

3458

**AUTHORIZATION FOR  
AGREEMENTS, MOUs, OR  
OTHER DOCUMENTS OBLIGATING  
THE CITY**

All contracts, agreements, grant agreements, memoranda of understanding, or any document obligating the city (with the exception of purchase orders), requires the completion of this form. The City Manager will sign these documents after all other required information and signatures are obtained.

Document: Goods & Services Agreement with Holt Services Date: 3-8-23

Statement of Purpose: Geotechnical exploration at the water treatment plant to facilitate design of a garage building

Department Head Signature: \_\_\_\_\_

Remarks, if any: \_\_\_\_\_

City Attorney Review and Signature: \_\_\_\_\_

*see 3/15 email from David Allen*

Date: \_\_\_\_\_

Other Signatures as Requested by the City Attorney: attached

Name/Position

Date: \_\_\_\_\_

Budget Confirmed: 

Signature	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
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Certificate of Insurance Attached: 

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
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City Council Approval Needed: 

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Date: _____
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After all the above requested information is complete and signatures obtained, return this form, along with the original document to the City Manager for signature. No documents should be executed prior to the City Manager's approval as evidenced by signature of this document.

City Manager Signature: \_\_\_\_\_

Date: 3-15-23

Once all signatures and certificates of insurance have been obtained, return this document, along with the original, fully-executed agreement, MOU, or other document to the City Recorder. A copy of grant agreement and all project funding documents, must be forwarded to the Finance Department for tracking and audit purposes.

City Recorder Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date posted on website: \_\_\_\_\_

## Clare Paul

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**From:** David Allen  
**Sent:** Wednesday, March 15, 2023 11:39 AM  
**To:** Clare Paul; David Powell  
**Cc:** Melanie Nelson; Spencer Nebel  
**Subject:** Re: Holt Geotech Contract - need sign off  
**Attachments:** Holt Cert of Insurance.pdf; Holt G&S Contract for City sig.pdf; Agreement Sign Off Form - Holt Svcs.pdf

I had reviewed/made a few minor edits to the agreement last Wed. (March 8) and it was signed by the contractor later that day, according to the attached signed agreement. It was then sent to me below five days later (March 13) to review with no changes from last Wed. (March 8). I was out-of-state since last Thurs. and returned early this morning. Send the attached to Spencer for signature, and take note that the insurance policies listed in the attached COI expire in three days on March 18. --David

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From: Clare Paul  
Sent: Wednesday, March 15, 2023 10:10 AM  
To: David Allen  
Cc: David Powell  
Subject: Holt Geotech Contract - need sign off

Hi, again, David – Is there any way this contract can be approved for Spencer's signature today, March 15? If not, it will change the project and probably the cost. Thank you – Clare

Clare C. Paul, PE  
Assistant City Engineer  
City of Newport  
169 SW Coast Hwy, Newport, OR 97365  
P 541-574-3370  
c.paul@newportoregon.gov

From: Clare Paul  
Sent: Monday, March 13, 2023 4:35 PM  
To: David Allen <d.allen@newportoregon.gov>  
Cc: David Powell <D.Powell@NewportOregon.gov>  
Subject: Holt Geotech Contract

Hi, David – would you please sign the Sign-off Form or let me know in an email whether you approve. The contract, COI, and agreement signoff form are attached. They would like to do the work on March 16, two days from now, if we can get this signed. Thanks - Clare

Clare C. Paul, PE  
Assistant City Engineer  
City of Newport  
169 SW Coast Hwy, Newport, OR 97365  
P 541-574-3370  
c.paul@newportoregon.gov

**CITY OF NEWPORT, OREGON  
GOODS AND SERVICES CONTRACT**

**GEOTECHNICAL EXPLORATION  
Water Treatment Plant**

BASED UPON the quotes submitted in response to a request for quotes for geotechnical exploration, as issued and administered by City of Newport (City), City and Holt Services Inc. (Contractor) hereby enter into a contract for services in accordance with the specifications and quote provided.

All terms of the following exhibits are hereby incorporated by reference into this Contract, and Contractor agrees to comply with each:

- (1) Exhibit A – Request for Quotes
- (2) Exhibit B – Contractor Quote
- (3) Exhibit C – Oregon Public Contracting Requirements

To the extent there are any inconsistencies or conflicts between this document and Exhibit B, this document shall control and prevail.

1. **Term.** The term of this Contract shall extend from its execution to project completion, unless extended for additional periods of time upon written mutual agreement of both parties. Notwithstanding this Term, City reserves the right to terminate this Contract as outlined in this Agreement.
2. **Scope of Work.** Contractor shall provide all materials, labor, equipment, and all other services and facilities necessary for the services specified in the attached Exhibits A and B (Project). Work shall be completed within 30 days of the date given in the Notice to Proceed.
3. **Compensation.**
  - 3.1 **Basis of Payment.** Contractor shall complete Project as defined above and in the attached exhibits for the prices in Exhibit B, with an estimated total fee of \$12,900.00.
  - 3.2 **Invoices.** Payments shall be based upon Contractor's invoices submitted to City, detailing the previous month's fees and costs.
    - a. City will review Contractor's invoice and within ten (10) days of receipt notify Contractor in writing if there is a disagreement or dispute with the invoice or Project. If there are no such disputes, City shall pay the invoice amount in full

within thirty (30) days of invoice date, subject to a five percent (5%) retainage to be paid only after full performance and acceptance by City.

b. If City fails to make any payment due Contractor for services and expenses within thirty (30) days of the date on Contractor's invoice therefore, late fees will be added to amounts due Contractor at the rate of 1.0 percent (1%) per month from original invoice date. Invoices in dispute are not subject to such late fees until such time as they are no longer in dispute.

4. Permits. City will be responsible for obtaining all permits, approvals and authorizations necessary for Contractor's performance.
5. Termination for Convenience. This Contract may be terminated by mutual consent of the parties upon written notice. In addition, City may terminate all or part of this Contract upon determining that termination is in the best interest of City by giving seven (7) days' prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Upon termination under this paragraph, Contractor shall be entitled to payment in accordance with the terms of this Contract for Contract work completed and accepted before termination less previous amounts paid and any claim(s) City has against Contractor. Pursuant to this paragraph, Contractor shall submit an itemized invoice for all unreimbursed Contract work completed before termination and all Contract closeout costs actually incurred by Contractor. City shall not be liable for any costs invoiced later than thirty (30) days after termination unless Contractor can show good cause beyond its control for the delay.
6. Termination for Cause. City may terminate this Contract effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:
  - 6.1 If City funding is not obtained and continued at levels sufficient to allow for purchases of the indicated quantity of services. The Contract may be modified to accommodate a reduction in funds.
  - 6.2 If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.
  - 6.3 If any license or certificate required by law or regulation to be held by Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed.
7. Termination for Default. Either City 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 fifteen (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.

If Contractor fails to perform in the manner called for in this Contract or if Contractor fails to comply with any other provisions of the Contract, City may terminate this Contract for default. Termination shall be affected by serving a notice of termination on Contractor setting forth the manner in which Contractor is in default. Contractor shall be paid the Contract price only for equipment installed and services performed in accordance with the manner of performance as set forth in this Contract.

8. **Remedies.** In the event of breach of this Contract, the parties shall have the following remedies:

8.1 If terminated under paragraph 7 by City due to a breach by Contractor, City 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 City the amount of the reasonable excess.

8.2 In addition to the above remedies for a breach by Contractor, City also shall be entitled to any other equitable and legal remedies that are available.

8.3 If City breaches this Contract, Contractor's remedy shall be limited to termination of the Contract and receipt of Contract payments to which Contractor is entitled.

8.4 City shall not be liable for any indirect, incidental, consequential, or special damages under the Contract or any damages arising solely from terminating the Contract in accordance with its terms.

8.5 Upon receiving a notice of termination, and except as otherwise directed in writing by City, Contractor shall immediately cease all activities related to the services and work under this Contract.

9. **Standard of Care.** Contractor warrants that the work to be performed pursuant to this Contract shall be done in a good and workmanlike manner and will conform to the highest standards prevalent in the industry or business most closely involved in providing the equipment and services City is purchasing.

10. **Reports.** The Contractor shall provide City with reports as detailed in Contractor's proposal, at a minimum of once per month, outlining the Project progress, issues of concern and budget status.

11. Change Orders. Contractor and City reserve the right to order changes to the equipment and services to be provided herein. Contractor and City shall determine a fair and equitable cost and, if required, additional time for such changes. All such changes shall be ordered and agreed to in writing by both parties.
12. Confidentiality. Contractor shall maintain the confidentiality, both external and internal, of any confidential information to which it is exposed by reason of this Contract. Contractor warrants that its employees assigned to this Contract shall maintain necessary confidentiality.
13. Security and Substance Check. Contractor agrees that each of its employees and subcontractor's employees involved in this Project may, at the option of City and in compliance with Contractor policy, be subject to a security background check and/or substance abuse testing.
14. Access to Records. For a period of not less than three years after City's final payment to Contractor, Contractor shall permit the City, the State of Oregon and the Federal Government (if State or Federal funding is involved) to have access to all books, documents, papers and records of Contractor which are pertinent to the Services provided hereunder for purposes of audit, examination, excerpts and transcripts. Contractor shall retain those records for at least three years, or until litigation is resolved if litigation is instituted.
15. Notice. Any required or permitted notices hereunder must be given in writing at the address of each party set forth below, or to such other address as either party may substitute by written notice to the other in the manner contemplated herein, by one of the following methods: hand delivery; registered, express, or certified mail, return receipt requested, postage prepaid; or nationally-recognized private express courier:

CITY:

City of Newport  
169 SW Coast Highway  
Newport, OR 97365  
Phone: (541) 574-3366

CONTRACTOR:

Holt Services Inc.  
12305 NE 56<sup>th</sup> St.  
Vancouver, WA 98682  
Phone: 360-718-9410

16. Warranty. Contractor's warranty is as stated within Exhibit B. Contractor further warrants that all materials, equipment, and/or services provided under this Agreement shall be fit for the purpose(s) for which intended, for merchantability, that material and equipment shall be properly packaged, that proper instructions and warnings shall be supplied, and that the Project shall conform to the requirements and specifications herein. Acceptance of any service and inspection incidental thereto by City shall not alter or affect the obligations of Contractor or the rights of City.

17. **Insurance.** Contractor and its subcontractors shall maintain insurance acceptable to City in full force and effect throughout the term of this Agreement. The insurance shall cover all activities of the Contractor arising directly or indirectly out of Contractor's work performed hereunder, including the operations of its subcontractors of any tier.

The policy or policies of insurance maintained by the Contractor and its subcontractor shall provide at least the following limits and coverages:

**17.1. Commercial General Liability Insurance**

Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this contract, Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form (1996 ISO or equivalent). This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

<b><u>Coverage</u></b>	<b><u>Limit</u></b>
General Aggregate	\$2,000,000
Products-Completed Operations Aggregate	\$1,300,000
Personal & Advertising Injury	\$1,300,000
Errors & Omissions	\$1,300,000
Each Occurrence	\$1,300,000
Fire Damage (Any one fire)	\$50,000
Medical Expense (Any one person)	\$5,000

**17.2. Commercial Automobile Insurance**

Contractor shall also obtain, at Contractor's expense, and keep in effect during the term of the contract, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$1,300,000.

**17.3. Workers' Compensation Insurance**

The Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this Contract are either subject employers that will comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or employers that are exempt under ORS 656.126. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than \$500,000 each accident.

**17.4. Additional Insured Provision**

The Commercial General Liability Insurance and Commercial Automobile Insurance policies and other policies the City deems necessary shall include the City as an additional insured with respect to this Agreement.

**17.5. Notice of Cancellation**

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage of Contractor's insurance without 30 days prior written notice to the City. Any failure to comply with this provision will not affect the insurance coverage provided to the City. The certificates of insurance provided to the City shall state that the insurer shall endeavor to provide 30 days prior notice of cancellation to the City

**17.6. Certificates of Insurance**

As evidence of the insurance coverage required by the Agreement, the Contractor shall furnish a Certificate of Insurance to the City. This Agreement shall not be effective until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within this Agreement. A renewal certificate will be sent to the City 10 days prior to coverage expiration.

**17.7. Primary Coverage Clarification**

The parties agree that Contractor's coverage shall be primary to the extent permitted by law. The parties further agree that other insurance maintained by the City is excess and not contributory insurance with the insurance required in this section.

**17.8. Cross-Liability Clause**

A cross-liability clause or separation of insureds clause will be included in all general liability, professional liability, pollution and errors and omissions policies required by this Agreement.

The procuring of required insurance shall not be construed to limit Contractor's liability under this Agreement. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this Agreement.

- 18. Indemnity.** To the extent permitted by law, Contractor shall protect, defend, indemnify and hold the City harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, fines, penalties, judgments, expenses and



attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, trademark or trade secret, arising out of the work performed or goods provided under this Agreement or Contractor's violation of any law, ordinance or regulation, contract provision or term, or condition of regulatory authorization or permit, except for damages resulting from the negligence of City. Contractor's indemnification shall also cover claims brought against the City under state or federal workers' compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, the illegality or invalidity shall not affect the validity of the remainder of this indemnification.

19. Force Majeure. This section applies in the event that either party is unable to perform the obligations of this Agreement because of a Force Majeure event as defined herein, to the extent that the Agreement obligation must be suspended. A Force Majeure event is an event that prohibits performance and is beyond the control of the party. Such events may include natural or man-made disasters, or an action or decree of a superior governmental body which prevents performance. Should either party suffer from a Force Majeure event and be unable to perform, such party shall give notice to the remaining party as soon as practical and shall do everything possible to resume performance. Upon receipt of such notice, the parties shall be excused from such performance as it is affected by the Force Majeure event for the period of such event. If such event effects the delivery date or warranty provisions of this Agreement, such date or warranty period shall automatically be extended for a period equal to the duration of such event.
20. Independent Contractor. It is the intention and understanding of the parties that Contractor is an independent contractor and that City shall be neither liable for nor obligated to pay sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax that may arise as an incident of employment. Contractor shall pay all income and other taxes as due. Industrial or other insurance that is purchased for the benefit of Contractor shall not be deemed to convert this contract to an employment contract. It is recognized that Contractor may or will be performing work during the term for other parties and that City is not the exclusive user of the services that Contractor provides.
21. Assignment. Contractor shall not assign or subcontract any of its obligations under this Agreement without City's prior written consent, which may be granted or withheld in City's sole discretion. Any subcontract made by Contractor shall incorporate by reference all the terms of this Agreement. City's consent to any assignment or subcontract shall not release Contractor from liability under this Agreement or from any obligation to be performed under this Contract, whether occurring before or after such consent, assignment, or subcontract.
22. Non-Waiver. The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder

should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

23. **Non-Discrimination.** Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.
24. **Errors.** Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delay and without additional cost.
25. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to conflict of law principles.
26. **Consent to Jurisdiction.** Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon, and the parties hereby consent to venue in Lincoln County Circuit Court, Oregon, unless exclusive jurisdiction is in federal court, in which case venue shall be in federal district court for the District of Oregon.
27. **Public Contracting Requirements.** Contractor shall comply with all federal, state and local laws and ordinances applicable to the work under this agreement, including, without limitation, applicable provisions of the Oregon Public Contracting Code including ORS 279B.020, 279B.220, 279B.230, and 279B.235, as more particularly set forth in Exhibit C, attached hereto and incorporated herein by this reference.
28. **Arbitration.** If any disputes, disagreements, or controversies arise between the parties pertaining to the interpretation, validity, or enforcement of this Agreement, the parties shall, upon the request of City, submit such dispute to binding arbitration under the Oregon Uniform Arbitration Act, ORS 36.600 et seq. Arbitration shall be requested by delivering to the other party a written request for arbitration. Within five (5) days of receipt of such request, the parties shall select a mutually agreeable arbitrator and designate mutually agreeable rules of arbitration. If the parties cannot agree upon an arbitrator within five (5) days, an arbitrator may be appointed by the presiding judge of the Lincoln County Circuit Court, upon the request of either party submitted in accordance with ORS 36.645. If the parties have not designated mutually agreeable rules of arbitration at such time as the arbitrator is appointed, the arbitrator shall adopt rules for the arbitration. The arbitrator's decision shall be binding upon the parties.
29. **Attorney Fees.** If suit, action or arbitration is brought either directly or indirectly to rescind, reform, interpret or enforce the terms of this Agreement, the prevailing party shall recover and the losing party hereby agrees to pay reasonable attorney's fees

incurred in such proceeding, in both the trial and appellate courts, as well as the costs and disbursements. Further, if it becomes necessary for City to incur the services of an attorney to enforce any provision of this Agreement without initiating litigation, Contractor agrees to pay City's attorney's fees so incurred. Such costs and fees shall bear interest at the maximum legal rate from the date incurred until the date paid by losing party.


30. Severability/Counterparts. In the event any provision of this Agreement is unenforceable as a matter of law, the remaining provisions will stay in full force and effect. This Agreement may be executed in counterparts and a signed copy transmitted by facsimile or other electronic means, each of which will be deemed an original, but all of which taken together will constitute one and the same agreement.
31. Entire Agreement. This Agreement shall be the exclusive agreement between the parties with respect to the included terms and for the Project. No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of both parties, except as otherwise authorized herein.
32. Signatures. This Agreement is not effective unless and until it is approved, signed and dated by an authorized representative of each party.


CITY:

CONTRACTOR:

CITY OF NEWPORT

HOLT SERVICES INC.

By:   
Title: City Manager  
Date: 3/15/23

By:  Paul R. Smith  
Title: Project Manager  
Date: 3/8/2023

**EXHIBIT A**  
**Request for Quotes**

A request for quotes (with drawing) was solicited from three contractors by email. These firms included:

- Holt Services Inc.
- Gregg Drilling
- Cascade

Of the three quotes received, Holt Services Inc. was the lowest responsive bid.

**EXHIBIT B**  
**Contractor Quote**

Contract Exhibit B - Contractor Quote



12305 NE 56th Street  
Vancouver, WA 98682  
360 718-9410

# Scope of Services

ESTIMATE

1/12/2023

Client: Stantec  
Contact: Mahendra Shewalla  
Email: Shewalla, Mahendra <Mahendra.Sh  
Tel: 503-273-0078

Project: Newport, Or

Drill Type: Auger/MR/HQ3 Core Drill

Description	Unit	Quantity	Price	Total
Mobilization/Demobilization	EA	1	\$ 1,750.00	\$ 1,750.00
Certified Payroll/Admin	LS	1	\$ 500.00	\$ 500.00
Oregon Start Card	EA	0	\$ 375.00	\$ -
GT Hole Report	EA	2	\$ 20.00	\$ 40.00
Per diem/Daily travel - two person crew	DY	1	\$ 500.00	\$ 500.00
Set-up/Clean up	HR	2	\$ 450.00	\$ 900.00
Auger/Mud rotary drilling 0 - 100 ft	FT	60	\$ 40.00	\$ 2,400.00
Extra sample	EA	10	\$ 85.00	\$ 850.00
Borehole sealing and patch	FT	60	\$ 20.00	\$ 1,200.00
Additional hourly/Stand-by/Safety meetings	HR	0	\$ 450.00	\$ -
55 gallon DOT 17H type drum	EA	0	\$ 140.00	\$ -
IDW disposal - per drum	EA	4	\$ 150.00	\$ 600.00
Shelby tube & caps	EA	4	\$ 40.00	\$ 160.00
Mobilization/Demobilization - Air-knife	EA	1	\$ 1,750.00	\$ 1,750.00
Per diem/Daily travel - two person crew	DY	0	\$ 500.00	\$ -
Daily travel	DY	0	\$ 300.00	\$ -
Concrete core - standard slab	EA	0	\$ 500.00	\$ -
Air knife/vacuum excavate - 4 hour minimum	HR	5	\$ 450.00	\$ 2,250.00
Subtotal			\$	12,900.00
Sales Tax			0.0%	\$ -

**Scope: 2-30' HSA/Mud Rotary**

Vac clear borings to 5'

SPTs will be collected every 2.5'

No installs

All non hazardous drill cuttings will be drummed and disposed of

by Holt Services Inc

HSA to water approx. 13' then mud rotary to total depth

This is a state prevailing wage project

"Due to current instability of commodity costs this budget is valid for 30 days"

**Total Cost Estimate**

**\$ 12,900.00**

Prepared by: Paul Smith

**Notes/Assumptions:**

No work hour restrictions. Stand-by rates apply if work hours are restricted.

No Davis Bacon. No USL&H coverage.

Utility locates, traffic control & site security provided by others.

Construction/Sealing rates are based on actual borehole size volumes.

Subject to final review of terms and conditions; net 30 payment terms.

**EXHIBIT C**  
**Oregon Public Contracting Requirements**  
**ORS CHAPTERS 279B AND 279C REQUIREMENTS**

- (1) Contractor shall pay promptly, as due, all persons supplying labor or materials for the prosecution of the work provided for in the contract, and shall be responsible for such payment of all persons supplying such labor or material to any Subcontractor. ORS 279B.220(1); 279C.505(1)(a)
- (2) Contractor shall promptly pay all contributions or amounts due the Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the contract. ORS 279B.220(2); 279C.505(1)(b)
- (3) Contractor shall not permit any lien or claim to be filed or prosecuted against the Contracting Agency on account of any labor or material furnished and agrees to assume responsibility for satisfaction of any such lien so filed or prosecuted. ORS 279B.220(3); 279C.505(1)(c)
- (4) Contractor and any Subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. ORS 279B.220(4); 279C.505(1)(d)
- (5) Contractor agrees that if Contractor fails, neglects or refuses to make prompt payment of any claim for labor or materials furnished to the Contractor or a Subcontractor by any person in connection with the contract as such claim becomes due, the City may pay such claim to the persons furnishing the labor or material and charge the amount of payment against funds due or to become due Contractor by reason of the contract. The payment of a claim in the manner authorized hereby shall not relieve the Contractor or his surety from his or its obligation with respect to any unpaid claim. If the City is unable to determine the validity of any claim for labor or material furnished, the City may withhold from any current payment due Contractor an amount equal to said claim until its validity is determined and the claim, if valid, is paid. ORS 279C.515
- (6) Contractor shall promptly, as due, make payment to any person, copartnership, association, or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service. ORS 279B.230(1); 279C.530(1)
- (7) All subject employers working under the contractor are either employers that will comply with ORS 656.017, or employers that are exempt under ORS 656.126. ORS 279B.230(2); 279C.530(2)
- (8) Contractor shall pay employees for overtime work performed under the contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 USC 201, et seq). ORS 279B.235(3); 279C.520(3)

- (9) The Contractor must give notice to employees who work on this contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and the days per week that the employees may be required to work. ORS 279B.235(2); 279C.520(2)
- (10) All sums due the State Unemployment Compensation Fund from the Contractor or any Subcontractor in connection with the performance of the contract shall be promptly so paid. ORS 701.430
- (11) The contract may be canceled at the election of City for any willful failure on the part of Contractor to faithfully perform the contract according to its terms.
- (12) Contractor certifies compliance with all applicable Oregon tax laws, in accordance with ORS 305.385.
- (13) Contractor certifies that it has not discriminated against minorities, women, service-disabled veterans, or emerging small business or disadvantaged business enterprises in obtaining any required subcontractors. ORS 279A.110
- (14) As used in this section, "nonresident contractor" means a contractor that has not paid unemployment taxes or income taxes in the state of Oregon during the 12 calendar months immediately preceding submission of the bid for the contract, does not have a business address in this state, and stated in the bid for the contract that it was not a "resident bidder" under ORS 279A.120. When a public contract is awarded to a nonresident contractor and the contract price exceeds \$10,000, the contractor shall promptly report to the Department of Revenue on forms to be provided by the department the total contract price, terms of payment, length of contract and such other information as the department may require before the bidder may receive final payment on the public contract. ORS 279A.120
- (15) If the contract price exceeds \$50,000 and this contract is not otherwise exempt, workers shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and 279C.840. The applicable prevailing rate of wage may be accessed online at: <https://www.oregon.gov/boli/employers/Pages/prevaling-wage-rates.aspx>. ORS 279C.830
- (16) If the project is subject to both the Davis-Bacon Act and state prevailing rate of wage, Contractor and every subcontractor shall pay workers not less than the higher of the applicable state or federal prevailing rate of wage. ORS 279C.830
- (17) Contractor and every subcontractor must have a public works bond filed with the Oregon Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836 (4), (7), (8) or (9). ORS 279C.830