



## PORT OF HOOD RIVER COMMISSION

### AGENDA

Tuesday, December 7, 2021

Via Remote Teleconference

1000 E. Port Marina Drive, Hood River

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**Regular Session will begin immediately following adjournment of Fall Planning Work Session**

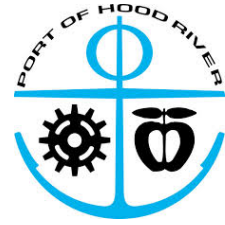
1. Call to Order
  - a. Modifications, Additions to Agenda
2. Consent Agenda
  - a. Approve Accounts Payable to Jaques Sharp in the Amount of \$15,850 (*Fred Kowell, Page 3*)
  - b. Approve Contract with Beam Construction for Hook Rigging Area not to exceed \$44,355 (*John Mann, Page 7*)
3. Adjourn

If you have a disability that requires any special materials, services, or assistance, please contact us at 541,386,1645 so we may arrange for appropriate accommodations.

*The chair reserves the opportunity to change the order of the items if unforeseen circumstances arise. The Commission welcomes public comment on issues not on the agenda during the public comment period. With the exception of factual questions, the Commission does not immediately discuss issues raised during public comment. The Commission will either refer concerns raised during public comment to the Executive Director for a response or will request that the issue be placed on a future meeting agenda. People distributing copies of materials as part of their testimony should bring **10 copies**. Written comment on issues of concern may be submitted to the Port Office at any time.*

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# Commission Memo



Prepared by: Fred Kowell  
Date: December 7, 2021  
Re: Accounts Payable Requiring Commission Approval

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|                     |                    |
|---------------------|--------------------|
| <b>Jaques Sharp</b> | <b>\$15,850.00</b> |
|---------------------|--------------------|

Attorney services per attached summary

|  |                    |
|--|--------------------|
| <b>TOTAL ACCOUNTS PAYABLE TO APPROVE</b> | <b>\$15,850.00</b> |
|--|--------------------|

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# JAQUES SHARP

— ATTORNEYS AT LAW —

205 3RD STREET / PO BOX 457  
 HOOD RIVER, OR 97031  
 (Phone) 541-386-1311 (Fax) 541-386-8771

CREDIT CARDS ACCEPTED

HOOD RIVER, PORT OF  
 1000 E. PORT MARINA DRIVE  
 HOOD RIVER OR 97031

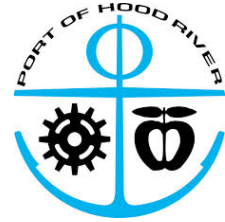
Page: 1  
 December 02, 2021  
 Account No: PORTOHAM

| Previous Balance                    | Fees     | Expenses | Advances | Payments  | Balance    |
|-------------------------------------|----------|----------|----------|-----------|------------|
| MISCELLANEOUS MATTERS               |          |          |          |           |            |
| JJ                                  |          |          |          |           |            |
| 475.00                              | 1,700.00 | 0.00     | 0.00     | -475.00   | \$1,700.00 |
| ORDINANCE #24                       |          |          |          |           |            |
| 0.00                                | 2,200.00 | 0.00     | 0.00     | 0.00      | \$2,200.00 |
| LOT 3 DDA (Key Devp/Jeff Pickhardt) |          |          |          |           |            |
| 300.00                              | 0.00     | 0.00     | 0.00     | -300.00   | \$0.00     |
| EASEMENT (CenturyLink)              |          |          |          |           |            |
| 0.00                                | 675.00   | 0.00     | 0.00     | 0.00      | \$675.00   |
| AUDIT LETTERS                       |          |          |          |           |            |
| 0.00                                | 50.00    | 0.00     | 0.00     | 0.00      | \$50.00    |
| BOAT HOUSE LEASE                    |          |          |          |           |            |
| 0.00                                | 300.00   | 0.00     | 0.00     | 0.00      | \$300.00   |
| NORTHWEST PIPELINE EASEMENT         |          |          |          |           |            |
| 0.00                                | 1,050.00 | 0.00     | 0.00     | 0.00      | \$1,050.00 |
| BRIDGE CABLE EASEMENT (Falcon)      |          |          |          |           |            |
| 3,575.00                            | 600.00   | 0.00     | 0.00     | -3,575.00 | \$600.00   |
| BISTATE WORKING GROUP               |          |          |          |           |            |
| 125.00                              | 6,875.00 | 0.00     | 0.00     | -125.00   | \$6,875.00 |

| Previous Balance  | Fees             | Expenses    | Advances    | Payments          | Balance            |
|---|------------------|-------------|-------------|-------------------|--------------------|
| <b>BARMAN PROPERTY</b>  |                  |             |             |                   |                    |
| 1,800.00  | 0.00             | 0.00        | 0.00        | -1,800.00         | \$0.00             |
| <b>WAAAM HANGAR LEASE</b>   |                  |             |             |                   |                    |
| 150.00  | 375.00           | 0.00        | 0.00        | -150.00           | \$375.00           |
| <b>PROJECT MANAGER - REPLACEMENT BRIDGE</b>   |                  |             |             |                   |                    |
| 50.00   | 0.00             | 0.00        | 0.00        | -50.00            | \$0.00             |
| <b>GOVERNANCE</b>   |                  |             |             |                   |                    |
| 9,400.00  | 925.00           | 0.00        | 0.00        | -9,400.00         | \$925.00           |
| <b>REPLACEMENT BRIDGE MANAGEMENT CONTRACT</b>   |                  |             |             |                   |                    |
| 1,050.00  | 0.00             | 0.00        | 0.00        | -1,050.00         | \$0.00             |
| <b>WASHINGTON BRIDGE FUNDS AGREEMENT (Washington State Department of Transportation/Klickitat County)</b> |                  |             |             |                   |                    |
| 0.00  | 1,100.00         | 0.00        | 0.00        | 0.00              | \$1,100.00         |
| <b>PROPERTY PURCHASE ( [REDACTED] )</b>   |                  |             |             |                   |                    |
| 50.00   | 0.00             | 0.00        | 0.00        | -50.00            | \$0.00             |
| <u>16,975.00</u>  | <u>15,850.00</u> | <u>0.00</u> | <u>0.00</u> | <u>-16,975.00</u> | <u>\$15,850.00</u> |

**THIS STATEMENT REFLECTS SERVICES PROVIDED AND PAYMENTS RECEIVED THROUGH THE 30TH OF NOVEMBER UNLESS OTHERWISE STATED**

# Commission Memo



From: John Mann  
Date: December 7, 2021  
Re: Hook Rigging Area Construction Contract

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Earlier this year, the Port was awarded a Competitive Recovery Program grant from the Oregon Tourism Commission (“Travel Oregon”) to fund a number of COVID safety and recovery measures on Port waterfront recreational facilities. A component of the grant project is the construction of two new rigging areas at the Hook. The project was taken out to bid with a bid opening on December 1, 2021. Four bids were received with one considered non-responsive due to missing required documentation.

The engineer’s estimate of the project cost range was \$25,000-\$45,000, acknowledging the unpredictable market conditions for construction projects of this type at this time. Staff prepared the project bid schedule to enable multiple bid options to meet our budget. Beam Construction, Clackamas Construction, and James Dean Construction all submitted complete documentation. Beam Construction was the low bid for both Rigging area #1 and Rigging area #2 complete builds. All of the bids received were over budget due to current construction costs. Beam Construction’s low bid of \$44,355 leaves the project \$3,327 over budget.

Staff is confident that funding can be transferred from other FY 2021-22 waterfront capital improvement projects to fill the additional \$3,327. However, we have also requested financial support from CGW2, a key project supporter, and may be able to negotiate a line-item adjustment in the grant budget itself. Travel Oregon must approve a change to the grant contract to allow delivery of only one of the two planned rigging areas. Commission approval of the low bid contract is requested at this time so that staff can move forward with project scheduling while legal review and grantor approval is secured.

**RECOMMENDATION:** Approve Contract with Beam Construction for construction of Hook Rigging Area #2 not to exceed \$44,355, subject to legal counsel review, Executive Director approval, and approval from grantor.

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**SMALL CONSTRUCTION PUBLIC WORKS CONTRACT**  
between  
**PORT OF HOOD RIVER, OREGON**  
and  
Beam Excavating Inc.

**THIS CONTRACT SHALL BE BINDING ON THE PORT  
ONLY IF IT IS SIGNED BY THE AUTHORIZED DESIGNEE**

This Small Construction Contract (“Contract”) is made by and between Port of Hood River, Oregon (“Port”) and Beam Excavating Inc. (“Contractor”). The parties agree as follows:

**Project Title: Hook Rigging Area**

**CONTRACTOR DATA**

**Contractor must submit a completed “Request for Taxpayer Identification Number and Certification” (Form W-9) with this signed Contract.** Payment information will be reported to the Internal Revenue Service under the name and TIN or SSN, whichever is applicable, provided by Contractor.

**Full Business Name:**

Beam Excavating Inc.

**Contact Person:** Chad Beam

**Address:**

1535 Osprey Dr, Hood River

City, State, ZIP:

Hood River OR, 97031

**Business Telephone:**

541-386-5747

**Email:**

beamexcavating@gmail.com

**Oregon CCB License Number:**

161840

**Contract Not to Exceed**

**Amount: \$44,355.00**

**\*All information in this contract is subject to public records law.**

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**TERMS AND CONDITIONS**

1. **Effective Date and Termination Date.** This Contract becomes effective on the Contract Start Date or the date on which the Contract is fully executed by both parties, whichever is later. No party shall perform work under this Contract before the effective date.
  - a. Contract Start Date:
  - b. Anticipated Final Completion Date:
  - c. “Work Time In Calendar Days”:
2. **Contractor’s Agreement to Provide Services.** Contractor agrees to provide the Port the services described in Exhibit A.
3. **Statement of Work.** Except as otherwise provided by the Port, as set forth below, Contractor shall furnish all labor, materials, services, tools and machinery necessary to perform the work described in Exhibit A.
4. **Payment for Work.** The Port agrees to pay Contractor in accordance with Exhibit A. Unless otherwise provided in Exhibit A, payments are due and payable thirty (30) days from receipt of Contractor's complete invoice. If applicable, the Port may withhold retainage pursuant to ORS Chapter 279C.
5. **Contract Documents.** The contract documents consist of the following documents which are listed in descending

order of precedence: this contract; exhibits to this contract, including:

Exhibit A – Statement of Work, Compensation, Payment

Exhibit B – Insurance Requirements

Exhibit C – Certification Statement for Corporation or Independent Contractor

Exhibit D – Workers’ Compensation Exemption Certification, applicable only if Contractor is claiming to be exempt

Exhibit E – BOLI Prevailing Wage Rates current version incorporated by reference only

Exhibit F – Request for Bid/Quotation

Exhibit G – Contractor’s Response to Quotation

Exhibit H – W-9 Taxpayer Identification Number and Certification

Exhibit I – ORS Chapter 279C Standard Terms for Public Works

Exhibit J – ORS Chapter 279B Standard Terms

Exhibit K – ORS Chapter 279C Standard Terms for Public Improvement Contracts

Exhibit L- Plans and Specifications

A conflict in the contract documents shall be resolved in the priority listed above with this Contract taking precedence over all other documents. The contract documents represent the entire agreement between the parties, and shall supersede any prior representation, written or oral.

6. **Subcontracts and Assignment.** Contractor may not subcontract, assign, or transfer any of its interest or duties, under this Contract without the prior written consent of Port. Port may withhold such consent for any or no reason. If Port consents to an assignment or subcontract, then in addition to any other provisions of this Contract, Contractor shall require any permitted subcontractor to be bound by all the terms and conditions of this Contract that would otherwise bind Contractor. The parties agree that any such subcontracts shall be construed as matters solely between the Contractor and its subcontractor and shall have no binding effect on Port. This Contract is not assignable by the Contractor, either whole or in part, unless the Contractor has obtained the prior written consent of the Port.
7. **Other Contractors.** Port reserves the right to enter into other agreements for work additional or related to the subject matter of this Contract, and Contractor agrees to cooperate fully with these other contractors and with the Port. When requested by Port, Contractor shall coordinate its performance under this Contract with such additional or related work.
8. **Nonperformance.** As used in this Contract, “failure to perform” means failure, for whatever reason, to deliver goods and/or perform work as specified and scheduled in this Contract. If Contractor fails to perform under this Contract, then Port, after giving seven days’ written notice and opportunity to cure to Contractor, has the right to complete the work itself, secure the contracted goods and/or services from other contractors, or a combination thereof, as necessary to complete the work. Both parties agree that Contractor shall bear any reasonable cost difference, as measured against any unpaid balance due Contractor, for these substitute goods or services. For purposes of this section, nonperformance shall be defined as failure to appear and perform work as specified and scheduled.
9. **Escalation.** Any price or cost adjustments shall be submitted to the Port by the Contractor prior to the time in which such changes are to become effective and work is performed. The Port reserves the right to reject any modifications of the Contract unacceptable to the Port .
10. **Early Termination.** This Contract may be terminated as follows unless otherwise specified herein:
  - a. Mutual: Port and Contractor may terminate this Contract at any time by written agreement.
  - b. Port’s Sole Discretion: Port in its sole discretion may terminate this Contract for any reason on 30 days’ written notice to Contractor.
  - c. Breach: Either party may terminate this Contract in the event of a breach by the other party. To be effective, the party seeking termination must give to the other party written notice of the breach and its intent to terminate. If the breaching party does not entirely cure the breach within 15 days of the date of the notice, then the non-breaching party may terminate this Contract at any time thereafter by giving a written notice of termination.
  - d. Contractor Licensing, etc.: Notwithstanding paragraph 10(c), Port 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.
  - e. Payment on Early Termination. Upon termination pursuant to Section 10, “Early Termination,” Port shall pay Contractor as follows:
    1. If Port terminates this Contract for its convenience under Section 10(a) or 10(b), then Port must pay Contractor for work performed before the termination date if and only if Contractor performed in accordance with this Contract. Port shall not be liable for any direct, indirect, or consequential damages. Termination by Port shall not constitute a waiver of any other claim Port may have against Contractor.
    2. If Contractor terminates this Contract under Section 10(c) due to Port’s breach, then Port shall pay Contractor

for work performed before the termination date if and only if Contractor performed in accordance with this Contract.

3. If Port terminates this Contract under Sections 10(c) or 10(d) due to Contractor's breach, then Port must pay Contractor for work performed before the termination date less any setoff to which Port is entitled and if and only if Contractor performed such work in accordance with this Contract.
11. **Remedies.** In the event of breach of this Contract the parties shall have the following remedies:
  - a. If terminated under 10(c) by the Port due to a breach by the Contractor, the Port 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 the Contractor shall pay to the Port the amount of the reasonable excess.
  - b. In addition to the remedies in Sections 9 and 10 for a breach by the Contractor, the Port also shall be entitled to any other equitable and legal remedies that are available.
  - c. If the Port breaches this Contract, Contractor's remedy shall be limited to termination of the Contract and receipt of Contract payments for which the Contractor has completed the work.
12. **Changes in the Work:** The Port reserves the right to adjust the scope of the work by written change order if required by unforeseen circumstances.
13. **Inspection and Acceptance of Work.** Port shall inspect Contractor's work and advise Contractor of any deficiencies, or if there are none, that the work has been accepted. Contractor shall perform all additional work necessary to correct any deficiencies without undue delay and without additional cost to Port.
14. **Compliance with Applicable Law.** Contractor shall comply with all federal, state, and local laws applicable to public contracts, to the work under this Contract, and all regulations and administrative rules established pursuant to those laws, including, without limitation, the attached Exhibits and the following:
  - a. ORS 279A.110: Contractor shall certify in the documents accompanying the bid or offer that the Contractor has not discriminated and will not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a minority, women, or emerging small business enterprise certified under ORS 200.055.
  - b. ORS 671.560, 701.055: If Contractor is performing work as a landscape Contractor as defined in ORS 671.520(2), Contractor must have a current, valid landscape Contractor's license issued under ORS 671.560. If Contractor is performing work as a Contractor as defined in ORS 701.005(2), Contractor must have a current, valid construction Contractor's license issued under ORS 701.701.055. Contractor shall maintain in effect all licenses, permits and certifications required for the performance of the work. Contractor shall notify Port immediately if any license, permit, or certification required for performance of this Contract shall cease to be in effect for any reason.
15. **Hazardous Materials.** Contractor shall notify Port before using any products containing hazardous materials to which Port employees, students, or the general public may be exposed. Products containing hazardous materials are those products defined by Oregon Administrative Rules, Chapter 437. Upon Port request, Contractor must immediately provide Material Safety Data Sheets to Port for all materials subject to this provision.
16. **Requirements for Hazardous Materials.** The Contractor shall assume lead-containing paint and varnish is present throughout the building unless notified otherwise in the survey documents. As such, Contractor shall perform all work in accordance with OR-OSHA (OAR Chapter 437 Division 3, Subdivision D, 1926.62). When performing lead paint activities and renovation in areas of buildings occupied by children under age six (6), requirements under OAR Chapter 333, Division 69 may also apply, and the Contractor will be required to be licensed under and comply with OAR Chapter 812, Division 7. Contractor certification of its workers must be provided upon request. Asbestos-containing materials ("ACM") are present in various locations throughout the building. It is the Port's intention to abate only materials that are an obstruction, part of demolition, or necessary to complete the renovation. All abatement work will be conducted by the Port under a separate contract. All Contractors are to stop work immediately and notify the Contractor if they suspect ACM are uncovered during demolition or renovation activities that are not identified in these documents. The Contractor shall then notify the Port's contracted hazardous materials consultant and coordinate with that person as necessary to accommodate testing and abatement. If applicable, the Contractor shall enforce implementation of OR-OSHA (OAR Chapter 437 Division 3, Subdivision Z, 1926.1101) requirements during the performance of the Work under this contract.
17. **Quality of Goods and Services; Maintenance and Warranty.** Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. The Contractor shall fully warrant all work performed under this Contract (the "Work") for a period of one full year from the date of completion of the Work, and shall make all necessary repairs and replacements to remedy any and all defects, breaks or failures of the Work due to faulty or inadequate materials or workmanship during this period. Contractor shall assign all manufacturers' warranties to Port and all guarantees and warranties of goods supplied under this Contract shall be deemed to run in to the benefit of

Port . Contractor shall provide Port with all manufacturer's warranty documentation and operations and maintenance manuals. Contractor shall install all products per the manufacture's specifications.

- 18. **Insurance.** Contractor shall provide insurance in accordance with Exhibit B.
- 19. **Entire Agreement.** When signed by both parties, this Contract and the attached exhibits are the entire agreement between the parties. No waiver, consent, modification or change in the terms of this Contract shall bind either party unless in writing signed by both parties. Any written waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given.
- 20. **Non-discrimination Clause.** Both parties agree that no person shall be subject to unlawful discrimination based on race; national or ethnic origin; color; sex; religion; age; sexual orientation; gender expression or identity; pregnancy; marital status; familial status; economic status or source of income; mental or physical disability or perceived disability; or military service in programs, activities, services, benefits, or employment in connection with this contract. The parties further agree not to discriminate in their employment or personnel policies.
- 21. **Removal of Debris.** Contractor shall remove all trash and debris from the site for disposal. Contractor shall clean the work area and remove all trash, debris and tools at least daily prior to leaving the job site and as needed to maintain a safe work area.

**I HAVE READ THIS CONTRACT, INCLUDING ALL ATTACHED EXHIBITS. I CERTIFY THAT I HAVE THE AUTHORITY TO SIGN AND ENTER INTO THIS CONTRACT. I UNDERSTAND THE CONTRACT AND AGREE TO BE BOUND BY ITS TERMS.**

**CONTRACTOR: Beam Excavating Inc.**

\_\_\_\_\_  
Contractor's Signature

\_\_\_\_\_  
Contractor's Title

\_\_\_\_\_  
Contractor's Printed Name

\_\_\_\_\_  
Date

NOTE: Contractor must also sign Exhibit C and (if applicable) Exhibit D.

**PORT OF HOOD RIVER, OREGON SIGNATURE**

(This contract shall not be binding on the Port until signed by the appropriate signing authority)

\_\_\_\_\_  
Michael McElwee, Executive Director

\_\_\_\_\_  
Date

**SMALL CONSTRUCTION PUBLIC WORKS CONTRACT PORT OF  
HOOD RIVER, OREGON****STATEMENT OF WORK, COMPENSATION, PAYMENT**

**CONTRACTOR SHALL PERFORM THE FOLLOWING WORK:** Contractor shall perform the installation of the Rigging Area #2 in accordance with plans, specifications attached.

**CONTRACT WAGE RATES:**

**This project is not subject to prevailing wages**

- State of Oregon Bureau of Labor and Industries (BOLI)
- Prevailing wages Federal Davis-Bacon Act (DBA) prevailing wages

**TOTAL MAXIMUM CONTRACTED AMOUNT, INCLUDING EXPENSES, IS: \$44,355.00**

**INVOICES AND CERTIFIED PAYROLL FORMS SHALL BE SUBMITTED TO:**

John Mann  
Port of Hood River  
1000 E. Port Marina Drive  
Hood River, OR, 97031

If submitted electronically, to:

[porthr@gorge.net](mailto:porthr@gorge.net)

If faxed to: (541) 386-1395

**PORT SHALL MAKE PAYMENT TO:**

Beam Excavating Inc  
1535 osprey Dr  
Hood River Or 97031

**SMALL CONSTRUCTION PUBLIC WORKS CONTRACT  
PORT OF HOOD RIVER, OREGON**

**INSURANCE REQUIREMENTS**

Contractor shall at all times maintain in force at Contractor's expense, each insurance noted below:

**Workers Compensation** insurance in compliance with ORS 656.017, which requires subject employers to provide workers' compensation coverage in accordance with ORS Chapter 656 for all subject workers. Contractor and all subcontractors of Contractor with one or more employees must have this insurance unless exempt under **ORS 656.027** (See Exhibit D). **THIS COVERAGE IS REQUIRED. Attach Certificate of Insurance.** If Contractor does not have coverage and claims to be exempt, attach Exhibit D in lieu of Certificate.

**Professional Liability / Errors & Omissions (E&O)** insurance with a combined single limit of not less than:

\$500,000,  \$1,000,000,  \$2,000,000 each claim, incident, or occurrence, with an annual aggregate limit of  \$500,000,  \$1,000,000,  \$2,000,000. This is to cover damages caused by error, omission, or negligent acts related to professional services provided under this Contract.

Required by Port  Not required by Port

**Commercial General Liability** insurance, on an occurrence basis, with a combined single limit of not less than:

\$500,000,  \$1,000,000,  \$2,000,000 each occurrence for Bodily/Personal Injury and Property Damage, with an annual aggregate limit of  \$500,000,  \$1,000,000,  \$2,000,000. This insurance must include contractual liability coverage.

Required by Port  Not required by Port

**Commercial Automobile Liability** insurance with a combined single limit, or the equivalent of not less than:

\$500,000,  \$1,000,000,  \$2,000,000 each occurrence for Bodily Injury / Personal Injury, and Property Damage, including coverage for owned, hired or non-owned vehicles.

Required by Port  Not required by Port

**Excess Umbrella Liability insurance**, on an occurrence basis, issued as broad form excess to all other Professional Liability, Errors and Omissions, Commercial General Liability, and Commercial Auto Liability coverage's not less than:

\$2,000,000,  \$5,000,000, each occurrence with an annual aggregate limit of  \$5,000,000,  \$10,000,000,

Required by Port  Not required by Port

**Builders All-Risk or Installation Floater:** insurance policy to cover the course of construction and all materials or equipment furnished or incorporated into the Work. The policy shall be equal to 100% of the contracted value of the work, and cover all property of an insurable nature, which is either in place or intended to be used as part of the permanent structure. This insurance shall include the interest of District in the Work and shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss or damage, including without limitation and without duplication of coverage, for theft, vandalism, and malicious mischief. Losses up to the deductible amount shall be the responsibility of the Contractor.

This insurance shall be primary and not contributory to any District provided insurance. No Work shall be performed, nor shall Contractor's equipment or materials be stored on District's premises until a certificate evidencing such insurance has been delivered to and approved by District.

Required by Port  Not required by Port

**Additional Requirements.** Coverage must be provided by an insurance company admitted to do business in Oregon. Contractor shall pay all deductibles and retentions. A cross-liability clause or separation of insured's condition must be included in all commercial general liability policies required by this Contract. Contractor's coverage shall be primary in the event of loss.

**Certificate(s) of Insurance Required.** Contractor shall furnish current Certificate(s) of Insurance to the Port upon request of the Port. The Certificate(s) shall provide that there shall be no cancellation, termination, material change, or reduction of limits of the insurance coverage without 30 days written notice from the Contractor's insurer to the Port. The Certificate(s) shall also state the deductible or retention level. For commercial general liability the Certificate shall also provide that the Port, its agents, officers, and employees are Additional Insured's with respect to Contractor's services to be provided under this Contract. If requested, complete copies of insurance policies shall be provided to the Port.

**SMALL CONSTRUCTION PUBLIC WORKS CONTRACT  
PORT OF HOOD RIVER, OREGON**

**CERTIFICATION STATEMENT FOR CORPORATION  
OR INDEPENDENT CONTRACTOR**

**NOTE: Contractor Must Complete EITHER A OR B below (do NOT sign both):**

**A. CONTRACTOR IS A CORPORATION, LIMITED LIABILITY COMPANY OR A PARTNERSHIP.**

|  |       |       |
|--|-------|-------|
| I certify under penalty of perjury that Contractor is a [check one]:   |       |       |
| <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Partnership authorized to do business in the State of Oregon. |       |       |
| _____  | _____ | _____ |
| Signature  | Title | Date  |

OR

**B. CONTRACTOR IS A SOLE PROPRIETOR WORKING AS AN INDEPENDENT CONTRACTOR.**

**Contractor certifies under penalty of perjury that the following statements are true:**

1. If Contractor is providing labor or services under this Contract for which registration is required under ORS Chapter 701, Contractor has registered as required by law, **and**
2. If Contractor performed labor or services as an independent Contractor last year, Contractor filed federal and state income tax returns last year in the name of the business (or filed a Schedule C in the name of the business as part of a personal income tax return), **and**
3. Contractor represents to the public that the labor or services Contractor provides are provided by an independently established business, **and**
4. All of the statements checked below are true.

**NOTE: Check all that apply. You must check at least four (4) to establish that you are an Independent Contractor.**

- A. The labor or services I perform is primarily carried out at a location that is separate from my residence or is primarily carried out in a specific portion of my residence that is set-aside as the location of the business.
- B. I purchase commercial advertising or I have business cards for my business, or I am a member of a trade association.
- C. My business telephone listing is separate from my personal residence telephone listing.
- D. I perform labor or services only under written contracts.
- E. Each year I perform labor or services for at least two different persons or entities.
- F. I assume financial responsibility for defective workmanship or for service not provided by purchasing performance bonds, errors and omission insurance or liability insurance, or providing warranties relating to the labor or services I provide.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Not Applicable

**SMALL CONSTRUCTION PUBLIC WORKS CONTRACT PORT OF HOOD RIVER, OREGON  
WORKERS' COMPENSATION EXEMPTION CERTIFICATE**

Contractor is exempt from the requirement to obtain workers' compensation insurance under ORS Chapter 656 for the following reason (check the appropriate box):

**SOLE PROPRIETOR**

- Contractor is a sole proprietor, and
- Contractor has no employees, and
- Contractor will not hire employees to perform this contract.

**CORPORATION - FOR PROFIT**

- Contractor's business is incorporated, and
- All employees of the corporation are officers and directors and have a substantial ownership interest\* in the corporation, and
- All work will be performed by the officers and directors; Contractor will not hire other employees to perform this contract.

**CORPORATION - NONPROFIT**

- Contractor's business is incorporated as a nonprofit corporation, and
- Contractor has no employees; all work is performed by volunteers, and
- Contractor will not hire employees to perform this contract.

**PARTNERSHIP**

- Contractor is a partnership, and
- Contractor has no employees, and
- All work will be performed by the partners; Contractor will not hire employees to perform this contract, and
- Contractor is not engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement to real property or appurtenances thereto.\*\*

**LIMITED LIABILITY COMPANY**

- Contractor is a limited liability company, and
- Contractor has no employees, and
- All work will be performed by the members; Contractor will not hire employees to perform this contract, and
- If Contractor has more than one member, Contractor is not engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement to real property or appurtenances thereto.\*\*

**\*NOTE:** Under OAR436-50-050 a shareholder has a "substantial ownership" interest if the shareholder owns 10% of the corporation, or if less than 10% is owned, the shareholder has ownership that is at least equal to or greater than the average percentage of ownership of all shareholders.

**\*\*NOTE:** Under certain circumstances partnerships and limited liability companies can claim an exemption even when performing construction work. The requirements for this exemption are complicated.

**ONLY SIGN AND COMPLETE THIS FORM IF CLAIMING TO BE EXEMPT FROM WORKERS COMPENSATION COVERAGE**

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Contractor Printed

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**SMALL CONSTRUCTION PUBLIC WORKS CONTRACT PORT OF HOOD RIVER, OREGON  
STANDARD ORS CHAPTER 279C PUBLIC WORKS CONTRACT TERMS**

1. ORS 279C.800 to 279C.870: Contractors and subcontractors must pay workers on public work projects no less than the applicable state prevailing rate of wage for the type of work being performed ORS 279C.830(1)(c); OAR 839-025-0020(3)(a). The applicable prevailing wage rates are July 1, 2016 Rate Schedule (Current prevailing wage rates, and any applicable amendments, can be found at [www.oregon.gov/boli](http://www.oregon.gov/boli)). Contractor and any subcontractors shall post the prevailing wage rates ORS 279C.840 (4); OAR 839-025-0033(1) and details of fringe benefit programs ORS 279C.840 (5); OAR 839-025-0033(2) in a conspicuous and accessible place on the project site.
2. ORS 279C.830: If the project is subject to both the state prevailing wage rate law and the federal Davis-Bacon Act the Contractor must pay the higher of the applicable state or federal prevailing rate of wage. ORS 279C.830 (1) (d); OAR 839-025-0020(3) (b). The applicable state prevailing wage rates can be found at [www.oregon.gov/boli](http://www.oregon.gov/boli). The applicable federal prevailing wage rates can be found online at [www.wdol.gov](http://www.wdol.gov).
3. ORS 279C.836: If this Contract is subject to payment of prevailing wages under ORS 279C.800 to 279C.870, the Contractors shall:
  - a. File a public works bond with the Construction Contractors Board pursuant to ORS 279C.836 before starting work on the project, unless exempt under ORS 279C.836(2) (7) or (8).
  - b. Include in every subcontract a provision requiring the subcontractor to file a public works bond with the Construction Contractors Board pursuant to ORS 279C.836 before starting work on the project, unless exempt under ORS 279C.836(2) (7) or (8).
4. ORS 279C.845: If this Contract is subject to payment of prevailing wages under ORS 279C.800 to 279C.870:
  - a. Every Contractor and subcontractor on a covered project must file certified payroll records with the Port . Contractors and subcontractors must complete a certified payroll statement for each week a worker is employed on a public work. These certified payroll statements must be submitted once a month, by the fifth business day of the following month, to the Port ORS 279C.845; OAR 839-025-0010. For each worker, Contractors and subcontractors must submit name and address, work classification, the number of hours worked each day, the pay rate, gross amount paid, deductions and net amount paid, and the hourly equivalent contributed to any party, plan or program for fringe benefits and the type of benefit provided. If fringe benefits are provided to workers as wages, this must be shown as well. To help Contractors and subcontractors satisfy the filing requirement, form WH-38 can be found on BOLI's website at [www.oregon.gov/boli](http://www.oregon.gov/boli).
  - b. Notwithstanding ORS 279C.555 or 279C.570(7), the Port shall retain 25% of all amounts earned by the Contractor until the Contractor has filed the certified statements as required by ORS 279C.845. In addition, the Contractor shall retain 25% of any amount earned by a First Tier Subcontractor until such subcontractor has filed the certified statements with the Port . The Port and/or the Contractor shall pay any such retained amounts within 14 days after such certified statements are filed.

**SMALL CONSTRUCTION PUBLIC WORKS CONTRACT PORT OF HOOD RIVER,  
OREGON**

**STANDARD ORS CHAPTER 279B GOODS AND SERVICES CONTRACT TERMS –  
APPLICABLE IF NOT A PUBLIC IMPROVEMENT CONTRACT**

1. **Maximum hours of labor:** Contractor shall comply with the maximum hours of labor as set forth in ORS 279B.020 and ORS 279B.235.
2. **Contractor Payment Obligations:** the Contractor shall:
  - a. Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract.
  - b. Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract.
  - c. Not permit any lien or claim to be filed or prosecuted against the state or a county, municipal corporation or subdivision thereof, on account of any labor or material furnished.
  - d. Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.
3. **Recycling:** If the contract involves for lawn and landscape maintenance, the contractor shall salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective.
4. **Medical and Workers Compensation:** The Contractor shall promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services. All subject employers working under the contract are either employers that will comply with ORS 656.017 (Employer required to pay compensation and perform other duties) or employers that are exempt under ORS 656.126 (Coverage while temporarily in or out of state).

**SMALL CONSTRUCTION PUBLIC WORKS CONTRACT PORT OF HOOD RIVER,  
OREGON**

**STANDARD ORS CHAPTER 279C PUBLIC IMPROVEMENT CONTRACT TERMS**

1. ORS 279C.505: Contractor shall make payment promptly, as due, to all persons supplying to the Contractor labor or material for the performance of the work provided for in this Contract; pay all contributions or amounts due the Industrial Accident Fund from the Contractor or subcontractor incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the state, county, school Port , municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished; and pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. Contractor shall further demonstrate that an employee drug testing program is in place.
2. ORS 279C.510: If this Contract includes demolition work, the Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. If this Contract includes lawn or landscape maintenance, the Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.
3. ORS 279C.515: If 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 the claim becomes due, the proper officer or officers representing the Port may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract. The payment of a claim in the manner authorized in this section shall not relieve the Contractor or the Contractor's surety from any obligation with respect to any unpaid claims. Unless the payment is subject to a good faith dispute as defined in ORS 279C.580, if Contractor or any first-tier subcontractor fails to pay a person furnishing labor or materials under this Contract within 30 days after being paid by Port or Contractor, Contractor or first-tier subcontractor shall pay the amount due plus interest charges starting from the end of the 10-day period that payment is due under ORS 279C.580(4) and ending upon final payment. The rate of interest charged to the Contractor or first-tier subcontractor shall be in accordance with ORS 279C.515(2). The amount of interest may not be waived. A person with any such unpaid claim may file a complaint with the Construction Contractor's Board unless the complaint is subject to a good faith dispute as defined in ORS 279C.580.
4. ORS 279C.520: Contractor must pay daily, weekly weekend, and holiday overtime. Contractor shall not employ any person for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or when the public policy absolutely requires it, and in such cases, except in cases of Contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and a half pay:
  - a. For all overtime in excess of eight hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; and
  - b. For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
  - c. For all work performed on Saturday, Sunday, News Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day.
 Contractor must give notice in writing to employees who work on this contract, either at the time of hire or before start of work on this contract, or by posting a

notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work ORS 279C.520 (2); OAR 839-025-0020(2)(c).

The requirement to pay at least time and a half for all overtime worked in excess of 40 hours in any one week shall not apply to individuals who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. Section 201 to 209 from receiving overtime.

5. ORS 279C.520(1)(b) and (c) (Pay Equity):
  - a. Contractor shall comply with ORS 652.220 (Prohibition of discriminatory wage rates based on sex; employer not to discriminate against employee who is a complainant). Compliance is a material element of the Contract. Failure to comply is a breach that entitles the Port to terminate the contract for cause.
  - b. Contractor may not prohibit any of the Contractor's 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 does so.
6. ORS 279C.530: Contractor shall promptly, as due, make payments 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 Contractor, of all sums that Contractor agrees to pay for the services and all moneys and sums that 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 the services. To the extent any of Contractor's employees are covered by the Oregon employment laws, the Contractor, its subcontractors, if any, and all employers working under this Contract, are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers. See Contractor Exemption Certification – Exhibit D if you believe you may be exempt from this requirement.
7. ORS 279C.545: Workers employed by the Contractor shall be foreclosed from the right to collect for any overtime under this Contract unless a claim for payment is filed with the Contractor within 90 days from the completion of the Contract, providing the Contractor has:
  - a. Caused a circular clearly printed in blackface pica type and containing a copy of this section to be posted in a prominent place alongside the door of the timekeeper's office or in a similar place which is readily available and freely visible to any or all workers employed on the work, and
  - b. Maintained such circular continuously posted from the inception to the completion of the Contract on which workers are or have been employed.
8. ORS 279C.580(3): Contractor shall include in each subcontract for property or services with a first tier subcontractor a clause that obligates the Contractor to pay the first tier subcontractor for satisfactory performance under its subcontract within 10 days out of such amounts as are paid to the Contractor by the Port . Contractor shall also include in each subcontract a clause that states that if the Contractor fails to pay any claim for materials or labor furnished under this Contract within 30 days after being paid by Port , interest shall be due on such claim as specified in ORS 279C.515 (2) at the end of the 10-day period that payment is due under ORS 279C.580 (3). Contractor shall require each first tier subcontractor to include a payment clause and interest clause conforming to the requirements of ORS 279C.580 in each of its subcontracts, and to require each of its subcontractors to include a similar clause in each contract with a lower tiered subcontractor or supplier.