

Instructions for BMCC Contracts

Submit contract packet to the Asset and Contracts Coordinator in the Business Office, M-113. Include name of BMCC employee that fully signed contract should be returned to. The packet should include:

- Contract signed by contractor and BMCC administrator (and HR if required).
- W-9 Form completed by contractor.
- Proof that contractor has completed Pay Equity Training by the State in the form of a "Certificate of Completion" (PEC) Required if Contractor has employees.
- Proof of Worker's Compensation insurance in the form of a Certificate of insurance (COI-WC) Required if Contractor has employees.
- Proof of other insurance requirements as indicated in the contract listing BMCC as additional insured in the form a Certification of Insurance (COI-GL). Required for 1.b, 2, and 3 below.
- Copy of Construction Contractor Board (CCB) license. If required for 2 or 3 below.
- Copy of competitive bid/quotes received to meet procurement requirements, if required.

For questions or assistance completing the contract, please contact Kristi Sewell, the Assets and Contracts coordinator at ksewell@bluecc.edu or M-113. **No work may begin by the contractor until the contract is fully SIGNED by BOTH parties. Please allow up to 4 weeks for processing.**

1. **"Personal Services"** is a Public Contract that calls for specialized skills, knowledge, and resources in the application of highly technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment and designated as such by the College's Board pursuant to ORS 279A.055.3. If you are needing to hire professional services for the college, such as consultants, presenters, artists, or bands a personal service contract is needed. Please see CCR.250.
 - a) The **"Personal Service Contract, without employees"** form can only be used for a contractor that does NOT have any employees and will be completing the work without the help of others (may not hire subcontractors). This must be approved and signed by the Human Resource Department, verifying that the contractor does qualify as a contractor and NOT an employee.
 - b) The **"Personal Service Contract"** form can be used for any personal services.
2. The **"Service Contract"** means a contract that calls primarily for a Contractor's time and effort rather than for an end product. **"Services"** shall have the meaning as set forth in ORS 279A.010(kk) which means services other than Personal Services. If you are needing to hire contractors for lawn care, plumbing, electrical, repair work, cleaning services, etc. a general service contract is needed. Some services will also require a CCB license as indicated below in 4.
3. The **"Construction Services" or Public Improvement Contract** is a contract that is for any construction activity involving improvements to real property, such as roofing, siding, painting, carpentry, floor covering, concrete, heating, air conditioning, electrical, plumbing, tree servicing, fencing, repair of attached appliances, land development, and most construction or repair services. This does not include gutter cleaning, power/pressure washing for the purpose of cleaning, and debris clean up (yard or construction site). In addition to the items at the top, the following are also required with the contract packet:
 - Copy of Drug Policy
 - Weekly Certified Payroll reports if contract is \$50,000 or greater
 - Performance Bond if contract is \$75,000 or greater
 - Payment Bond if contract is \$75,000 or greater
 - Public Works Bond if contract is \$100,000 or greater

Key Steps when hiring an Independent Contractor:

- 1) Review your situation to determine if the work to be performed qualifies as the type of work a contractor can perform or if it really should be a College employee. Check with Human resources for help in determination.
- 2) Review [College procurement policies](#). Complete actions required for the dollar level of the services you estimate to be hiring.
- 3) Complete the appropriate contract for your needs. Make sure to detail fully the scope of work, start and end dates, payment costs and any other pertinent information for the contract. If additional space is needed, please attach additional pages.
- 4) Submit contract to the contractor for signature, a W-9 form to complete and request a certificate of insurance per contract requirements and any other items listed. **If contractor has employees proof of Worker's Compensation Insurance and Pay Equity training is REQUIRED.**
 - a) Businesses with one or more employees must now provide proof that they are properly trained on Oregon's pay equity laws. DAS Procurements Services has a free online [Pay Equity training](#) for businesses. The training is provided through iLearn Oregon and includes a course quiz that yields a certificate. This certificate is the proof that BMCC needs before a contract is executed. To learn more, visit the [Pay Equity webpage](https://www.oregon.gov/das/Procurement/Pages/PayEquity.aspx) at <https://www.oregon.gov/das/Procurement/Pages/PayEquity.aspx>.
- 5) Once contractor has returned documents from 3 above, the BMCC Administrator shall then sign to demonstrate his/her approval and acknowledgement of his/her responsibilities required by the contract. If contractor does not have employees, HR must also sign to indicate that it meets the requirements of an independent contractor.
- 6) Submit the contract packet, as listed above, to the Asset and Contracts Coordinator in the Business Office, M-113.
- 7) Once authorized signature is obtained, the business office will provide copies of the fully executed contract to the contract administrator or designee. Per BMCC's Authorized Signatures policy (BO-01-2005-0020), only the President, VP of Admin Services, or AVP of Finance and Business Operations are authorized to obligate the College.
- 8) It is the contract administrator's responsibility to return copy of the executed contract to the contractor.
- 9) **No work may begin until the contract is fully executed (SIGNED) by BOTH parties.**

Key Steps to Pay an Independent Contractor:

- 1) Prepare a purchase order in RaPs. In the "comment" section of the purchase order, indicate "Contract on file" and attached copy of executed contract in the quotes section. Include a short summary of work to be completed and payment information in the description area.
- 2) Request contractor to submit an invoice. Payment cannot be rendered without an original invoice, or in lieu of invoice, contract administrator may request payment be sent when job is finished by contacting Susan Thomas, Accounts payable.
- 3) Every fiscal year, July 1 – June 30, a new contract or written amendment must be submitted and approved before any service obligations are made to the contractor, with the exception of construction contracts.



*Service Contract
For*

2411 NW Carden Ave.
PO BOX 100
Pendleton, OR 97801

This Service Contract is made by and between Blue Mountain Community College, (“BMCC” or “College”) and _____ (“Contractor”). The parties agree as follows:

Contractor Information:

Address:

City, State, Zip:

OR CCB#:

Contact Name:

Telephone:

Email:

Contractor must submit a completed “[Request for Taxpayer Identification Number and Certification](#)” (IRS Form W-9) with this signed contract. All payments to Contractor will be reported to the Internal Revenue Service under the name and TIN or SSN, whichever is applicable, provided by Contractor.

Contractor represents and warrants that Contractor has complied with the tax laws of Oregon and any applicable political subdivision thereof, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Contractor covenants that Contractor will continue to comply with the tax laws of Oregon and any applicable political subdivision thereof during the term of this Contract. Failure by Contractor to comply with the tax laws of Oregon or any applicable political subdivision thereof before the execution of this Contract or during the term of this Contract is a default for which the College may terminate this Contract and seek damages or other relief available under the terms of this Contract or other applicable law(s).

College Point of Contact:

Name:

E-Mail:

Department:

Telephone:

NOTICE: All information in this contract is subject to public records law. Please contact the College Point of Contact listed above with any questions.

TERMS AND CONDITIONS:

1. Term and Termination.

- a. **Start and End Dates.** This Contract is effective on the later of (i) _____ or (ii) the date on which the Contract is fully executed by both parties. No party shall perform work under this Contract before the effective date. A copy of the fully executed contract will be sent to the Contractor at the email address listed above upon execution. At that time, Contractor may begin work under the Contract. Unless terminated earlier as provided for herein, the Contract shall continue through _____.
- b. **Termination Without Cause:** College or Contractor may terminate this Contract at any time for its convenience on 30 days’ written notice to the other. If College terminates for convenience, Contractor may invoice College and College shall pay all undisputed invoice(s) for Services performed prior to College’s notice of termination.
- c. **Termination for Cause:** Either party may terminate this Contract in the event of a material breach by the other, except as otherwise provided for herein. To be effective, the party seeking termination must give to the other party written notice of the beach and the party’s intent to terminate. If the breaching party fails to cure the breach within 15 calendar days of the date of notice, the non-breaching party may terminate this Agreement at any time thereafter by giving a written notice of termination. Notwithstanding the foregoing, to the fullest extent allowed by law, Contractor shall not suspend services, withhold documents

or terminate this Contract for nonpayment in the event of a good faith dispute, so long as College continues to pay all undisputed invoices.

- d. Licensing. College 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.

2. **Statement of Work**. Contractor will provide the following services

3. **Expenses and Invoicing**. College shall not make any payments until this Contract is fully executed by both parties.

Total Compensation Not to exceed: \$ _____

- a. CONTRACTOR shall submit original invoices/billings and summary of activities performed, to the COLLEGE for payment, within thirty (30) days after services have been rendered. Contractor shall submit progress billings for work performed on a no more than monthly basis. The billings shall describe all work performed with particularity and shall include the total amount billed to date by Contractor prior to the current invoice. Billings shall be sent to the College point of contact.
- b. The College shall pay the approved invoice, within thirty (30) Days after receipt of an approved invoice by the College.
- c. Contractor shall not submit billings for, and College will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this contract, the amendment must be fully executed before Contractor performs work subject to the amendment. No payment will be made for any services performed before the beginning date or after the expiration date of this contract.
- d. Final payment will be made upon satisfactory completion of the contract as certified by the COLLEGE.

4. **Payment of Laborers**. In addition to applicable local and federal laws, ORS 279B.220 requires that Contractor:

- a. Make payment promptly, as due, to all persons supplying labor or material to the Contractor for the performance of the work provided for in the Contract.
- b. Pay all contributions or amounts due the Industrial Accident Fund by 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, College, municipality, 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.

5. **Hours of Labor**. As required by ORS 279B.020(5), 279B.235(3), and 279C.540(6), for Contractor's employees subject to Oregon employment laws:

- a. Maximum Hours: Employees shall be paid at least time and a half pay for all time worked in excess of 40 hours in any one week and for work performed on Saturdays, Sundays, New Year's Day (Jan. 1), Memorial Day (last Monday in May), Independent Day (July 4), Labor Day (first Monday in September), Thanksgiving Day (fourth Thursday in November), and Christmas Day (December 25).
- b. Exemption. The requirements of Section 6(a) do not apply to individuals who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.
- c. Notice to Employees. Contractor must give notice in writing to its employees who perform work on this Contract, either at the time of hire or before commencement 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.

6. **Time Limitation on Claim for Overtime.** For Contractor's employees subject to Oregon employment laws and as required by ORS 279C.545, any worker employed by Contractor shall be foreclosed from the right to collect for any overtime provided in ORS 279C.540 unless a claim for payment is filed with Contractor within 90 days from the completion of this Contract, providing Contractor has:
 - a. **Posted Circular:** Caused a circular clearly printed in boldfaced 12-point 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 that is readily available and freely visible to workers employed on the work, and
 - b. **Maintaining Posted Circular:** Maintained such circular continuously posted from the inception to the completion of this Contract on which workers are or have been employed.
7. **Pay Equity.** As required by ORS 279B.235 or ORS 279C.520, Contractor shall comply with ORS 652.220 and shall not unlawfully discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age. Contractor's compliance with this section constitutes a material element of this Contract and a failure to comply constitutes a breach that entitles Agency to terminate this Contract for cause.

Contractor will provide proof that contractor has completed the [Pay Equity Training for Businesses](https://www.oregon.gov/das/Procurement/Pages/PayEquity.aspx) at <https://www.oregon.gov/das/Procurement/Pages/PayEquity.aspx> by submitting a copy of their "Certificate of Completion" from the State of Oregon.

Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Contractor 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.

8. **Adequate Funding.** College reserves the right to adjust the level of services provided for in this Contract in accordance with funding levels adopted by the Board of Education.
9. **Independent Contractor Status.** By its signature on this Contract, Contractor certifies that the service or services to be performed under this Contract are those of an independent contractor as defined in ORS 670.600, and that Contractor is solely responsible for the work performed under this Contract. Contractor represents and warrants that Contractor, its subcontractors, employees, and agents are not "officers, agents, or employees" of the College within the meaning of the Oregon Tort Claims Act (ORS 30.260 through 30.300). Contractor shall be responsible for all federal, state, and local taxes and any and all fees applicable to payments for services under this Contract. Specifically, Contractor acknowledges and represents at least three of the following are true and accurate:
 - a. Contractor maintains a business location separate from the College's business location or in a portion of a residential home that is used primarily for business.
 - b. Contractor bears the risk of loss related to its business by: (i) entering into fixed-price contracts; (ii) entering into contracts requiring Contractor to correct defective work; (iii) providing a warranty as to services provided; or (iv) negotiating indemnification agreements and/or purchasing liability and errors and omissions insurance.
 - c. Contractor offers contracted services for two or more different persons/entities within a 12-month period, or routinely engages in business advertising, solicitation, or other marketing efforts to obtain new contracts.
 - d. Contractor makes significant investments in its business.
 - e. Contractor has authority to hire and fire other persons to provide or assist in providing services.
10. **Subcontracts and Assignment.** Contractor shall not subcontract, assign, delegate, or transfer any of its duties, rights, or interests under this Contract without the prior written consent of College. College may withhold such consent with or without any reason. If College consents to an assignment or subcontract, then Contractor shall

require all permitted subcontractors or assignees to be bound by all the terms and conditions of this Contract that would otherwise bind Contractor. The parties agree that any subcontracts or assignments shall be construed as matters solely between the Contractor and its subcontractor or assignee and shall not have binding effect on the College.

11. **Third Party Beneficiaries.** College and Contractor are the only parties to this Contract and are the only parties to enforce its terms and conditions. Nothing in this Contract provides any benefit or right, directly or indirectly, to third parties unless they are individually identified by name in this Contract and expressly described as intended beneficiaries of this Contract.
12. **Other Contractors.** College reserves the right to enter into other contracts for additional work or work related to the subject matter of this Contract and Contractor agrees to cooperate fully with all other contractors and with the College. Contractor shall coordinate its performance under this Contract with such additional or related work when requested by the College. Contractor shall not interfere with the work performance of any other contractor or College employees.
13. **Errors.** Contractor shall perform any and all additional work necessary to correct errors in the work required under this Contract without undue delays or additional cost to the College.
14. **Access to Records.** Contractor agrees that College and its authorized representatives are entitled to review all Contractor's books, documents, papers, plans, and records, electronic or otherwise (collectively "Records") which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Contractor shall maintain all Records, fiscal and otherwise, directly relating to this Contract in accordance with generally accepted accounting principles to document clearly Contractor's performance. Following final payment and termination of this Contract, Contractor shall retain and keep accessible all Records for a minimum of three years, or such longer period as may be required by law, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Contract, whichever date is later.
15. **Ownership of Work Products.** Contractor agrees that all work products created or developed for College by Contractor pursuant to this Contract are intended as "works made for hire" and shall be the exclusive property of the College. If any such work products contain Contractor's intellectual property that is or could be protected by federal copyright, patent, or trademark laws, Contractor hereby grants College a perpetual, royalty-free, fully-paid, non-exclusive, and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, and use or re-use, in whole or in part, and to authorize others to do so, all such work products. College claims no right to any pre-existing work product of Contractor provided to College by Contractor in the performance of this Contract, except to copy, use, or re-use such work product for College use only.
16. **Confidentiality.** The Family Education Rights and Privacy Act ("FERPA") prohibits Contractor from disclosing confidential student information which may be disclosed to Contractor by College. Except in very limited circumstances, Contractor shall not disclose to any other party any information or records regarding students or their families that Contractor may learn or obtain in the course and scope of performance under this Contract, without first obtaining prior consent of the parent/guardian or eligible student. Any disclosure of confidential student information by Contractor must be in compliance with the re-disclosure laws of FERPA. Contractor is not to re-disclose information without prior written notification to and written permission of College. If College grants permission, Contractor is solely responsible for compliance with re-disclosure rule under FERPA. Consistent with FERPA requirements, personally identifiable information obtained by Contractor in the performance of this Contract may only be used for the purposes identified in this Contract.
17. **Security of College Property, Information, Documents.** Contractor shall bear sole responsibility for any liability, including but not limited to attorney fees, resulting from any action or suit brought against College because of Contractor's willful or negligent release of information, documents, or property contained in or on College property. College hereby deems all information, documents, and property contained in or on College property to be privileged and confidential. For purposes of this provision, "in or on College property" shall include all electronic information stored on College servers.

18. **Employee Removal.** At College's request, Contractor shall immediately remove any Contractor employee from all College properties in cases where the College in its sole discretion determines that removal of that employee is in the College's best interests.
19. **Compliance with Applicable Law.** Contractor shall comply with all federal, state, and local laws applicable to public contracts and the work done under this Contract, and with all administrative regulations and rules established pursuant to those laws.
20. **Indemnification.** Contractor shall defend and indemnify College, its officers, directors, employees, and agents from and against all liabilities, losses, expenses, claims, actions, or judgments (including attorney fees) recovered or made against College for any damage, injury, or death to persons or damage to property caused by the negligent or intentional acts or omissions of Contractor, its officers, employees, agents, or subcontractors related to Contractor's performance under this Contract. Contractor's indemnification of College extends to conditions created by this Contract or based upon violation of any statute, ordinance, or regulation. This provision is in addition to any common law or statutory liability and indemnification rights available to College. Contractor's indemnification of College shall not apply to damage, injury, or death caused by the negligent actions of College, its officers, directors, employees, or agents. College must promptly provide written notice to Contractor of any claim or demand to indemnify and shall cooperate with Contractor in a reasonable manner to defend such claim.
21. **Insurance.** At all times while providing services under this Contract, Contractor shall maintain in force at Contractor's expense insurance coverage at least equal to the value of this Contract and the following insurance coverage(s), as applicable:
 - a. Workers' Compensation. As required by ORS 656.017, subject employers shall 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 shall have this insurance unless exempt under ORS 656.027. Contractors that are statutorily subject employers shall submit a certificate of insurance to the College to show proof of coverage.
 - b. General Liability. Contractor shall maintain general liability insurance coverage of at least \$1,000,000 for each claim, incident, or occurrence, and at least \$2,000,000 annual aggregate coverage. The policy must include a cross-liability clause or separation of insureds provision. The certificate of insurance must state that College, its agents, officers, and employees are additional insureds with respect to Contractor's services provided under this Contract. The certificate must specify an additional insured endorsement, and Contractor shall attach a copy of the endorsement to the certificate.
 - c. Motor Vehicle Liability. If Contractor is providing services that require Contractor to transport College personnel, students, or property, then in addition to any legally required insurance coverage, Contractor shall maintain motor vehicle liability insurance of at least \$1,000,000 for each claim, incident, or occurrence.
 - d. Additional Requirements. Contractor alone is responsible for paying all deductibles and retentions. Contractor's coverage shall be primary in the event of loss.
 - e. Certificate of Insurance. Contractor shall furnish to College a current certificate of insurance for each of the above coverages. Each certificate must state the relevant deductible or retention level. Contractor shall also provide complete copies of insurance policies to College if requested.
22. **Waiver.** Waiver of any default or breach under this Contract does not constitute a waiver of any subsequent default or a modification of any other provisions of this Contract.
23. **Severability.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, such provision shall be reformed to the minimum extent necessary to make it fully valid and enforceable. 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 written.

