

CITY OF PENDLETON  
Personal Services Contracts Addendum

The contract to which this addendum is attached shall be governed by the additional terms and conditions set forth herein:

The Contractor shall make payment promptly, as due, to all persons supplying to such Contractor labor or materials for the prosecution of the work provided in the contract.

The Contractor shall provide workers' compensation insurance coverage for all individuals, others than those exempt under ORS 656.027, who perform labor under the contract before labor under the contract commences. Contractor shall pay all contributions or amounts due for Workers' Compensation coverage from the Contractor incurred in the performance of the contract.

A copy of each insurance policy, or certificate thereof, issued by a responsible and solvent insurance corporation or association authorized to issue such policy or policies under the laws of the State of Oregon shall be delivered to the City within a reasonable period of time after the same is issued by the company or companies or associations issuing such policy or policies. All said policies or certificates shall provide for a minimum of thirty (30) days notice to the City in the event of cancellation or material change in the terms.

The Contractor will not permit any lien or claim to be filed or prosecuted against the City on account of any material or labor furnished to the Contractor.

The Contractor will pay to the Oregon Department of Revenue all sums withheld from employees pursuant to Oregon Statutes.

If the Contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this contract as such claim shall become due, the proper officer or officers representing the City may pay such claim to the person furnishing the labor or service and charge the amount of the payment against funds due or to become due to the Contractor by reason of this contract.

The payment of a claim in this manner authorized by this paragraph shall not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claim.

No person shall be employed for more than eight hours in any one day, or forty hours in any one week, except in case of necessity, emergency, or where the public policy absolutely requires it, and in such cases the laborer shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under this contract who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime.

The Contractor shall promptly, as due, make payment to any person, co-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, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from wages of employees pursuant to any law, contract, or agreement for the purpose of providing or pay for such service.

Any and all employees of Contractor or his contractors while engaged or performing any work or services required by him under this agreement shall be considered his employees only and not employees of the City and any claims that may arise under the Workers' Compensation Act on behalf of the said employees while so engaged in any and all claims made by third parties as a consequence of any act or omission on the part of him or his employees while so engaged on any of the work or services provided to be rendered herein shall be the sole obligation responsibility of Contractor and/or his contractors. The parties to this agreement recognize that Contractor and his employees, officers, agents and subcontractors are providing professional services as independent contractors and are not providing services as employees of the City and are therefore not entitled to the benefits provided by the City to his employees, including but not limited to Workers' Compensation benefits, group health insurance, social security, pension plans, or any other benefit accruing to City's employees. Contractor hereby agrees to hold the City harmless from, and shall process and defend at his own expense, all claims, demands, or suits of whatever nature, brought against him arising from his performance under this agreement. Contractor shall advise his officers, agents, employees and subcontractors of this provision.

- Contractor certifies that: (initial each that applies)
- Contractor is free from direction and control over the means and manner of providing the labor or services, subject only to the right of City to specify the desired results;
- Contractor is responsible for obtaining all assumed business registrations or professional occupational licenses required by state law or local governmental ordinances; Contractor furnishes the tools or equipment necessary for performance of the contracted labor or services;
- Contractor has the authority to hire and fire employees to perform the labor or services;
- Payment for the labor or services is made upon completion of the performance of specific portions of the project or is made on the basis of a periodic retainer;
- Contractor is registered under ORS chapter 701 (Construction Contractors), if Contractor provides labor or services for which such registration is required;
- Federal and state income tax returns in the name of the business or a business Schedule C or farm Schedule F as part of the personal income tax return were filed for the previous year if the contractor performed labor or services as an independent contractor in the previous year; and
- Contractor represents to the public that the contractor is an independently established business. Except where Contractor files a Schedule F as part of the personal income tax return and the contractor performs farm labor or services that are reportable on Schedule C, Contractor is considered to be engaged in an independently established business when four or more of the following circumstances exist: (Initial those that apply)
  - The labor or services are primarily carried out at a location that is separate from the residence of contractor or are primarily carried out in a specific portion of the residence, which portion is set aside as the location of the business;
  - Commercial advertising or business cards as is customary in operating similar businesses are purchased for the business, or the contractor has a trade association membership;
  - Telephone listing and service are used for the business that is separate from the personal residence listing and service used by contractor;
  - Labor or services are performed only pursuant to written contracts;
  - Labor or services are performed for two or more different persons within a period of one year; or
  - Contractor assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services provided.

The Contractor must obtain a City of Pendleton Business License.

The Oregon Government Standards and Practice & laws may apply to Contractor. ORS 244.040(1)(a) prohibits any government officer, employee, or agent from using the governmental relationship to obtain a financial gain or avoid a financial detriment that would not otherwise be available but for the governmental relationship. For further information on this matter Contractor may contact the Oregon Government Standards and Practices Commission; 100 High Street SE, Suite 220; Salem, Oregon 97310; phone 503/378-5105.

If the City does not appropriate funds for the next succeeding fiscal year to continue payments required by this contract, this contract will terminate at the end of the last fiscal year for which funds have been appropriated. The City will notify Contractor of such non-appropriation not later than thirty days before the beginning of the year within which funds are not appropriated. This provision does not permit the City to terminate this contract in order to provide similar services for the purpose for which this contract has been entered into.

If any action is instituted in connection with any claim or controversy arising out of this agreement, attorney fees may **not** be awarded by the court of competent jurisdiction and each party shall bear its own expenses of such action.

This agreement and the parties rights under it shall be construed and regulated by the laws of the State of Oregon and venue for any dispute hereunder shall lie in Pendleton, Umatilla County, Oregon.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2023.

Contractor:

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

Taxpayer ID Number: \_\_\_\_\_

