shall coordinate with County staff as necessary and shall revise draft deliverables to incorporate draft review comments.
- Consultant shall incorporate comments within 10 business days from receipt by County and return the revised deliverables to County staff, unless a different timeframe is specified for specific tasks or otherwise agreed to in writing by County.

D. PROJECT COOPERATION

Consultant shall only be responsible for those obligations and deliverables identified as being assigned to Consultant (or its subconsultants) in this Contract and the Statement of Work. All work assigned to other entities, other than subconsultants, is not subject to this Contract, but shall be the subject of separate Intergovernmental Agreements or contracts which will contain the obligations of those entities. Any tasks or deliverables assigned to a subconsultant shall be construed as being the responsibility of Consultant. Any Consultant tasks or deliverables which are contingent upon receiving information, resources, assistance, or cooperation in any way from another entity (other than subconsultants) as described in this Statement of Work shall be subject to the following guidelines:

- a. At the first indication of non-cooperation, Consultant shall provide written notice to County's Contract Administrator of the specific acts or inaction indicating non-cooperation and of any deliverables that may be delayed due to such lack of cooperation by other entities referenced in the Statement of Work.
- b. County's Contract Administrator shall contact the non-cooperative entity/s to discuss the matter and attempt to correct the problem and expedite items determined to be delaying Consultant/project.

If Consultant has followed the notification process described in section "a", and delinquency or delay of any deliverable is found to be a result of the failure of other referenced entities to provide information, resources, assistance, or cooperation, as described in the Statement of Work, Consultant will not be found in breach or default with respect to delinquencies beyond any reasonable control of Consultant; nor shall Consultant be assessed or liable for any damages arising as a result of such delinquencies. Neither shall County be responsible or liable for any damages to Consultant as the result of such non-cooperation by other entities. County's Contract Administrator will negotiate with Consultant in the best interest of the government, and may revise the delivery schedule to allow for delinquencies beyond any reasonable control of Consultant. Revised delivery dates beyond the expiration date require an amendment to the Contract.

E. TASKS, DELIVERABLES and SCHEDULE

TASK 1 - PRE-DESIGN

Consultant shall gather project-related information for review and meet with the County at the site to establish the County's project expectations, project goals and schedule, and to understand the required work effort, time, and associated task budgets.

Task 1.1 Site Survey

Consultant shall:

- Perform a topographic survey of the project area for establishment of a baseline topographic map of the project site for design purposes.
 - Consultant shall conduct aerial surveys of Cell 3 and Cell 4 (and surrounding area), the backup landfill, soil stockpile, and contributing drainage areas.
 - Consultant shall conduct a ground survey of the inlet and outlet elevations of all identified stormwater culverts

Task 1.2 Regulatory Review

Consultant shall:

- Review applicable regulations such as Oregon DEQ solid waste rules (OAR 340-094-0100 to 340-094-0140), Federal Subtitle D closure/post-closure requirements, and ash-specific considerations (e.g., leachability, TCLP results, dust control).
- Findings shall be summarized in the DBM

Task 1.3 Permits & Constraints

Consultant shall:

- Identify land-use restrictions, sensitive areas, and public concerns (including environmental, visual, and air quality) including the overhead powerline, property buffers, I-5 easement, operating permits, existing landfills, etc. to ensure design, construction, and regulatory compliance.

- Findings shall be summarized in the DBM.

Consultant assumes the County has no current issues with setbacks or zoning encroachments, wetlands, etc.

Task 1.4 Background Review

Consultant shall:

- Request and evaluate available data, including hydrogeology, disposal history, historical topographic surveys, waste limits, site geometry, cover thicknesses, compliance history, and leachate generation rates.
- Request and review Cell 3 and Cell 4 Design Reports and Drawings, the Construction Certification Report (CCR) for Cell 3 (particularly the termination details of Cell 3), the 2007 closure design, Environmental Monitoring Plan, and ash and leachate characteristics.
- Background review shall be summarized in the DBM.

Task 1.5 Data Gap Analysis

Consultant shall:

- Identify additional investigations (e.g., survey, geotechnical borings, permeability testing, settlement monitoring, etc.).
- Any identified data gaps shall be discussed with the County and summarized in a standalone memorandum or the DBM.

Task 1.6 Final Cover Alternatives Study

Consultant shall:

- Evaluate soil resources, integration with prior closures, conceptual construction, and post-closure cost estimates, stormwater options, cover system types (prescriptive, evapotranspirative [ET], exposed geomembrane, artificial turf, integrated solar, etc.), and effects of cover system encapsulation with the bottom liner.
- Assess long-term settlement of ash relative to cover integrity, financial assurance, and achieving functional stability before the nominal 30-year post-closure period.
- Coordinate with the County and DEQ before selection of the preferred closure system. The final cover alternatives study shall be summarized in the DBM.

Task 1.7 Geotechnical & Hydrogeological Evaluation

Consultant shall:

- Perform a geotechnical and hydrogeological evaluation to assess soil availability and characteristics for potential use in final closure construction, static/seismic stability criteria, and historical groundwater elevations and gradients.
 - The geotechnical evaluation shall consist of a borehole investigation of the identified on-site soil borrow area, geotechnical laboratory testing of soil samples collected from the borrow area, and interpretation of results.
 - The hydrogeological evaluation shall consist of detailed review of existing information from on-site monitoring wells and annual environmental monitoring reports.

For cost estimating purposes, Consultant assumes the borehole investigation shall be completed in 1 day on-site, and the laboratory testing budget consists of classification tests (sieve analysis - ASTM D422, Atterberg limits - ASTM D4318, and moisture content - ASTM D2216) on ten (10) samples, and modified Proctor (ASTM D1557), permeability test (ASTM D5084), and soil direct shear test (ASTM D3080) on two (2) samples.

Consultant Deliverables

Consultant shall provide:

- Topographic survey
- Design Basis Memorandum (DBM)

TASK 2 - DESIGN AND PERMITTING

Consultant shall advance the project from conceptual options to detailed design and regulatory approval.

Task 2.1 County Meeting and Final Cover System Selection

Consultant shall:

- Identify the preferred alternative based on County input, regulatory compliance, long-term performance, cost, and constructability.

For cost estimating purposes, Consultant assumes one (1) in-person meeting w/ County for this subtask, and the final cover selection summarized in a brief memorandum.

Task 2.2 Engineering Analyses

Consultant shall:

- Perform static and seismic slope stability analysis; infiltration and water balance modelling (for alternative cover demonstration, if applicable); settlement evaluation; stormwater management analysis; and cover erosion modeling (if soil cover is used).

Consultant assumes

- The stormwater management design shall consist of sizing stormwater infrastructure from the Cell 4 area only, as well as evaluating the effects of anticipated Cell 4 design flows on existing stormwater infrastructure. If site-wide stormwater improvements are required as a result of the Cell 4 closure, additional stormwater design may be performed as an optional task.
- The Cell 4 final cover system shall be tied into the Cell 4 liner system in order to encapsulate the waste and prevent groundwater intrusion into the cell. The Cell 4 encapsulation shall have negligent effects on the existing Cell 3, and that evaluation of Cell 3 groundwater intrusion is beyond the scope of services described herein and may be evaluated as an optional task.

Task 2.3 Closure Design Report

Consultant shall:

- Prepare a Closure Design Report for submittal to DEQ.
 - The Closure Design Report shall include a project narrative, description of the selected closure alternative, supporting engineering calculations, permitting level drawings, Technical Specifications, and a CQA Plan.
- A draft of the Closure Design Report shall be prepared and submitted to Marion County for review and comments.

Consultant assumes one round of review and comments by Marion County.

Task 2.4 Safety Evaluation

Consultant shall:

- Assess the safety of the closure area during both the construction and post-closure monitoring phases, including the protection of equipment and workers. The safety evaluation shall be summarized in a brief health and safety plan for the project.

Task 2.5 Post-Closure Monitoring Plan

Consultant shall:

- Develop plans for vegetation management, erosion control, groundwater and leachate monitoring, inspection/maintenance, and financial assurance consistent with DEQ requirements and submit to Marion County for review and comments.

Consultant Deliverables:

Consultant shall provide:

- Draft and Final Design Report
- Draft and Final Health and Safety Plan

- Draft and Final Post-Closure Monitoring Plan

TASK 3 - PREPARE CONSTRUCTION AND BIDDING DOCUMENTS

Task 3.1 Construction Drawings

Consultant shall:

- Develop a set of Construction Drawings (Drawings) for the ash monofill closure. The Drawings shall include the necessary grading plans, sections, and details to adequately illustrate the North Marion Ash Monofill Closure construction project and shall be suitable for bidding and construction.
- Drawings shall be submitted to the County at the fifty (50) and ninety (90) percent level for review and comments.
- The final Drawings shall be stamped and signed by a licensed Civil Engineer registered in the State of Oregon. Drawings shall be submitted, at the County's option, as pdf, 36"x24" hard copy, 11"x17" hard copy, and/or digital AutoCAD files.

Task 3.2 Technical Specifications

Consultant shall:

- Technical Specifications for the North Marion Ash Monofill Closure project shall include descriptions of the project scope of work, product requirements, installation procedures, and required submittals.
- Submit the Technical Specifications to County at the ninety (90) percent level for review and comments.
- The final Technical Specifications will be stamped and signed by a licensed Civil Engineer registered in the State of Oregon.

Consultant assumes the Technical Specifications will consist of all applicable Division 1 and Division 2 sections, and the addition of new leachate pump stations, panels, etc. will not be required as part of this scope of services.

Task 3.3 CQA Plan

Consultant shall:

- Prepare a Construction Quality Assurance (CQA) Plan and included with the project documents. The overall purpose of the CQA Plan is to define in advance the observation and testing procedures so the Oregon Department of Environmental Quality (ODEQ) can agree, when completed, that the project was properly observed and built according to the approved Technical Specifications and in accordance with accepted industry standards and practices.
- This CQA Plan will provide the observation and testing procedures required to verify that the final cover system is installed according to the Drawings and Technical Specifications. It will include testing, observation, and documentation requirements for all earthen components of the closure, engineered fill, geosynthetics, piping, and drainage materials.
- The CQA Plan will be submitted to the County at the ninety (90) percent level for review and comments. The final CQA Plan will be stamped and signed by a licensed Civil Engineer registered in the State of Oregon.

Task 3.4 - Engineer's Construction Cost Estimate

Consultant shall:

- Estimate construction quantities for the project based on the drawings prepared as part of Task 3.1.
- Estimates shall include earthwork, geosynthetics, stormwater collection and conveyance materials, and all other items that would be necessary for a contractor to bid the project.
- Provide the County with an engineer's cost estimate for the construction of the project using the calculated quantities.

For cost estimating purposes, Consultant assumes up to 12 drawings consisting of title and note sheets, site plan/existing condition, grading plan, top of final cover grading plan, cross-sections, cover system details, french drain and groundwater gradient control details, stormwater details, etc.

F. CONTINGENCY TASKS - Reserved

EXHIBIT B – COMPENSATION

Definitions:

CPFF – Cost Plus Fixed Fee

FCCM – Facilities Capital Cost of Money

NBR – Negotiated Billing Rates. NBRs are fully loaded billing rates used by firms that do not have an audited, approved overhead rate. NBRs are inclusive of direct salary, indirect expenses and profit.

NTE – Not to Exceed Amount

T&M – Time and Materials

A. METHOD of COMPENSATION for NON-CONTINGENCY TASKS

Payment will be made for completion of, or acceptable monthly progress on, tasks and deliverables in conformance with Contract requirements and all applicable standards. Consultant shall complete all Services and provide all deliverables as defined in the Contract. If the applicable compensation is exhausted, but Services and deliverables are not complete, Consultant shall complete the Services and provide the deliverables to County's satisfaction without additional compensation.

The amount payable under the Contract may be adjusted by County or renegotiated to:

- Reduce the NTE, Fixed-Price or Fixed-Fee amount associated with Tasks/Deliverables that were not authorized by County or not performed by Consultant;
- Reduce the NTE, Fixed-Price or Fixed-Fee amount commensurate with deductive amendments to reduce the risk associated with the project or to reduce the scope of work required under the Contract;
- Increase the NTE, Fixed-Price or Fixed-Fee amount for additional Tasks/Deliverables added to the scope of work via amendment to the Contract.

3. Time and Materials with Not-To-Exceed (T&M)

County will pay Consultant for completion of Services required under the Contract on the basis of T&M, up to the NTE amount established in the Contract. Billable items include:

- **Loaded Costs**– the NBR (which is inclusive of profit and overhead costs); or the actual direct salary rate paid to the specific employee(s) (up to the maximum rate approved in the Contract for the employee's classification) productively engaged in work to complete the Services required under the Contract, plus profit and the approved overhead.
- **Direct Non-Labor Costs** (without mark-up) - Approved travel costs (up to the rates established in Section B of this Exhibit) and other approved direct-non labor expenses that are not included in overhead.
- **Subcontractor Costs** (without mark-up, unless County notifies Consultant otherwise in writing) - the hourly labor rates and direct non-labor costs (as described above) that have been billed to Consultant and recognized by Consultant as valid, undisputed and payable.

The dollar amount for T&M non-contingency Services is: \$ 269,428.00

B. PAYMENT OPTIONS [Select the payment option that will be used and delete the others.]

Payments will occur only after County has determined that Consultant has completed, and County has accepted, the required Services (including defined deliverables) for which payment is sought via a properly submitted and correct invoice.

Progress Payments for Acceptable Progress. County will pay Consultant monthly progress payments for actual costs, up to the Contract NTE amount, for Consultant's acceptable (and verifiable) progress on tasks and deliverables included in the invoice.

C. TRAVEL

Travel costs are allowable only if they are authorized under the Contract and if the travel is essential to the normal discharge of County's responsibilities and is related to official County business. **All travel shall be conducted in the most efficient and cost-effective manner that results in the best value for the State.** Personal expenses shall not be authorized at any time. The following guidelines shall apply to the Contract:

- The travel, lodging, and per diem rates referenced in this Section C are the maximums that Consultant's estimate (or reimbursement, if applicable) may be based on. Travel rates other than those referenced in this Section C may be negotiated in the Contract, however, under no circumstance shall travel, lodging and per diem rates exceed the maximums set forth by the State Controller at <https://www.oregon.gov/DAS/SCD/SARS/policies/oam/40.10.00.PO.pdf> .
- Mileage - For compensation based on Cost-Plus-Fixed-Fee or Time and Materials (or Fixed Price or Price Per Unit when travel reimbursement is approved and mileage is compensated separately), all mileage approved by County will be reimbursed according to the rates set forth by the State Controller at <https://www.oregon.gov/DAS/SCD/SARS/policies/oam/40.10.00.PO.pdf> that are in effect on the date when the travel occurs.
- For compensation based on Cost-Plus-Fixed-Fee or Time and Materials, Consultant shall submit receipts for travel-related expenses billed to County, such as but not limited to, lodging, rental vehicles, and air fare. If lodging is shared by two or more travelers, the lodging receipt must indicate the names of any travelers on official State business who shared the room.

D. INVOICES

Consultant shall submit invoices in the format required by County (and with supporting documentation to substantiate charges on the invoice, including a detailed line-item breakdown of labor and direct non-labor costs by task/subtask) no more frequently than once per month. The address for invoice submittal is set forth in Exhibit F. In addition to all other applicable invoice requirements in this section D, each invoice must include the following information:

- The County's Contract number
- The County's project number

Progress Reports: Each monthly invoice must include a progress report. The monthly progress report must cover the period invoiced and, at minimum, must:

- Describe the previous month's project activities and the planned activities for the next month;
- For each task/deliverable identify the percentage completed during the month and the cumulative percentage completed;
- Reconcile progress of each task/deliverable with the schedule identified for each.
- Identify issues/concerns that may affect the project Statement of Work, schedule or budget.

CPFF and T&M Compensation:

- Consultant shall prepare invoices based on the actual hourly rates, up to the maximums for each respective classification approved in the Contract, of the employees (or subconsultants) that performed the Services.
- Consultant shall provide documentation in each invoice to itemize all reimbursable actual labor costs and direct non-labor expenses for which Consultant seeks reimbursement, including a breakdown by task of the number of labor hours for each employee, employee names and classifications. Include receipts for any items purchased or equipment rentals for the Project that exceed \$100. Include copies of all invoices, similarly detailed, from authorized subconsultants.
- County will reimburse Consultant for approved travel expenses incurred in accordance with **Exhibit B**, Section C of the Contract, if County has agreed to reimburse Consultant for travel expenses. For travel expense claims include receipts for lodging; rental cars, airfare.

E. PAYMENT TERMS

Payment will be made to Consultant no later than 30 calendar days from receipt of invoice completed in conformance with all contractual requirements. County will endeavor to notify Consultant within 10 business days of receipt of invoice regarding any necessary revisions or corrections to the invoice. If revisions are necessary, payment will be made no later than 30 calendar days from receipt of the revised invoice. Any interest for overdue payment will be in conformance with Oregon law.

F. CORRECTIVE WORK

Consultant shall complete all Services, including Deliverables, as required in the Contract to County's satisfaction. If County, using reasonable discretion, determines that the Services or associated deliverables, or both, are unacceptable, County shall notify Consultant in writing of the deficiency. Within 7 calendar days (unless a different timeframe is agreed to by the Parties) of receipt of the deficiency notification Consultant shall respond to County outlining how the deficiency shall be corrected. Consultant shall correct any deficiencies in the Services and Deliverables to County's satisfaction without further compensation. County will not unreasonably withhold payment.

G. WITHHOLDING/RETAINAGE

County reserves the right to initiate, at any time during the Contract, withholding of payment equal to 5% of the amount of each invoice submitted to County under the Contract. County will make final payment of any balance due to Consultant promptly upon verification of completion and acceptance of all Services by County and will pay interest as required on retainage.

H. PAYMENT REDUCTION

County, or its duly authorized agents, may audit Consultant's fiscal records, including certified payroll and overhead records at any time. If County finds previously undisclosed inaccurate or improper costs have been invoiced and paid, County will notify Consultant and seek clarification. County, in its sole discretion, may reduce the payment for Services by withholding the inaccurate or improper amounts from any future payment to Consultant, withhold the inaccurate or improper amounts from final payment to Consultant, or may use any other means to seek recovery of already paid but improperly calculated amounts.

I. SPECIFIC LIMITATIONS and UNALLOWABLE CHARGES

Specific Limitations

For cost reimbursement compensation such as CPFF or T&M, Consultant shall invoice County only for actual productive time Consultant personnel spend on Services by any level of Consultant's staff (up to the established not-to-exceed amount). Consultant's general supervisors or personnel who are responsible for more than one County project shall charge only for actual productive time spent directly on the project identified in the Contract.

County will pay Consultant only up to the hourly rates set forth in the Contract that are commensurate with the type of Services performed regardless of the classification, title, or level of experience of the individual performing those Services. However, under no circumstances shall Consultant invoice County based on higher direct salary rates than the actual amount paid to its employees.

Discriminatory Pricing. Direct and indirect costs as applied to work performed under County contracts and subcontracts may not be discriminatory against the County. It is discriminatory against the County if employee (or owner/sole proprietor) compensation (in whatever form or name) is in excess of that being paid for similar non-County work under comparable circumstances.

Discriminatory Wage Rates. Pursuant to ORS 279C.520, Consultant shall comply with the prohibitions set forth in ORS 652.220. Failure to comply is a breach that entitles the County to terminate the Contract for cause.

Employee Discussions Regarding Compensation. Consultant shall not prohibit any of its employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or

another person and may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits or other compensation with another employee or another person {see ORS 279C.520(1)}.

Unallowable Charges

County will not pay for direct or indirect costs that are unallowable under the provisions of [48 CFR Part 31](#).

Costs or direct charges for, but not limited to, the following are not reimbursable:

- Costs for negotiation of the Contract or Contract amendments, including but not limited to proposal preparation, BOC preparation, preparation for negotiations, and negotiation of level of effort/budget.
- Costs related to disputes or E&O Claims, including but not limited to discussions, meetings and preparation of any dispute or claim related documentation.
- Mark-up on subcontractors or direct non-labor costs.
- Transfer of knowledge and information related to Key Person replacements.
- Correcting or making adjustments to incorrect or improper invoices.
- Direct compensation for items included in firm's indirect costs (unless properly credited back to indirect cost).
- Premium costs incurred as a result of working overtime or holidays. (Premium time should normally be charged to overhead. In accordance with ORS 279C.520, employees shall be paid at not less than time and one-half for all overtime worked and for work on legal holidays, except for individuals who are excluded from receiving overtime under personal services contracts pursuant to ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209.)

J. INDIRECT COSTS; SALARY and BILLING RATE SCHEDULES

1. Approved cost data on file with ODOT - If Consultant or its subconsultants have current, approved overhead, salary, or NBR rate schedules on file at ODOT, Consultant and its subconsultants will submit those approved rate schedules and any required certifications (or County may obtain rate schedules from ODOT) as required in subsections 2 and 3 below for use under the Contract.

2. Overhead Schedule - If Consultant or subconsultants calculate overhead as part of their normal business practice, the overhead schedules shall be prepared and submitted in accordance with ODOT's Billing Rate Policy (as may be revised from time to time by ODOT) available at: <https://www.oregon.gov/ODOT/Business/Procurement/DocsPSK/brPolicy.pdf>. Consultant Certification of compliance with Federal Cost Principles is required per FHWA directive 4470.1a: <https://www.fhwa.dot.gov/legsregs/directives/orders/44701a.htm>. A signed [Certification of Final Indirect Costs form](#) must be submitted with the overhead schedule.

In order to assess the adequacy of an audited overhead rate for use in fair and reasonable price negotiation, County and/or ODOT may evaluate a firm's financial capability, internal control structure, and overhead schedule. This includes a determination as to the applicability of historical overhead rates to the anticipated future contract period, performing financial ratio analysis, evaluating overhead account trends and utilization rates for reasonableness.

3. Salary and Billing Rate Schedules

Consultant shall, and shall cause all of its subconsultants to submit electronically to County the applicable rate schedules described below.

Direct Salary Rate Schedule - includes the name, classification and actual direct salary rate as approved for each employee that may be used under the Contract. This schedule is required for firms that calculate an overhead rate. This schedule will not be included in the Contract but will be retained by County.

Negotiated Billing Rate Schedule - may be required for Consultants or subconsultants that do not have a cognizant or acceptable independent audit for overhead rates (or do not calculate overhead as part of their normal accounting practice) and County determines it is in the public's best interest to negotiate specific billing rates. Instead of calculating a billing rate using a formula that applies

overhead, profit, and FCCM to the direct salary rate, this schedule lists negotiated rates that are fully inclusive of profit, overhead and any cost of living or merit raises. The billing rates invoiced under the Contract must not exceed the rates per classifications listed in the schedule and may be no greater than the lowest rates charged to other public or private clients.

Direct Non-Labor Rate Schedule - is an optional schedule used to list actual costs of reimbursable items that are not included in the firm's overhead rate (or that are properly applied as a credit in overhead calculation).

Approved Rate Schedules - The rate schedules approved for the Contract and the BOC are incorporated into this Contract by this reference. Prior to approval of additional subconsultants, Consultant shall provide to County any requested documentation of qualifications and experience of the prospective subconsultant and its staff.

K. RATE REVISIONS

The hourly rates (including escalations, if any) approved for use under this Contract shall remain in effect throughout the duration of the Contract unless revisions are approved by County. Any approved revisions to the hourly rates allowable under the Contract shall not cause an increase in the Contract NTE amount (exceptions may be approved by County on a case by case basis).

L. BREAKDOWN OF COSTS (BOC) [A BOC is required from Consultant for negotiations for all contracts (and amendments that add funds), regardless of whether the contract is T&M, CPFF, or Fixed Price/Lump Sum.]

Prior to execution of the Contract or any amendments that add Services, Consultant shall prepare and submit a BOC based on the approved overhead and actual direct salary rates (and approved NBRs as applicable) for each classification to be used under the Contract. Consultant shall include names of proposed staffing in the BOC.

The BOC must include a detailed breakdown of the costs for each element of the work regardless of compensation method. The BOC must identify:

- a) the proposed staff assignments (classifications and names) and hours per task and sub-task;
- b) an itemization with documentation (estimates from vendors shall be provided upon request) to support rental equipment, flaggers, travel and other direct non-labor expenses; and
- c) the estimate for Services as provided by each subconsultant that shows the assigned staff and hours per task and sub-task and itemized direct non-labor costs. County may ask for qualifications of any staff assigned to work on a project if they were not included in Statement of Proposal originally submitted for solicitation.
- d) the certification status of any disadvantaged business enterprise, minority-owned business, woman-owned business, service-disabled veteran-owned business or emerging small business subcontractors included in the BOC.
- e) **Contingency Tasks.** Amounts for any contingency tasks must be shown as a separate line-item for each task. The amount for a contingency task must include all labor, overhead, profit, and expenses for the task. Expenses for contingency tasks must not be included in an overall amount for direct non-labor expenses applied to the budget for the non-contingency tasks. Enter the agreed to unit and extended amounts for contingency tasks in the Contingency Task Summary table.

The final BOC agreed to by the Parties is incorporated by this reference.

EXHIBIT C
INSURANCE PROVISIONS

A. **REQUIRED INSURANCE.** Consultant or shall obtain at Consultant's expense the insurance specified in this section 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. Consultant shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in Oregon and that are acceptable to County:

i. **WORKERS COMPENSATION.** All employers, including Consultant, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Consultant shall require and ensure that each of its subconsultants complies with these requirements.

ii. **PROFESSIONAL LIABILITY.** Covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract. Consultant shall provide proof of insurance of not less than the following amounts as determined by the County:

- Required by County** **Not required by County.**
 \$1,000,000 Per occurrence limit for any single claimant; and
 \$2,000,000 Per occurrence limit for multiple claimants
 Exclusion Approved by Risk Manager

iii. **COMMERCIAL GENERAL LIABILITY.** Covering bodily injury, death and property damage in a form and with coverages that are satisfactory to the County. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence basis. Consultant shall provide proof of insurance of not less than the following amounts as determined by the County:

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

Bodily Injury/Death:

- \$1,000,000 Per occurrence limit for any single claimant; and
 \$2,000,000 Per occurrence limit for multiple claimants
 Exclusion Approved by Risk Manager
 \$500,000 Per occurrence limit for any single claimant
 \$1,000,000 Per occurrence limit for multiple claimant

iv. **AUTOMOBILE LIABILITY INSURANCE.** Covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Consultant shall provide proof of insurance of not less than the following amounts as determined by the County:

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

Bodily Injury/Death:

- Oregon Financial Responsibility Law, ORS 806.060 (*\$25,000 property damage/\$50,000 bodily injury \$5,000 personal injury*).
 \$500,000 Per occurrence limit for any single claimant; and
 \$1,000,000 Per occurrence limit for multiple claimants
 Exclusion Approved by Risk Manager

B. **ADDITIONAL INSURED.** The Commercial General Liability insurance required under this Contract shall include Marion County, its officers, employees and agents as Additional Insureds but only with respect to Consultant's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

C. **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 30 days written notice from this Consultant 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.

D. **CERTIFICATE(S) OF INSURANCE.** Consultant 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). Consultant shall pay for all deductibles, self-insured retention and self-insurance, if any.

EXHIBIT D – SPECIAL TERMS AND CONDITIONS (RESERVED)

EXHIBIT E – ERRORS & OMISSIONS (E&O) CLAIMS PROCESS

E&O CLAIMS PROCESS

The goals of the E&O claims process are to:

- Identify E&O issues and associated costs early
- Require timely notification to the Consultant of problem issues
- Establish a requirement to work together to correct, mitigate, or minimize the effects on the construction project's quality, schedule and budget and
- To identify associated costs when the standard of care has not been met and provide resolution of responsibility for "Premium" Costs incurred.

The process is focused on resolving issues at the lowest possible administrative levels in a spirit of collaboration. If the County Contract Administrator (CA) cannot reach resolution with the Consultant regarding E&O issues, however, the CA may request a standard of care determination from the Chief Engineer.

Procedure for resolution of disagreements

GENERAL

When either Party discovers or determines actions, omissions, or deliverables by the other Party to be incorrect or outside the terms of the contract, the following steps shall be followed:

- Provide oral and written notice of the issue (email, fax, or hard copy) to the other Party,
- Consultant shall provide CA requested records and documents pertaining to the issue and will participate in a technical review committee to determine if standard of care was met, at the request of the Chief Engineer.
- Work together to correct, mitigate or minimize the effects of the issue
- When the standard of care has not been met, work together to determine responsibility for any Premium Costs incurred as a result of the issue

INITIAL VERBAL NOTICE AND WRITTEN LETTER OF CONCERN

When either Party discovers or determines actions, omissions, or work products by either Party to be incorrect or outside the terms of the Contract, the discovering Party shall give timely oral notice and a written Letter of Concern to the other Party.

If the Consultant disagrees with any written or oral order of the County that in the opinion of the Consultant would entitle the Consultant to additional compensation, the Consultant shall provide oral notice and written Letter of Concern to the CA within seven (7) days of receiving the order from the County. The Letter of Concern must include an explanation of why the Consultant believes the requirements of the oral or written order are outside of the agreed scope of services. The CA shall acknowledge in writing receipt of the Consultant Letter of Concern.

If the County believes the Consultant has not performed with the required Standard of Care, the County shall provide the Consultant oral notice and written Letter of Concern. The Consultant shall acknowledge in writing receipt of the County's Letter of Concern and provide to the County all project related requested information.

INFORMATION EXCHANGE AND RESOLUTION MEETING

The Consultant and CA shall meet within seven (7) calendar days of sending or receiving a Letter of Concern, or on a mutually agreed, to discuss the issue of concern and provide to the CA all requested information pertaining to the issue.

The primary purpose of this meeting is to determine how, at the County's sole discretion, to correct, mitigate, or minimize the effects of the issue, including impacts of the issue on the construction project's work quality, schedule, and costs.

Following the County's determination of the appropriate corrective action, the Consultant and the CA shall work together to resolve responsibility and corresponding Premium Costs related to the issue.

If the CA is unable to reach satisfactory resolution of responsibility and corresponding Premium Costs with the Consultant, the CA will request the Chief Engineer to initiate an internal review.

CLAIMS PROCEDURE

The County, upon request of the CA and at the discretion and direction of the Chief Engineer, will undertake an internal review for the purpose of determining if the standard of care was met. The Consultant will cooperate with the internal review as requested.

If the Chief Engineer determines that standard of care has been met, then all parties are to continue to work together to correct, minimize or mitigate effects of the issue and it is the County's responsibility to cover Premium Costs.

If the Chief Engineer determines that standard of care has not been met, then Cost Evaluation and Recovery will be pursued.

The County may, at any time during the course of this Contract, and up to the time allowable by law following the final payment for any work on the contract, present the Consultant with a Claim for actual damages incurred due to any disagreement concerning standard of care issues and all subsequent damages suffered by the County arising from such issues.

COST EVALUATION AND RECOVERY

The Premium Costs incurred by the County and/or construction project resulting from the Consultant's failure to meet the standard of care will be evaluated and quantified. Any extenuating or mitigating factors in relation to cost recovery, such as limitations on fee and scope of services, time constraints for performance of services, unforeseen or changed conditions, third party requirements, responsibility and comparative fault of other parties, or other circumstances or constraints affecting the Consultant's performance will be considered.

Utilizing cost information generated by the County's internal investigation, the CA will meet with the Consultant in an attempt to reach agreement for resolution of responsibility and corresponding Premium Costs. If resolution is not reached, then the Chief Engineer or designee will meet with the Consultant and pursue one of all of the following actions:

- Negotiate a resolution with the Consultant
- Agree with the Consultant to share equally the cost to jointly present the issue to a creditable, neutral third party panel to obtain a non-binding recommendation
- Pursue other Alternate Dispute Resolution methods as agreed to with the Consultant, or
- Escalate the issue to litigation.

ALTERNATE METHODS OF RECOVERY

When the parties reach agreement on cost recovery for a failure to meet the standard of care determination, the Consultant may make restitution to the County in the following methods as agreed to by both Parties:

- Making direct payments to the County
- Correcting the deficient services
- Re-performing the deficient services
- Forfeiting payments for other services on other County Contracts
- Providing in-kind services at no cost to County
- Utilizing other methods acceptable to both parties

Documentation

The CA or designee shall document the contract file with all correspondence, notices, meeting notes and Letters of Concern related to E&O issues, claims, or potential claims. The file must include a written

statement summarizing the findings of the claims process and the outcome, including:

- The determination of whether or not the Consultant met Contract requirements and met the standard of care;
- The determination of responsibility and whether there were mitigating circumstances beyond the reasonable control of the Consultant;
- The determination of whether or not the work requested by the County was within the scope of services of the Contract;
- If the Consultant was not required to correct deficiencies at no cost to the County, provide the reasons for that decision.
- A record of negotiation for any negotiated settlement subject to the rules regarding confidentiality of mediations in OAR 731 division 001.

DEFINITIONS

County – Marion County, Oregon

CA – County’s Contract Administrator overseeing the consultant contract and deliverables.

County TI – County Technical Investigator. A County manager familiar with the technical discipline at issue who independently reviews records and interviews personnel pertinent to the claim to determine if the standard of care was met.

Consultant – Private Sector entity, which has entered into a Contract with the County to provide Architectural or Engineering services and which employs, or engages the services of, the Professional of Record.

Contract - The project specific Contract between County and Consultant.

Error – Plan or specification details or contract administration actions which are incorrect, conflicting, insufficient or ambiguous

E&O – Errors and Omissions

Omission – The plans or specifications or contract administration actions are silent on an issue that should otherwise be addressed in the documents

Parties – Refers to County and Consultant collectively

Party – Refers to County and Consultant separately

Premium Costs – The additional costs incurred by the County and/or a construction project which result from the Consultant’s failure to meet the Standard of Care. Premium Costs are dollar amounts paid for non-value added work. Premium costs are not reimbursed by the federal government on federal aid projects. Delays, inefficiencies, rework, or extra work as shown below, caused by the Consultant’s failure to meet the standard of care, will be considered as non-value added work. Non- value added work can occur in three distinct situations:

- Work delays or inefficiencies.
The Premium Costs are the total delay/inefficiency damages paid to the construction contractor.
- Rework
The Premium Costs are the dollar amount of the original items of work that have to be removed and the costs to remove these items.
- Extra Work

The Premium Costs are computed as the net difference between the final agreed prices paid to the construction contractor and what the cost would have been had the extra work been included in the original bid at letting.

Standard of Care – For the standard of care that applies to your project, refer to the standard of care language included in the Contract for the project.

TRC – Technical Review Committee. A committee convened by the County Chief Engineer, chaired by the Agency TI and staffed by at least 3 technical experts chosen by the Agency TI from a list of Agency, ACEC and other technical experts. The committee is charged with reviewing records and interviewing personnel pertinent to the claim to determine if standard of care was met.

EXHIBIT F – CONTACT INFORMATION and KEY PERSONS

1. Party Contact Information.

a.1 * County's Project Manager (CPM)

Name:	Andrew Johnson
Ph:	503-566-4184
E-mail:	AJohnson@co.marion.or.us

a.2 *: County Contract Administrator for contractual matters:

Name:	Janet Wilson
Ph:	503-566-4139
E-mail:	JWilson@co.marion.or.us

a.3 County's address for invoicing:

Mailing Address:	Marion County Public Works 5155 Silverton Rd NE Bldg 1 Salem, OR 97305
E-mail:	PWAP@co.marion.or.us

b. **Consultant's Project Manager (PM) for this Contract is:

Name:	Aaron Ogorzalek
Ph:	541-848-8859
E-mail:	aogorzalek@geo-logic.com

c. Consultant's remit address for payments and contact for billings:

Name:	Geo-Logic Associates
Address:	2777 East Guasti Road, Suite 1 Ontario, CA 91761
Ph:	909-626-2282
E-mail:	payments@geo-logic.com

* County may change the Contract Administrator or Project Manager designation by promptly sending written notice (e-mail acceptable) to Consultant.

**Any changes to Consultant's Project Manager must be approved in writing (e-mail acceptable) by County.

2. Key Persons

Consultant acknowledges and agrees that County selected Consultant, and is entering into the Contract because of the special qualifications of Consultant's key personnel ("Key Persons" or "Key Personnel"), which may include specific staff agreed to during Contract negotiations. In particular, County, through the Contract is engaging the expertise, experience, judgment and personal attention of the Key Persons identified in the Contract.

Each Key Person shall not delegate performance of any management powers or other responsibilities he or she is required to provide under the Contract to another of Consultant's or subconsultant's personnel without first obtaining the written consent of County. Further, Consultant shall not re-assign or transfer any Key Person to other duties or positions such that the Key Person is no longer available to provide County with his or her expertise, experience, judgment, and personal attention according to any schedule established under the Contract without first obtaining County's prior written consent to such re-assignment or transfer. Notification of request to change a Key Person shall be in writing (via e-mail or other form as may be required by County.) Throughout the term of the Contract, Consultant shall provide updated information (if requested by County) to demonstrate the continuing qualifications of any staff working on County projects, including those approved as Key Persons.

In particular, County, through the Contract is engaging the expertise, experience, judgment and personal attention of the following Key Persons:

Name	Role
Aaron Ogorzalek	Project Manager, Engineer
Jake Russell	Principal-in-Charge

3. Reassignment or Transfer of Key Person

In the event Consultant requests that County approve a reassignment or transfer of a Key Person:

- Consultant shall provide a resume for the proposed substitute demonstrating that the proposed replacement has qualifications that are equal to or better than the qualifications of the person being replaced.
- County shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for the Key Person.
- Any substitute or replacement for a Key Person must be approved in writing (e-mail acceptable) and shall be deemed to be a Key Person under the Contract.

Consultant agrees that the time/costs associated with the transfer of knowledge and information for a Key Person replacement is not a cost borne by County and shall not be billed to County. This includes labor hours spent reviewing project documentation, participation in meetings with personnel associated with the Contract/project, and participating in site visits to become familiar with the project.



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: Wednesday, April 29, 2026

Department: Sheriff's Office

Title: Contract for Services with DPI Security, Inc.

Management Update/Work Session Date: Tuesday, April 14, 2026 Audio/Visual aids

Time Required: 5 minutes Contact: Kristy Witherell Phone: x4402

Requested Action: Staff is requesting consideration of approval for the Contract for Services with DPI Security, Inc. in the amount of \$365,937.30 to provide security services for the boarder program at the Transition Center through April 30, 2029.

Issue, Description & Background: DPI Security, Inc. will provide security services for the Transition Center's boarder program. Responsibilities include checking in participants, conducting regular headcounts, monitoring rule compliance, and performing dorm walk throughs. Additionally, staff will ensure all participants exit the facility by shift-end and perform other duties as assigned. This contract is for three years with options to renew for an additional two years.

Financial Impacts: Contractor rate is \$33.09 per hour for regular hours and \$46.43 per hour for recognized holidays. Yearly rate shall not be in excess of \$121,979.10 a year and \$365,937.30 total for completing all Services required under this Contract.

Impacts to Department & External Agencies: N/A

List of attachments: Contract, State Price Agreement, PREA form

Presenter: Commander Mike Hartford

Department Head Signature:

Contract Review Sheet

Contract for Services

SO-7041-26

Title: Unarmed Security Services for Boarder Program

Contractor's Name: DPI Security, Inc.

Department: Sheriff's Office

Contact: Kristy Witherell

Analyst: Sandra Fixsen

Phone #: (503) 373-4402

Term - Date From: upon signature

Expires: April 30, 2029

Original Contract Amount: \$ 365,937.30

Previous Amendments Amount: _____

Current Amendment: \$ -

New Contract Total: \$ 365,937.30

Amd% 0%

Outgoing Funds Federal Funds Reinstatement Retroactive Amendment greater than 25%

Source Selection Method: 50-0010 General Exemptions (IGA Grants QRFs)

8349

Description of Services or Grant Award

DPI Security, Inc shall provide unarmed security services for the Boarder Program located at the Transition Center. County will pay vendor \$121,979.10 a year and \$365,937.30 total for completing all Services required under this Contract.

Contractor is a certified Oregon Forward contractor pursuant to ORS 279.850, and County is using the Cooperative Procurement from the State of Oregon, Department of Administrative Services Price Agreement # PO-10700-00033258/8349, dated February 17, 2026.

Desired BOC Session Date: 4/29/2026

Contract should be in DocuSign by: 4/8/2026

Agenda Planning Date: 4/16/2026

Printed packets due in Finance: 4/14/2026

Management Update: 4/14/2026

BOC upload / Board Session email: 4/15/2026

BOC Session Presenter(s) Commander Mike Hartford

Code: Y

REQUIRED APPROVALS



04/06/2026



04/06/2026

Finance - Contracts

Date

Contract Specialist

Date

Legal Counsel

Date

Chief Administrative Officer

Date

**MARION COUNTY
CONTRACT FOR SERVICES
SO-7041-26**

This Contract is between Marion County (a political subdivision of the State of Oregon) hereinafter called County, and DPI Security, Inc., a Nonprofit organization hereinafter called Contractor.

RECITALS

WHEREAS, this Contract is established pursuant to ORS 279.850 and MCPCR 50-0010(1)(b) and is a direct award.

WHEREAS, Contractor is a certified Oregon Forward Contractor providing employment for individuals with disabilities through a nonprofit partnership and has entered into an agreement with the State of Oregon, Department of Administrative Services.

WHEREAS, County is using the Cooperative Procurement from the State of Oregon, Department of Administrative Services Price Agreement # PO-10700-00033258/8349, dated February 17, 2026.

WHEREAS, County wishes to engage Contractor to provide the services set forth in Exhibit A.

Contractor agrees to perform, and County agrees to pay for the services and deliverables described in Exhibit A (the "Work").

1. TERM

This Contract is effective on the date it has been signed by all parties and all required County approvals have been obtained. This Contract expires on **April 30, 2029**. The parties may extend the term of this Contract provided that the total Contract term does not extend beyond April 30, 2031.

2. DOCUMENTS / ORDER OF PRECEDENCE

This Contract consists of the following documents, each of which is attached and incorporated herein by reference:

- A. This Contract less exhibits
- B. Exhibit A – Statement of Work
- C. Attachment A – PREA Acknowledgement Form

3. CONSIDERATION

- A. The maximum, not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is **\$365,937.30**. County will not pay Contractor any amount in excess of the not-to-exceed compensation of this Contract for completing the Work and will not pay for Work performed before the date this Contract becomes effective or after the termination of this Contract. If the maximum compensation is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.

- B. Interim payments to Contractor shall be made in accordance with the payment schedule and requirements in Exhibit A.
- C. If specified below, county’s payments to Contractor under this Contract will be paid in whole or in part with federal funds. If so specified, by signing this agreement, Contractor certifies neither it nor its employees, contractors, subcontractors or subgrantees who will perform the Project activities are currently employed by an agency or department of the federal government. If applicable, Contractor shall comply with [Appendix II to Title 2, Part 200](#) of the Code of Federal Regulations.

In accordance with 2 CFR 200.331, Contractor has been designated:

- Subrecipient
- Contractor/Vendor
- Not applicable – (there are no federal funds tied to the contract)

4. COMPLIANCE WITH STATUTES AND RULES

- A. County and Contractor agree to comply with the provisions of this Contract, its exhibits and attachments and all applicable federal, state, and local statutes and rules. Unless otherwise specified, responsibility for all taxes, assessment, and any other charges imposed by law upon employers shall be the sole responsibility of Contractor. Failure of Contractor or County to comply with the provisions of this Contract and all applicable federal, state, and local statutes and rules shall be cause for termination of this Contract as specified in sections concerning recovery of funds and termination.

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, 279B.235 (if applicable to this Contract) and ORS 652, which are incorporated by reference herein.

- B. Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this Section, “tax laws” includes all the provisions described in subsection 29. C. (i) through (iv) of this Contract.

Any violation of subsection B of this section shall constitute a material breach of this Contract. Further, any violation of Contractor’s warranty, in subsection 29.C of this Contract, that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

- i. Termination of this Contract, in whole or in part;
- ii. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to State’s setoff right, without penalty; and

- iii. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover 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, costs of cure, and costs incurred in securing replacement Services.

C. 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.

5. CIVIL RIGHTS, REHABILITATION ACT, AMERICANS WITH DISABILITIES ACT AND TITLE VI OF THE CIVIL RIGHTS ACT

Contractor agrees to comply with the Civil Rights Act of 1964, and 1991, Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, and Title VI as implemented by 45 CFR 80 and 84 which states in part, No qualified person shall on the basis of disability, race, color, or national origin be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which received or benefits from federal financial assistance.

6. TIME IS OF THE ESSENCE

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

7. 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.

8. FUNDING MODIFICATION

- A. County may reduce or terminate this Contract when state or federal funds are reduced or eliminated by providing written notice to the respective parties.
- B. In the event the Board of Commissioners of County reduces, changes, eliminates, or otherwise modifies the funding for any of the services identified, Contractor agrees to abide by any such decision including termination of service.

9. RECOVERY OF FUNDS

Expenditures of Contractor may be charged to this Contract only if they (1) are in payment of services performed under this Contract, (2) conform to applicable state and federal regulations and statutes, and (3) are in payment of an obligation incurred during the Contract period.

Any County funds spent for purposes not authorized by this Contract and payments by County in excess of authorized expenditures shall be deducted from future payments or refunded to County no later than thirty (30) days after notice of unauthorized expenditure or notice of excess payment.

Contractor shall be responsible to repay for prior contract period excess payments and un-recovered advanced payments provided by County. Repayment of prior period obligations shall be made to County in a manner agreed on.

10. ACCESS TO RECORDS

- A. Contractor shall permit authorized representatives of County, State of Oregon, or the applicable audit agencies of the U.S. Government to review the records of Contractor as they relate to the Contract services in order to satisfy audit or program evaluation purposes deemed necessary by County and permitted by law.
- B. Contractor agrees to establish and maintain financial records, which indicate the number of hours of work provided, and other appropriate records pertinent to this Contract shall be retained for a minimum of three (3) years after the end of the Contract period. If there are unresolved audit questions at the end of the three-year period, the records must be maintained until the questions are resolved.

11. REPORTING REQUIREMENTS

Contractor shall provide County with periodic reports at the frequency and with the information prescribed by County. Further, at any time, County has the right to demand adequate assurances that the services provided by Contractor shall be in accordance with the Contract. Such assurances provided by Contractor shall be supported by documentation in Contractor's possession from third parties.

12. CONFIDENTIALITY OF RECORDS

- A. Contractor shall not use, release, or disclose any information concerning any employee, client, applicant or person doing business with County for any purpose not directly connected with the administration of County's or Contractor's responsibilities under this Contract except upon written consent of County, and if applicable, the employee, client, applicant or person.
- B. Contractor shall ensure that its agents, employees, officers, and subcontractors with access to County and Contractor records understand and comply with this confidential provision.
- C. If Contractor receives or transmits protected health information, Contractor shall enter into a Business Associate Agreement with County, which shall become part of this Contract, if attached hereto.
- D. Client records shall be kept confidential in accordance with ORS 179.505, OAR 309-014-0036(3), 45 CFR 205.50 and 42 CFR Part 2 as applicable.

13. INDEMNIFICATION AND INSURANCE

- A. Contractor shall defend, save, indemnify, and hold harmless County, its officers, agents, and employees from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever, including attorney fees, resulting from, arising out of, or relating to the activities of Contractor or its officers, employees, subcontractors, or agents under this Contract. Contractor shall have control of the defense and settlement of any claim that is subject to this section. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of either County or any department of County, nor purport to act as legal representative of either County or any of its departments, without first receiving from County Legal Counsel authority to act as legal counsel for County, nor shall Contractor settle any claim on behalf of County without the approval of County Legal Counsel. County may, at its election and expense, assume its own defense and settlement.

- B. Contractor shall obtain the insurance required under section 24 prior to performing under this Contract and shall maintain the required insurance throughout the duration of this Contract and all warranty periods.
- C. County, pursuant to applicable provisions of ORS 30.260 to 30.300, maintains a self-insurance program that provides property damage and personal injury coverage.

14. EARLY TERMINATION

This Contract may be terminated as follows:

- A. County and Contractor, by mutual written agreement, may terminate this Contract at any time.
- B. County in its sole discretion may terminate this Contract for any reason on 30 days written notice to Contractor.
- C. Either County or Contractor may terminate this Contract in the event of a breach of the Contract by the other. Prior to such termination the party seeking termination shall give to the other party written notice of the breach and intent to terminate. If the party committing the breach has not entirely cured the breach within 15 days of the date of the notice, then the party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination.
- D. Notwithstanding section 14C, County may terminate this Contract immediately by written notice to Contractor upon denial, suspension, revocation, or non-renewal of any license, permit or certificate that Contractor must hold to provide services under this Contract.

15. PAYMENT ON EARLY TERMINATION

Upon termination pursuant to section 14, payment shall be made as follows:

- A. If terminated under 14A or 14B for the convenience of County, County shall pay Contractor for Work performed prior to the termination date if such Work was performed in accordance with the Contract. County shall not be liable for direct, indirect, or consequential damages. Termination shall not result in a waiver of any other claim County may have against Contractor.
- B. If terminated under 14C by Contractor due to a breach by County, then County shall pay Contractor for Work performed prior to the termination date if such Work was performed in accordance with the Contract.
- C. If terminated under 14C or 14D by County due to a breach by Contractor, then County shall pay Contractor for Work performed prior to the termination date provided such Work was performed in accordance with the Contract less any setoff to which County is entitled.

16. INDEPENDENT CONTRACTOR

- A. Contractor is a separate and independently established business, retains sole and absolute discretion over the manner and means of carrying out Contractor's activities and responsibilities for the purpose of implementing the provisions of this Contract, and maintains the appropriate license/certifications, if required under Oregon Law. This Contract shall not be construed as creating an agency, partnership, joint venture, employment relationship or any other relationship between the parties other

than that of independent parties. The Contractor is acting as an “independent contractor” and is not an employee of County and accepts full responsibility for taxes or other obligations associated with payment for services under this Contract. As an “independent contractor”, Contractor will not receive any benefits normally accruing to County employees unless required by applicable law. Furthermore, Contractor is free to contract with other parties for the duration of the Contract.

- B. SUBCONTRACTING/NONASSIGNMENT. No portion of the Contract may be contracted or assigned to any other individual, firm or entity without the express and prior approval of County.

17. GOVERNING LAW AND VENUE

This Contract shall be governed by the laws of the State of Oregon. Any action commenced in connection with this Contract shall be in the Circuit Court of Marion County. All rights and remedies of County shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of County according to law.

18. OWNERSHIP AND USE OF DOCUMENTS

All documents, or other material submitted to County by Contractor shall become the sole and exclusive property of County. All material prepared by Contractor under this Contract may be subject to Oregon’s Public Records Laws.

19. NO THIRD-PARTY BENEFICIARIES

- A. County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms.
- B. Nothing in this Contract gives or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name in this Contract and expressly described as intended beneficiaries of this Contract.

20. SUCCESSORS IN INTEREST

The provisions of this Contract shall be binding upon and inure to the benefit of the parties and their successors and approved assigns.

21. MERGER CLAUSE

This Contract and the attached exhibits constitute the entire agreement between the parties.

- A. All understandings and agreements between the parties and representations by either party concerning this Contract are contained in this Contract.
- B. No waiver, consent, modification or change in the terms of this Contract shall bind either party unless in writing signed by both parties.
- C. Any written waiver, consent, modification, or change shall be effective only in the specific instance and for the specific purpose given.

22. WAIVER

The failure of any Party to enforce any provision of this Contract shall not constitute a waiver by that Party or any other provision. Waiver of any default under this Contract by any Party shall not be deemed to be a waiver of any subsequent default or a modification of the provisions of this Contract.

23. REMEDIES

In the event of breach of this Contract, the Parties shall have the following remedies:

- A. If terminated under 14C by County due to a breach by Contractor, County may complete the Work either itself, by agreement with another contractor, or by a combination thereof. If the cost of completing the Work exceeds the remaining unpaid balance of the total compensation provided under this Contract, then Contractor shall pay to County the amount of the reasonable excess.
- B. In addition to the remedies in sections 14 and 15 for a breach by Contractor, County also shall be entitled to any other equitable and legal remedies that are available.
- C. If County breaches this Contract, Contractor’s remedy shall be limited to termination of the Contract and receipt of Contract payments to which Contractor is entitled.

24. INSURANCE

A. **REQUIRED INSURANCE.** Contractor shall obtain at Contractor’s expense the insurance specified in this section 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 Oregon and that are acceptable to County:

- i. **WORKERS COMPENSATION.** All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.
- ii. **PROFESSIONAL LIABILITY.** Covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract. Contractor shall provide proof of insurance of not less than the following amounts as determined by County:

- Required by County** **Not required by County.**
- \$1,000,000 Per occurrence limit for any single claimant; and
- \$2,000,000 Per occurrence limit for multiple claimants
- Exclusion Approved by Risk Manager

iii. **CYBER LIABILITY.** Covering network security, breach of data, and coverage for regulatory fines and fees imposed against County due to failures in products and services provided under this Contract. Cyber Liability coverage must include errors, omissions, negligent acts, denial of service, media liability (including software copyright), dishonesty, fraudulent or criminal acts by a person or persons whether identified or not, intellectual property infringement, computer system

attacks, unauthorized access and use of computer system, regulatory actions, and contractual liability.

- Required by County** **Not required by County.**
- \$2,000,000 Per occurrence limit for any single claimant; and
- \$5,000,000 Per occurrence limit for multiple claimants
- Exclusion Approved by Information Technology Director and Risk Manager

- iv. **COMMERCIAL GENERAL LIABILITY.** Covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to County. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence basis. Contractor shall provide proof of insurance of not less than the following amounts as determined by County:

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

Minimum Limits:

- \$1,000,000 Per occurrence limit for any single claimant; and
- \$2,000,000 Per occurrence limit for multiple claimants
- Exclusion Approved by Risk Manager
- \$500,000 Per occurrence limit for any single claimant
- \$1,000,000 Per occurrence limit for multiple claimant

- v. **AUTOMOBILE LIABILITY INSURANCE.** Covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for “Commercial General Liability” and “Automobile Liability”). Contractor shall provide proof of insurance of not less than the following amounts as determined by County:

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

Minimum Limits:

- Oregon Financial Responsibility Law, ORS 806.060 (\$25,000 property damage/\$50,000 bodily injury \$5,000 personal injury).
- \$500,000 Per occurrence limit for any single claimant; and
- \$1,000,000 Per occurrence limit for multiple claimants
- Exclusion Approved by Risk Manager

- B. **ADDITIONAL INSURED.** The Commercial General Liability insurance required under this Contract shall include Marion County, its officers, employees, and agents as Additional Insureds but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.
- C. **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 30 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.

D. 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.

25. NOTICE

Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing, to Contractor or County at the address or email set forth below or to such other addresses or emails as either party may hereafter indicate in writing.

Delivery may be by personal delivery, or mailing the same, postage prepaid.

A. Any communication or notice by personal delivery shall be deemed delivered when actually given to the designated person or representative.

B. Any communication or notice mailed shall be deemed delivered five (5) days after mailing. Any notice under this Contract shall be mailed by first class postage delivered to:

To Contractor:

DPI Security, Inc.
Attn: Bill Traughber
4950 NE MLK Jr Blvd
Portland, OR, 97211
btraughber@dpisecurity.com

To County

Contracts and Procurement Manager
PO_Contracts@co.marion.or.us
555 Court Street NE, Suite 4247
P.O. Box 14500
Salem, Oregon 97309

26. SURVIVAL

All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in sections 3, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26 and 27.

27. SEVERABILITY

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

28. AMENDMENTS

This Contract may be amended if mutually agreed to by both parties.

A. Anticipated Amendments

This Contract is anticipated to be amended for the following reasons:

- i. To extend the Contract term and increase the maximum not-to-exceed amount to cover those extension term.
- ii. To adjust the unit pricing or other rate(s) of compensation, set forth in Exhibit A.

B. Unanticipated Amendments

All other amendments for purposes not listed as Anticipated Amendments will be deemed Unanticipated Amendments.

29. CONTRACTOR’S REPRESENTATIONS AND WARRANTIES

Contractor represents and warrants to County that:

- A. Contractor has the power and authority to enter into and perform this Contract.
- B. This Contract, when executed and delivered, is a valid and binding obligation of Contractor, enforceable in accordance with its terms.
- C. Contractor (to the best of Contractor’s knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the effective date of this Contract faithfully has complied with:
 - i. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
 - ii. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor’s property, operations, receipts, or income, or to Contractor’s performance of or compensation for any work performed by Contractor;
 - iii. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
 - iv. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.
- D. Any goods/items/equipment/components granted to County under this Contract, and Contractor’s Services rendered in the performance of Contractor’s obligations under this Contract, shall be provided to County free and clear of any and all restrictions on or conditions of use, transfer, modification, or assignment, and shall be free and clear of any and all liens, claims, mortgages, security interests, liabilities, charges, and encumbrances of any kind.

30. CERTIFICATIONS AND SIGNATURE. THIS CONTRACT MUST BE SIGNED BY AN AUTHORIZED REPRESENTATIVE OF CONTRACTOR


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

**MARION COUNTY SIGNATURES
BOARD OF COMMISSIONERS:**

Chair Date

Commissioner Date

Commissioner Date

Authorized Signature:  04/06/2026

Department Director or designee Date

Authorized Signature: _____
Chief Administrative Officer Date

Reviewed by Signature: _____
Marion County Legal Counsel Date

Reviewed by Signature:  04/06/2026

Marion County Contracts & Procurement Date

DPI SECURITY, INC. SIGNATURE

Authorized Signature: _____
Date

Title: _____

EXHIBIT A
STATEMENT OF WORK

1. STATEMENT OF SERVICES

Contractor shall perform Services as described below.

A. GENERAL INFORMATION.

Marion County Community Corrections operates an overnight boarder program at the Marion County Transition Center located at 3950 Aumsville Hwy SE, Salem, Oregon, to provide structured, temporary housing for supervised individuals who lack suitable alternatives, supporting community safety and stability. County is transitioning overnight supervision of boarders from sworn personnel to a contracted unarmed private security provider. Contractor will provide facility monitoring, access control, documentation, and emergency notification services consistent with applicable private security authority.

County acknowledges that services provided under this contract constitute unarmed facility monitoring services only. Contractor personnel are not sworn deputies and do not provide correctional or enforcement services. Contractor is not responsible for physically controlling violent individuals beyond reasonable self-defense.

B. REQUIRED SERVICES, DELIVERABLES AND DELIVERY SCHEDULE. Contractor shall provide unarmed security services at the Transition Center.

i. Unarmed security services at the Transition Center shall include but will not be limited to the following:

ii. Purpose of Services:

- a. Security services are to be provided in accordance with all applicable federal, state, and local laws. Services to be performed in a timely manner in accordance with accepted industry standards applicable to the Security industry.
- b. Services are limited to overnight access control, safety monitoring, facility oversight, and documentation for up to fifteen (15) adult male boarders placed at the facility by Marion County Community Corrections.
- c. Boarders are not in custody.
- d. Security Officer's role is observational and preventative in nature and does not include law enforcement authority or correctional supervision authority.

iii. Staffing Schedule:

a. Contractor shall assign one Oregon-certified Facility Entrance Screening Security Officer to provide facility entrance screening services for a ten-hour overnight shift, seven days per week.

- (1) Shift schedules are from 2000 hours to 0600 hours, or 2100 hours to 0700 hours; or any other begin and end times as designated by County.

- (2) No shift shall be left unstaffed. Contractor shall provide supervisory support and replacement personnel as necessary.

iv. Background Requirements:

- a. Contractor shall conduct a background investigation of all employees to be utilized in the performance of the contract.
- b. Contractor shall establish verification by requiring that a prospective employee, as a condition of employment, apply for and receive a criminal history check from the Oregon State Police (OSP).
- c. Contractor shall submit a list of qualified Security Officers to County that includes name, address, and date of birth seven days prior to placement of personnel. All replacement personnel will be subject to the same criteria. Marion County reserves the right to conduct its background investigation.
- d. Contractor shall ensure that prospective employee meet or exceed the minimum background investigation requirements. Minimum background investigation to include, but not limited to Felony Convictions, Misdemeanor Convictions, Illegal Conduct, Mental Health Disorders, and Prior Work History.
- e. No Security Officer's will assume duties unless they have been in a nonworking status for a minimum of eight hours prior to reporting for duty. No Security Officer will be authorized to leave their station during their shift except for those specific periods to take breaks, lunch, or rotate station duty.

v. Personnel Standards and Conduct:

- a. Contractor shall ensure that all Security Officers assigned under this contract are properly licensed and qualified to perform the required services:
 - (1) Report to duty in clean, identifiable uniforms.
 - (2) Maintain professional appearance, hygiene, and grooming standards consistent with industry norms.
 - (3) Conduct themselves in a professional and courteous manner at all times.
 - (4) Not use or possess alcohol, illegal drugs, marijuana, or tobacco products while on duty or on County property.
 - (5) County reserves the right requiring removal and replacement of any officer whose conduct, appearance, or performance is deemed inappropriate or unsatisfactory.

vi. Contractor Training and Orientation:

- a. Contractor shall ensure each Security Officer completes site-specific orientation provided or approved by County.
- b. Orientation shall include at minimum, review of Boarder Program rules and expectations:

- (1) Access control procedures.
 - (2) Emergency response protocols.
 - (3) De-escalation expectations.
 - (4) Prison Rape Elimination Act (PREA) awareness requirements.
 - (5) Communication and reporting standards.
 - (6) Walk-away procedures.
 - (7) Authority limitations applicable to private security personnel.
- c. County reserves the right to require supplemental training, retraining, or removal of personnel who fail to adhere to site procedures or performance expectations.
- vii. Authority Limitations:
- a. Security Officers are not peace officers:
 - (1) Have no probation or parole enforcement authority.
 - (2) Shall not detain individuals.
 - (3) Shall not conduct criminal investigations.
 - (4) Shall not impose sanctions related to supervision conditions.
 - (5) Shall not perform custodial searches.
 - b. Security Officers may only exercise authority consistent with Oregon private security law and general citizen authority.
 - c. All criminal matters shall be referred to law enforcement.
- viii. Communications and Emergency Response:
- a. Security Officers shall have telephone access to Jail Central Control, and 911 emergency services.
 - b. In the event of a physical altercation, weapons possession, medical emergency, fire, significant disturbance, or threat to life or safety, Security Officer shall Immediately call 911:
 - (1) Move to a safe position.
 - (2) Notify Jail Central Control by telephone.
 - (3) Maintain observation if safe to do so.
 - (4) Notify the designated County contact as identified in section 1.D – Key Persons.

- (5) Complete written incident documentation.
- c. Security Officers shall not intervene in violent situations beyond reasonable self-defense.
- ix. Access Control and Check-In:
 - a. The Security Officer shall maintain secured exterior doors:
 - (1) Verify boarder identity through intercom or direct contact.
 - (2) Confirm boarder against County-provided roster.
 - (3) Permit entry only during the designated check-in window.
 - (4) Assign lockers and padlocks.
 - (5) Request voluntary consent for a limited pat-down search for weapons prior to entry.
 - (6) Assign bunk assignments, bedding and a towel to new boarders.
 - b. If a boarder refuses consent to search, entrance into the dorm will be denied and the Security Officer will direct them to leave the premises, notify the designated County contact, and document the incident.
 - c. If a boarder arrives outside the authorized check-in window, the Security Officer may deny entry, will notify the designated County contact, and document the incident.
 - d. Security Officers shall not conduct invasive or non-consensual searches.
- x. Monitoring and Supervision Duties:
 - a. During the shift, the Security Officer shall Conduct a headcount at the close of the check-in window:
 - (1) Conduct a mid-shift headcount.
 - (2) Conduct documented hourly walkthroughs of dorm areas.
 - (3) Monitor compliance with facility rules.
 - (4) Enforce no-visitation and restricted-area policies.
 - (5) Assign and monitor routine cleaning responsibilities.
 - (6) Ensure all boarders exit the facility by the end of the shift.
 - (7) Write an incident report for all rule violations.
 - b. Security Officers may issue verbal directives and may direct a boarder to leave the premises for immediate safety concerns. Security Officers shall document the directive and notify the designated County contact.

- c. Security Officers shall not physically restrain a boarder absent lawful grounds for self-defense.
- xi. Walk-Away Procedures:
 - a. If a boarder voluntarily leaves the facility after they have checked in for the evening, the Security Officer shall not pursue or restrain the individual:
 - (1) Document the departure.
 - (2) Notify the designated County contact.
 - (3) Contact 911 only if criminal conduct is observed.
 - xii. Medical Situations:
 - a. For non-emergency medical issues, the Security Officer shall encourage boarders to seek outside care after departure, document the incident and notify the County contact.
 - b. For medical emergencies, the Security Officer shall call 911 and notify Jail Central Control and the designated County contact.
 - c. Security Officers shall not transport boarders.
 - xiii. Documentation:
 - a. Contractor shall maintain and provide to the County a nightly check-in roster:
 - (1) Headcount logs.
 - (2) Hourly walkthrough logs.
 - (3) Incident reports.
 - (4) Walk-away reports.
 - b. All written documentation shall be submitted to County by the end of each shift unless otherwise directed.
- C. SPECIAL REQUIREMENTS.
- Contractor shall be solely responsible for and shall have control over the means, methods, techniques, sequences, and procedures of performing the work, subject to the plans and specifications under this Contract and shall be solely responsible for the errors and omissions of its employees, subcontractors, and agents.
- 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.

- i. The Marion County Sheriff’s Office is committed to complying with all the requirements of PREA. To protect AICs from sexual abuse and to ensure they get the help they need if they are victimized, PREA requires all contractors and volunteers to receive specialized training on how to recognize the warning signs and how to report a case.
 - a. Contractors, employees, and volunteers that interact with AICs shall:
 - (1) View the PREA Contractor Training Presentation at the following link:
https://prezi.com/0ebedyz1xjy_/?token=f3d32de2c5ff329ee9f60b63ab34e41e8ac49b72cffc282f4c4e1d9ea58c3af&utm_campaign=share&utm_medium=copy
 - (2) Acknowledge the review and receipt of PREA Volunteer and Contractor Information Acknowledgement Form by signing, dating, and returning the form in Attachment A. Signed acknowledgement forms shall be returned by email to SO-Contracts@co.marion.or.us.
 - ii. County shall provide one parking space for officer on duty at no cost to officer or Contractor, to be used only during the scheduled shift.
 - iii. County shall provide restroom facility and office space during the scheduled shift for officer on duty to store equipment, charge cell phone, and get out of inclement weather and excessive heat.

D. KEY PERSONS. Contractor and County agree that each individual specified below is an individual whose special qualifications and involvement in Contractor’s performance of Services form part of the basis of agreement between the parties for this Contract and is an individual through whom Contractor shall provide to County the expertise, experience, judgment, and personal attention required to perform Services (“Key Person”). Each of the following is a Key Person under this Contract:

For Contractor:
 DPI Security, Inc.
 Attn: Bill Traugher
 4950 NE MLK Jr Blvd
 Portland, OR 97211
 Phone: (503) 331-3816
 Email: btraugher@dpisecurity.com

For County:
 Primary Contact: Sergeant Heath Nelson
 Cell: (503) 932-1775
HNelson@co.marion.or.us

Secondary Contact:
 Duty Officer
 Cell: (503) 302-5244

Jail Central Control:
 Phone: (503) 540-8099

Neither Contractor nor any Key Person of Contractor shall delegate performance of Services that any Key Person is required to perform under this Contract to others without first obtaining County’s written consent. Further, Contractor shall not, without first obtaining County's prior written consent, re-assign or transfer any Key Person to other duties or positions so that the Key Person is no longer available to provide County with that Key Person’s expertise, experience, judgment, and personal attention. If Contractor requests County to approve a re-assignment or transfer of a Key Person, County shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for the Key Person. Any individual County approves as a replacement for a Key Person is deemed a Key Person under this Contract.

2. COMPENSATION

The total amount available for payment to Contractor under Exhibit A, section 2.A and for authorized reimbursement to Contractor under Exhibit A, section 2.C is **\$365,937.30**.

A. METHOD OF PAYMENT FOR SERVICES:

County shall pay Contractor \$33.09 per hour for regular hours and \$46.43 per hour for recognized holidays, up to but not in excess of \$121,979.10 a year and \$365,937.30 total for completing all Services required under this Contract.

i. Recognized Holidays (billed at Holiday rate):

- a. New Year's Day
- b. Martin Luther King Jr. Day
- c. Memorial Day
- d. Juneteenth
- e. Independence Day (Fourth of July)
- f. Labor Day
- g. Thanksgiving Day
- h. Day After Thanksgiving
- i. Christmas Day

B. BASIS OF PAYMENT FOR SERVICES. County shall pay Contractor monthly progress payments upon County's approval of Contractor's invoice submitted to County for completed Services and delivered Goods, but only after County has determined that Contractor has completed, and County has accepted the completed Services.

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

D. GENERAL PAYMENT PROVISIONS. Notwithstanding any other payment provision of this Contract, failure of Contractor to submit required reports when due, or failure to perform or document the performance of contracted services, may result in withholding of payments under this Contract. Such withholding of payment for cause shall begin thirty (30) days after written notice is given by County to Contractor, and shall continue until Contractor submits required reports, performs required services or establishes, to County's satisfaction, that such failure arose out of causes beyond the control, and without the fault or negligence of Contractor.

E. INVOICES. Contractor shall send all invoices to County's Contract Administrator at the address specified below or to any other address as County may indicate in writing to Contractor.

Marion County
Attn: Sheriff's Office
PO BOX 14500
Salem, OR 97309
SO-Contracts@co.marion.or.us

Attachment A

PREA Volunteer and Contractor Information Acknowledgement Form

Our goal at The Marion County Sheriff's Office is to keep everyone safe. Part of achieving that goal is making sure everyone understands how to prevent, detect, and respond to sexual misconduct. All Contractors, Volunteers and Employees must understand PREA (Prison Rape Elimination Act) rules and how to report a problem, or issue in the unlikely event misconduct is witnessed or reported by a victim.

Important Rules to Know: No one is ever allowed to engage in sexual misconduct.

- Sexual misconduct includes any kind of sexual contact, regardless of whether the other party agreed to the contact or not.
- This also includes sexual harassment: saying sexual things, saying things about someone's body, talking about whom someone likes to date, or making offensive gestures or comments.

Employees, contractors, and volunteers are prohibited from having any kind of romantic relationship with an adult in custody. There is no such thing as consent to sexual activity in a correctional setting.

Employees, contractors, and volunteers are prohibited from sharing personal details, such as their personal contact information, except in order to carry out their professional responsibilities. Similarly, employees, volunteers, and contractors are prohibited from contacting AIC outside of each facility through any means (e.g., in person meetings, texting, or on social media), except in order to carry out their professional responsibilities.

How We Keep Everyone Safe: At the Marion County Sheriff's Office, we do a number of things to keep everyone safe, including:

- Educating adults in custody about their right to be free from sexual misconduct.
- Conduct background checks of the individuals we hire.
- Training employees, volunteers and contractors in our policies on preventing, detecting, and responding to sexual misconduct.
- Maintaining appropriate supervision of adults in custody.
- Offering a number of ways adults in custody and others can report problems at each facility.
- Fully investigating all allegations of sexual misconduct.
- Providing services and support to adults in custody who allege they have been sexually abused.

- Protecting employees and adults in custody from retaliation for reporting problems or helping with an investigation.

What to Do If Sexual Misconduct is suspected, witnessed, or reported:

- If an incident of sexual misconduct is witnessed or suspected, you must report it immediately by contacting a deputy or non-sworn employee.
- If an adult in custody discloses something that suggests an incident of sexual misconduct has occurred, stay calm, listen to what they are saying, take the report seriously, and convey a message of support (e.g., "I'm glad you were strong enough to come to me"). Let the adults in custody know the incident will be reported and an investigation will be conducted to make sure they are safe. Inform them the information will not be shared beyond those who need to know to fix the problem.
- If an adult in custody wants to share an incident and asks that it not be repeated, let them know about your limits of confidentiality. This includes reporting certain behaviors by law once you have knowledge or reasonable suspicion that a crime is being or has been committed.
- For example, you might say, "I am glad you came to me, and I can understand why you would not want me to tell anyone. If it is about someone hurting, harassing, or threatening you I am required to report it. I respect your decision if you do not want to tell me as a result. But if you tell me, I can work with you to get help."

Questions: If you have questions pertaining to your PREA responsibilities or other facility rules, or your responsibilities while you are here, you may contact us by calling the Marion County Jail's Administrative section at (503)-581-1183.

Acknowledgement: By signing this form, you acknowledge that you have received, read, and understand your responsibilities regarding The Marion County Sheriff's Office sexual misconduct prevention, detection, and response policies and procedures.

Printed Name: _____

Signature: _____ Date: _____



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

April 22, 2026

Meeting date: April 29, 2026

Department: Tax Office

Title: Property tax refund for F&F Land - Salem LLC

Management Update/Work Session Date: _____ Audio/Visual aids

Time Required: 15 min. Contact: Bri Anna Kelley - Tax Collector Phone: ext. 2247

Requested Action: Approve order authorizing property tax refund for F&F Land - Salem LLC.

Issue, Description & Background: The Assessor corrected an error on the tax roll for account 532721 for the 2024-25 and 2025-26 tax years. ORS 311.806(1) requires the county governing body to issue refunds in situations like this. The total amount of the refund due (plus statutory interest) is \$182,546.42. The Board has delegated authority to issue tax refunds under \$20,000 to the tax collector; all others must go to the Board for approval.

Financial Impacts: The amount of the refund (with interest through 5/15/26) is \$182,546.42.

Impacts to Department & External Agencies: None, beyond the processing of the refund itself.

List of attachments: 1. Property tax petition for refund of F&F Land - Salem LLC, with supporting documentation. 2. Board Order.

Presenter: Bri Anna Kelley, Tax Collector

Department Head Signature: *Natasha McVey*

BEFORE THE BOARD OF COMMISSIONERS

FOR MARION COUNTY, OREGON

In the matter of approving property)
tax refund as submitted by the)
Marion County Tax Collector.)

Order No.

This matter came before the Board of Commissioners upon the recommendation of the Marion County Tax Collector regarding a tax refund petition on account no. 532721, attached hereto and incorporated herein by this reference; and

WHEREAS, the Board finds that the petitioner has demonstrated that a tax refund, including interest, is due in the amount set forth on the petition; and

WHEREAS, the Board finds that the Marion County Tax Collector approved the refund, including interest, as to the amount; and

WHEREAS, the Board finds that Marion County Legal Counsel has approved the refund, including interest, as to legal form,

NOW, THEREFORE, IT IS HEREBY ORDERED that a refund, including interest, be made to the petitioner on account no. 532721 in the amount indicated on the petition.

DATED this _____ day of _____, 20__.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner



Tax Account: **532721**

MARION COUNTY BOARD OF COMMISSIONERS
C/O MARION COUNTY TAX COLLECTOR
PO BOX 2511
SALEM, OR 97308-2511

REFUND PETITION

PETITIONER: F&F LAND - SALEM LLC
3300 NW 185TH AVE # 339
PORTLAND OR 97229

Petitions the Board of County Commissioners for a refund under ORS 311.806 of taxes paid on Real property.

Tax Account	Tax Year	Tax Amount	Interest through 05/15/26	Refund Amount
532721	2024 & 2025	\$163,305.65	\$19,240.77	\$182,546.42

REASON FOR REFUND:

After a Lot-Line Adjustment, the Assessor's office inadvertently switched the values between Acct # 532721 and Acct # 532712. These accounts have the same owner. Acct # 532712 will receive special assessments on both the 2026-27 & 2027-28 tax years to offset this refund.

Signed: See Attached File

Petition verified and refund recommended:

A. McWay, Marion County Tax Collection Dept. Date 4/13/2026

Approved as to Form <i>Scott A. Van</i> 4/14/26 Legal Counsel
--

Marion County Tax Collector Refund #15265 Summary

Tax Id 532721

Account # 532721 Roll R Code Area 24010

Owner
F&F LAND - SALEM LLC
3300 NW 185TH AVE # 339
PORTLAND OR 97229

Payee
F&F LAND - SALEM LLC
3300 NW 185TH AVE # 339
PORTLAND OR 97229

Lender

Situs 1805 WALN DR SE SALEM OR 97306

Reason ADJ TO TAX ROLL

Refund Details

Year	Refund Amount	Refund Interest	Refund Total
2024	\$78,686.87	\$14,163.64	\$92,850.51
2025	\$84,618.78	\$5,077.13	\$89,695.91
Total	\$163,305.65	\$19,240.77	\$182,546.42

Check # **Comment** ADJ TO TAX ROLL; 2024-25 & 2025-26 PROP TAXES

Tax History

Year	Tax Type	Total Due	Current Due	Original Due	Due Date
2025	ADVALOREM	(\$87,235.86)	(\$87,235.86)	\$11,314.33	15-Nov-2025
2024	ADVALOREM	(\$81,120.48)	(\$81,120.48)	\$10,521.24	15-Nov-2024

Balance As Of 4/13/2026 **(\$168,356.34)**

Tax Adjustments

Year	Discount	Adv Interest	Tax Credit
2024	(\$2,433.61)	\$0.00	\$81,120.48
2025	(\$2,617.08)	\$0.00	\$87,235.86

Payment History

R #	Year	Date	Payer	Amount
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Comments ASSR SWITCHED THE VALUES BTWN 2 ACCTS (532721 & 532712).
After a Lot-Line Adjustment, the Assessor's office inadvertently switched the values between Acct # 532721 and Acct # 532712. These accounts have the same owner. Acct # 532712 will receive special assessments on both the 2026-27 & 2027-28 tax years to offset this refund.

MARION COUNTY TAX COLLECTOR

Tax Voucher Listing

Tax Account # 532721	Property ID 24010 083W23BA00400
Account Status A	Situs Address
Roll Type Real	1805 WALN DR SE SALEM OR 97306
F&F LAND - SALEM LLC	
3300 NW 185TH AVE # 339	
PORTLAND OR 97229	

Assessment and Transaction Information	Tax Detail Information																																
Assess Trans # 5305276 Created By: smckinney	Tax Trans # 5305276 Completed Date 02/10/2026 By nmcvey Year 2025																																
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SUMMARY OF TAX ACCOUNT

MARION COUNTY TAX COLLECTOR

P.O. BOX 2511
SALEM, OR 97308
(503) 588-5215

13-Apr-2026

F&F LAND - SALEM LLC
3300 NW 185TH AVE # 339
PORTLAND OR 97229

Tax Account #	532721	Lender Name	
Account Status	A	Lender ID	
Roll Type	Real	Property ID	24010 LEGACY 1-59500000
Situs Address	1805 WALN DR SE SALEM OR 97306	Interest To	Apr 13, 2026

Tax Summary

Tax Year	Total Due *	Taxes	Fees	Interest	Discount	Original Due	Due Date	Date Paid
2025	(\$87,235.86)	(\$87,235.86)	\$0.00	\$0.00	\$0.00	\$11,314.33	Nov 15, 2025	Nov 12, 2025
2024	(\$81,120.48)	(\$81,120.48)	\$0.00	\$0.00	\$0.00	\$10,521.24	Nov 15, 2024	Nov 14, 2024
2023	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$109,546.37	Nov 15, 2023	Nov 14, 2023
2022	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$106,480.46	Nov 15, 2022	Nov 16, 2022
2021	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$103,436.97	Nov 15, 2021	Nov 5, 2021
2020	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$100,419.73	Nov 15, 2020	Nov 12, 2020
2019	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$17,649.48	Nov 15, 2019	Nov 20, 2019
2018	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$3,549.50	Nov 15, 2018	Nov 20, 2018
2017	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$3,203.64	Nov 15, 2017	Nov 7, 2017
2016	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$3,051.48	Nov 15, 2016	Nov 16, 2016
2015	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$3,074.53	Nov 15, 2015	Nov 3, 2015
2014	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,087.10	Nov 15, 2014	Nov 6, 2014
2013	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,044.45	Nov 15, 2013	Oct 23, 2013
2012	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,995.14	Nov 15, 2012	Nov 9, 2012
2011	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,908.98	Nov 15, 2011	Nov 1, 2011
2010	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,919.51	Nov 15, 2010	Nov 22, 2010
2009	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,898.13	Nov 15, 2009	Oct 29, 2009
2008	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,790.83	Nov 15, 2008	Nov 14, 2008
2007	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,734.38	Nov 15, 2007	Nov 6, 2007
2006	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,706.13	Nov 15, 2006	Nov 7, 2006
2005	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,672.19	Nov 15, 2005	Nov 16, 2005
2004	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,679.65	Nov 15, 2004	Oct 29, 2004
2003	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,601.80	Nov 15, 2003	Nov 13, 2003
2002	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,563.30	Nov 15, 2002	Nov 13, 2002
2001	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,516.04	Nov 15, 2001	Nov 7, 2001
2000	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,318.47	Nov 15, 2000	Nov 13, 2000
1999	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,305.76	Nov 15, 1999	Nov 8, 1999
1998	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,211.06	Nov 15, 1998	Nov 20, 1998
1997	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,208.50	Dec 15, 1997	Aug 29, 1998
1996	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,262.17	Nov 15, 1996	Aug 29, 1998
1995	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,241.87	Nov 15, 1995	Aug 29, 1998
1994	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,501.14	Nov 15, 1994	Aug 29, 1998
1993	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,687.22	Nov 15, 1993	Aug 29, 1998
1992	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,295.27	Nov 15, 1992	Aug 29, 1998
Total	(\$168,356.34)	(\$168,356.34)	\$0.00	\$0.00	\$0.00	\$509,396.82		

Minimum Payments
Due On

2/17/2026 **(\$81,120.48)** 4/13/2026 **\$0.00**



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: 4/22/2026

Department: Assessor's Office

Title: FY 2026-27 County Assessment Function Funding Assistance

Management Update/Work Session Date: 4/21/26 Audio/Visual aids []

Time Required: 10 Min Contact: Rachael Estill, Administrative Services Manager Phone: (503) 588-5128

Requested Action: The Assessor's Office is requesting a resolution to approve the FY 26-27 County Assessment Function Funding Assistance (CAFFA) Grant. The total amount of expenditures for consideration are \$10,196,903. The Assessor's Office FY 26-27 requested annual budget as a part of the grant request is \$9,805,368. Approval of the grant obligates the County to appropriate funds based on 100% of the expenditures certified in the grant application, per ORS 294.178.

Issue, Description & Background: The grant application is submitted to the Oregon Department of Revenue annually, and is used to assist the County in funding the operations of the assessment and taxation program. The grant includes costs for personnel, materials and services, and a calculated percentage of administrative charges incurred by the Assessor's Office for the assessment, taxation, and collection of property taxes. Also included are costs associated with the Treasurer's Office for tax revenue distribution; the Clerk's Office for the administration of the Property Valuation Appeals Board program; Information Technology for support and maintenance of the Assessor's A&T software, GIS database, and Pictometry aerial imaging; Capital Outlay associated with the Assessor's Office, as well as grand funds awarded by the Oregon Department of Revenue for ORMAP cadastral database maintenance.

Financial Impacts: The current FY 25-26 projection for the receipt of grant revenues is \$1,101,859. Estimated revenues for the FY 26-27 are \$1,072,279.

Impacts to Department & External Agencies: CAFFA grant funds are deposited into the County General Fund. Grant funding is intended to offset the cost of maintaining an adequate assessment and taxation program. Funds received from the grant free up other General Fund resources that may be used by other county departments to maintain their programs.

List of attachments: Copy of the FY 26-27 CAFFA Grant application and County grant application resolution form for signatures.

Presenter: Tom Rohlifing

Department Head Signature: trohlfing Digitally signed by trohlfing Date: 2026.04.17 10:33:46 -07'00'

**FY 2026-27
Property Tax Program
CAFFA Grant Application**

Purpose

The 1989 Legislative Assembly enacted legislation which requires each county government to maintain an adequate assessment and taxation program. The legislation included all of the property tax statutes and rules in the definition of compliance. Each county is expected to develop and maintain a property tax system that sustains all identified activities at an adequate level. To assist the county in this endeavor, the legislature provided funding from the state by means of a grant.

Each county governing body is required to submit a summary of expenses, a staffing report, and a resolution as part of the Grant application. For counties not in compliance, a plan must either be on file with the department or be submitted for department approval. The plan should demonstrate that the county is using all available resources to achieve and maintain its assessment and taxation program at adequate levels. Any county with program activities not in compliance may need to incorporate funding for additional program resources. Counties are required to appropriate 100 percent of the approved expenditure level under ORS 294.456 in order to receive state grant funds.

Preparation of Grant Application

The property tax system is administered in several local government areas. Many individuals such as the Assessor, Tax Collector, Treasurer, Data Processing Manager and Clerk will need to participate in evaluating the current status of overall compliance. The county governing body should not attempt to determine compliance levels without input from these officials. The grant application forms must be submitted to the Department of Revenue by May 1, 2026. Amended applications must be submitted no later than June 1, 2026.

Five Year History in Marion County

	2022-23	2023-24	2024-25	2025-26	2026-27
Certified Grant Expenditures	\$8,027,018	\$8,998,323	\$8,872,539	10,081,319	10,196,903
Actual Grant Revenue	\$856,933	\$1,054,318	\$1,020,380	\$1,101,859†	\$1,072,279*
% of Revenue to Expenditures	10.68%	11.72%	11.50%	10.93%	10.52%

Certified Grant Expenditures include the materials and services and personnel budget for assessor and tax collection, as well as a calculated percentage of Information Technology Direct Charges to maintain the assessor’s office assessment and taxation system. Also included is a portion of the county clerk budget for the Board of Property Tax Appeals program expenditures, the allocation costs for the treasurer relating to tax distribution, and the cost of pay for IT staff in support of Assessment and Taxation.

* Estimated figure using the most current information available from the Oregon Department of Revenue. Derived by multiplying the FY26-27 County Assessment & Taxation Fund statewide forecasted revenue distribution total of \$16,388,933 by the FY25-26 distribution percentage for Marion County (0.065427). Grant revenue total divided by four indicates an estimated quarterly payment amount of \$268,069.

† FY25-26 Actual Grant Revenue and percentage includes a forecasted amount for the 3rd and 4th quarter payment and is subject to change.



Form 1

Grant Application Staffing 2026-2027

County	Column 1 Approved FTE current year (2025-26)	Column 2 Budgeted FTE coming year (2026-27)	Column 3 Change (Column 2 less Column 1)
MARION			
A. Assessment administration			
Assessor, deputy, etc.	3.00	3.00	0.00
Assmt. support staff, deed clerks and data entry staff	10.00	11.00	1.00
Total assessment administration staff.....	13.00	14.00	1.00
B. Valuation and appraisal staff			
Chief appraisers/appraiser supervisor	3.00	3.00	0.00
Lead appraisers	5.00	5.00	0.00
Residential appraisers	5.00	5.00	0.00
Commercial/industrial appraisers	5.00	6.00	1.00
Farm/forest/rural appraisers.....	6.00	6.00	0.00
Manufactured structure/floating structure appraisers	0.00	0.00	0.00
Personal property appraisers.....	4.00	2.00	(2.00)
Personal property clerks.....	1.00	1.00	0.00
Sales data analyst.....	2.00	2.00	0.00
Data gatherers and appraisal techs.....	3.00	3.00	0.00
Total valuation and appraisal staff	34.00	33.00	(1.00)
C. Property Value Appeals Board (PVAB)			
	0.25	0.25	0.00
D. Tax collection and distribution administration			
Administration, deputy, etc.....	1.00	1.00	0.00
Support and collection	4.00	4.00	0.00
Tax distribution	0.08	0.08	0.00
Foreclosure and garnishment.....	0.00	0.00	0.00
Total tax collection and distribution staff	5.08	5.08	0.00
E. Cartography and GIS administration			
Cartographic/GIS supervisor.....	0.00	0.00	0.00
Lead cartographers	1.00	1.00	0.00
Cartographers.....	2.00	2.00	0.00
GIS specialists	0.00	0.00	0.00
Total cartographic and GIS staff	3.00	3.00	0.00
F. Dedicated IT services for A&T			
	2.01	2.01	0.00
G. Total assessment and taxation staffing			
	57.34	57.34	0.00



Form 2 Explanation of Staffing Issues

2026-2027

County MARION

In this section, explain any difference between approved staffing for the current year and staffing for the budgeted year. Explain why any funded positions were unfilled for the current year. Use this form to describe the intended use of nonpermanent workers (temporary help, project temporaries, and contractors) by A&T function, along with their cost. Note any special or unique aspects regarding who accomplishes the work and how they accomplish it related to Forms 4, 5, and 6. For example, if you use staff to perform personal property functions, other than those reported on Form 1, Section B, note that here and include the FTE.

Per Form 1:

Two Business Personal Property Appraiser Technician positions were reduced due to efficiency gains through E-Filing. One of those positions was converted to a Commercial Appraiser positions, and one was converted to a Assessment Clerk position to better meet the needs of the office.

Per Form 5:

The Tax Collection office will hire two temporary staff to assist with processing property tax payments and returned mail. Each year, temporary staff are utilized from the third week in October when tax statements are generated and mailed, until approximately the third week in November.



Form 3 General Comments

2026-2027

County MARION

Use this form to describe any issue in your budget that needs further clarification. Examples include significant changes on Form 7, purchase of a new data processing system, salary increases, new car purchases, personnel services, costs for mapping, etc. You can also use this form to document any miscellaneous comments about this grant application.

The Tax Collection Office receives the property tax payments through in house remittance processing (19%), contractual lock box services (35%), and electronic data exchange with mortgage companies and real estate tax services (37.9%), and online via Paystation (8.1%).

For indirect expenses on Form 7, Line 6A, Marion County has elected to use the percentage from its certified federal cost allocation plan and indirect cost rate proposal for fiscal year 2026-27 (the Plan), prepared in accordance with the provisions of 2 CFR 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

The Plan allows an indirect cost rate of 12.59% for the Assessor's Office as indicated in Schedule F on page 5 of the Plan. For this CAFFA grant application, the rate has been adjusted to 11.65% to reflect the fact that costs associated with the Department Apps cost pool have been included as direct costs under A&T Data Processing on Form 7, Column F of the CAFFA grant application. The adjusted rate was computed as follows [references to Plan schedules noted in brackets]:

Description and Indirect Cost Plan Page Reference	Original	Adjusted
Total indirect costs allocated to Assessor's Office [Schedule A, page 1]	\$962,280	\$962,280
Less Dept Apps costs allocated to Assessor's Office [Schedule 4.5, pg. 34]	0	-72,071
Total Indirect costs allocated to Assessor's Office	\$962,280	\$890,209
Indirect cost rate base for Assessor's Office [Schedule F, page 5]	\$7,640,479	\$7,640,479
Indirect cost rate for Assessor's Office (allocated costs/base)	12.59%	11.65%

Note: The Plan amount for Department Apps costs allocated to the Assessor's Office differs from the amount included for A&T Data Processing on the CAFFA grant application because the Plan is based on FY 2024-25 audited amounts, whereas the CAFFA grant application is based on FY 2026-27 budgeted amounts.



Form 4 Valuation and Appraisal Resources

2026-2027

County <u>MARION</u>	Number of accounts by activity		Number of FTE by activity	
	Actual (2025-26)	Estimated (2026-27)	Actual (2025-26)	Estimated (2026-27)
Activities				
1. Real property exceptions, special assessments and exemptions				
New construction.....	5,895	6,000	8.00	8.50
Zone changes.....	7	10	0.00	0.00
Subdivisions, segregations, and consolidations....	1,015	1,000	1.75	1.75
Omitted properties	5	10	0.25	0.25
Special assessment qualification and disqualification	337	300	2.00	2.00
Exemptions.....	416	450	1.00	1.00
Subtotal.....	7,675	7,770	13.00	13.50
2. Appeals and assessor review				
Assessor review and stipulations	140	145	0.75	0.75
PVAB.....	58	50	0.75	0.75
Department of Revenue.....	0	0	0.00	0.00
Magistrate Division of the Oregon Tax Court.....	3	3	0.25	0.25
Regular Division of the Oregon Tax Court.....	0	0	0.00	0.00
Subtotal.....	201	198	1.75	1.75
3. Real property valuation				
Physical reappraisal.....	23,297	24,000	6.75	7.75
Recalculation only—no appraisal review.....	119,729	125,000	3.00	3.00
Subtotal.....	143,026	149,000	9.75	10.75
4. Business personal property (returns mailed)	2,627	3,000	4.50	3.00
5. Ratio			1.50	1.50
6. Continuing education			1.00	1.00
7. Other valuation—appraisal activity			2.50	2.50
8. Total valuation and appraisal staff (FTE)			34.00	34.00



Form 5 Tax Collection and Distribution Work Activity

2026-2027

County MARION

Number of accounts by activity	
Actual (2025-26)	Estimated (2026-27)

1. Number of accounts requiring roll corrections		
Business personal property	52	86
Personal property manufactured structures	27	45
Real property	182	300
2. Number of accounts requiring a refund		
Business personal property	38	63
Personal property manufactured structures	77	127
Real property	566	934
3. Number of delinquent tax notices sent		
Business personal property	272	299
Personal property manufactured structures	355	391
Real property	3,035	3,339
4. Number of foreclosure accounts processed		
Real property only	176	193
5. Number of accounts issued redemption notices		
Real property only	30	33
6. Number of warrants	928	1,021
7. Number of garnishments	0	0
8. Number of seizures	0	0
9. Number of bankruptcies	885	974
10. Number of accounts with an address change processed	26,946	27,000
11. How many second trimester statements do you mail?	4,931	
12. How many third trimester statements do you mail?	806	
13. Does the county contract for lock box service?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
14. Does the county use in-house remittance processing?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
15. Is tax collecting combined with another county function?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

If yes, describe that function on Form 2.



Form 6 Assessment and Administrative Support and Cartography Work Activity

2026-2027

County MARION

Assessment and administrative support work activity		
	<u>Numbers by activity</u>	
	Actual (2025-26)	Estimated (2026-27)
1. Number of deeds worked	<u>9,883</u>	<u>10,000</u>

Cartography work activity		
	<u>Numbers by activity</u>	
	Actual (2025-26)	Estimated (2026-27)
1. Number of new tax lots	<u>544</u>	<u>475</u>
2. Number of lot line adjustments	<u>193</u>	<u>120</u>
3. Number of consolidations	<u>106</u>	<u>70</u>
4. Number of new maps	<u>2</u>	<u>2</u>
5. Number of tax code boundary changes	<u>8</u>	<u>7</u>



Form 7 Summary of Expenses

2026-2027

County MARION

	A. Assessment Administration	B. Valuation	C. PVAB	D. Tax Collection & Distribution	E. Cartography*	F. Dedicated IT services for A&T	Totals
Current operating expenses							
1. Personnel services	1,910,081	4,781,581	31,071	597,420	402,970	349,365	8,072,488
2. Materials and services	431,149	135,939	4,222	262,374	208,296	0	1,041,980
3. Transportation	1,200	16,000	0	1,000	250	0	18,450
4. Total current operating expenses (Total direct expenses)	2,342,430	4,933,520	35,293	860,794	611,516	349,365	9,132,918

* Include approved grant funding for ORM&P

Indirect expenses

5. Total direct expenses (line 4)	9,132,918
6. If you use the 5 percent method to calculate your indirect expenses, enter 0.05 in this box.	0
Total indirect expenses (line 5 multiplied by line 6).....	0
6A. If you use a percent amount approved by a federal granting agency to calculate your indirect expenses, enter that percentage in this box.....	0.11650
Total indirect expenses (line 6A multiplied by the direct expense amount for the category/categories that your certificate allows)	1,063,985
7. Total indirect expenses	1,063,985

	Assessment Administration	Valuation	PVAB	Tax Collection & Distribution	Cartography	Dedicated IT Services for A&T	Total capital outlay without regard to limitation
Capital outlay							
8. Enter the actual capital outlay without regard to limitation.	0	0	0	0	0	0	0
9. Total direct and indirect expenses (add line 4 and line 7).....							10,196,903
10. Direct and indirect expenses multiplied by 0.06.....							611,814
11. The greater of line 10 or \$50,000.....							611,814
12. Capital outlay (the lesser of line 8 or line 11)							0
13. Total expenditures for CAFFA consideration (sum of lines 4,7, and 12)							10,196,903

BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY, OREGON

In the matter of approving the Marion County)
Assessment and Taxation Grant Application.)

RESOLUTION No._____

This matter came before the Marion County Board of Commissioners at its regularly scheduled public meeting on April 22th, 2026 to consider approving the application to the Oregon Department of Revenue to participate in its Assessment and Taxation Grant;

WHEREAS, the state grant provides funding for counties to help them come into compliance or remain in compliance with ORS 308.027, 308.232, 308.234, Chapters 309, 310, 311, 312, and other laws requiring equity and uniformity in the system of property taxation; and

WHEREAS, Marion County has undertaken a self-assessment of its compliance with the laws and rules that govern the Oregon property tax system and found that the county is generally in compliance with ORS 308.027, 308.232, 308.234, Chapters 309, 310, 311, 312, and other laws requiring equity and uniformity in the system of property taxation; now, therefore,

IT IS HEREBY RESOLVED that Marion County agrees to appropriate the budgeted dollars based on 100 percent of the expenditures certified in the grant application in the amount of

\$10,196,903 and accepts that, if 100 percent is not appropriated, no grant shall be made to the county for the quarter in which the county is out of compliance; and

IT IS FURTHER RESOLVED that the county designates Rachael Estill as the county contact person for the grant application. Telephone: 503-588-5128, e-mail: restill@co.marion.or.us.

DATED at Salem, Oregon, this _____ day of April, 2026.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner

original: clerk
c: assessor