

**RISK MANAGEMENT - AGENT OF RECORD
INSURANCE SERVICES CONTRACT**

Contract No. 6133

This contract is made on June 22, 2022, by and between Curry County, a political subdivision of the State of Oregon (hereinafter referred to as "County"), and Abel Insurance Agency (hereinafter referred to as "Consultant").

County and Consultant agree as follows:

1. Term

1.1 Except as otherwise provided herein, the initial term of this contract shall commence on July 1, 2022, and end on June 30, 2024.

1.2 This contract may be renewed by written agreement of the parties for three (3) additional terms of one (1) year each, which shall begin on July 1st following the expiration of the preceding term. The provisions of this contract shall apply to each renewal, except that the parties may negotiate changes in the fees for Consultant's services.

2. Administration of Contract: The County Counsel, or his/her designee, shall have authority to administer this contract on behalf of the Board of Curry County Commissioners.

3. Scope of Services: Consultant shall act as County's Agent of Record for workers compensation, liability, and property insurance. Consultant shall perform all services reasonably necessary to carry out those functions. Said services shall include but not be limited to, the following:

With Respect to Workers Compensation, liability and property insurance, as applicable:

3.1 Provide up-to-date and unbiased information to County Counsel and the Board of Commissioners with relation to the most advantageous insurance and reinsurance markets from the standpoint of availability, cost, security, and coverage.

3.2 Prepare market analyses and forecasts by insurance line prior to each renewal. Such analyses should report pricing and service trends, availability of markets, short-term factors affecting the markets and projections of longer-term direction in which the markets are moving.

3.3 Assist carriers in the design of policy forms as needed.

3.4 Evaluate carriers for consideration as potential markets and assist in continuing re-evaluation of the performance of insurers being used.

3.5 Be mindful of and recommend the use of self-insurance or other risk financing techniques whenever appropriate. Opportunities for non-insurance transfers should also be recommended where observed to be viable alternatives.

3.6 Solicit bids and secure binders prior to effective dates for required insurance coverages. Assist in the preparation of the materials, specifications and background data to be included in bid solicitations from insurers. Assist the Board of Commissioners in selecting insurance coverages.

3.7 Verify accuracy of all policies, endorsements and invoices prior to delivery. Any deviation from specification should be brought to the attention of the County Counsel and appropriate corrections secured.

3.8 Prepare annually a concise summary for each and every insurance policy affected.

3.9 Assist in the preparation and equitable settlement of all claims covered by the County's insurance companies.

3.10 Provide claims audit services, if requested.

3.11 Issue and replace promptly, binders, certificates of insurance, loss payable forms and any other coverage verification documents as required.

3.12 Keep the County Counsel and Board of Commissioners informed on new or changing markets, forms, products, laws, government regulations, and any other information that may affect the Risk Management function.

3.13 Act as liaison with insurance companies as needed.

4. Quality of Service:

4.1 Consultant shall perform the services as an independent contractor in accordance with generally accepted standards in Consultant's profession. Consultant shall be responsible for the professional quality, technical accuracy and the coordination of all services performed by Consultant. Consultant shall, without additional compensation, correct or revise any error or deficiencies in the services that are caused by Consultant's negligence.

4.2 Consultant shall perform the services as expeditiously as is consistent with professional skill and care. Upon request of County, Consultant shall submit for the County's approval, a schedule for the performance of Consultant's services. The schedule shall include allowance for periods of time required for County's review and approval of the Consultant's services. The schedule approved by County shall become a part of this contract.

5. Consultant's Personnel:

5.1 Services shall be rendered by, or under the supervision of Wendy Abel-Hatzel, Vice President, who shall act as Consultant's representative in all communications and transactions with County.

5.2 Consultant has represented, and by entering into this contract now represents, that all of Consultant's personnel are fully qualified to perform the work to which they will be assigned in a competent and professional manner.

5.3 Consultant will endeavor to honor reasonable specific requests of County with regard to assignment of Consultant's employees to perform services covered by this contract if the requests are consistent with sound business and professional practices.

6. Independent Contractor Status:

6.1 Consultant is engaged by County as an independent contractor and shall not be deemed an "agent" of County as that term is construed under the Oregon Tort Claims Act.

6.2 Consultant shall be responsible for payment of:

6.2.1 Social Security, Federal and State withholding taxes for the wages paid to Consultant's employees.

6.2.2 Taxes on monies disbursed to Consultant's principals.

6.3 Consultant's officers, principals and employees shall not be deemed employees of County and shall not be entitled to any benefits from County that generally are granted to County employees, such as vacation, holiday and sick leave, other leaves with pay, medical and dental coverage, life and disability insurance, overtime, Social Security, worker's compensation, unemployment compensation and retirement benefits.

7. Compliance with Law:

7.1 This contract will be governed by and construed in accordance with laws of the State of Oregon. Consultant shall promptly observe and comply with all present and future laws, orders, regulations, rules and ordinances of federal, state, county and city governments with respect to the services including, but not limited to, provisions of ORS 279B.220, 279B.230, and 279B.235.

7.2 Consultant is a "subject employer" as defined in ORS 656.005 and shall comply with ORS 656.017. Prior to commencing any services, Consultant shall certify to County that Consultant has workers compensation coverage required by ORS Chapter 656. If Consultant is a carrier insured employer, Consultant shall provide County with a certificate of insurance. If Consultant is a self-insured employer, Consultant shall provide County with a certification from the Oregon Department of Insurance and Finance as evidence of Consultant's status.

8. Ownership of Documents:

All documents prepared by Consultant pursuant to this contract shall be the property of County.

9. Payment:

9.1 Consultant shall be paid for services under this contract as outlined in the attached Exhibit 1(Typical: Attached successful proposal details).

9.2 Consultant shall bear all costs incurred in performance of the services including, but not limited to, labor, materials, transportation, insurance, bonds, administrative services and overhead. Consultant shall not be entitled to any compensation for the services other than what is allowed by Exhibit 1.

9.3 County shall not be indebted or liable for any obligation created by this contract in violation of the debt limitation of Article XI, Section 10 of the Oregon Constitution.

9.4 County shall not be liable for any expenditure under this contract for which statutory appropriation has not been made pursuant to ORS 294.305 et seq. (Local Budget Law).

9.5 County will soon be in the process of appropriating funds for the services that will be provided during the fiscal year that ends on June 30, 2018. In the event no funds or insufficient funds to pay for the services are appropriated for subsequent fiscal years, County shall immediately notify Consultant, and this contract shall terminate on the last day of the fiscal year for which appropriations are made. Such notice is a condition precedent to invoking the limitation on payment stated in subsection 9.3.

10. Records:

10.1 Consultant shall develop and maintain complete books of account and other records on the services which are adequate for evaluating Consultant's performance. Consultant's records shall demonstrate a clear distinction between the services and expenses covered by this contract and Consultant's other cases and transactions.

10.2 Consultant's books and records shall be made available for inspection by County at reasonable times, to verify Consultant's compliance with this contract. County shall have the right to request an audit of Consultant's books and records by a certified public accountant retained by County.

11. Indemnification:

11.1 Consultant shall defend, indemnify and save County, its officers and employees harmless from any and all claims, actions, costs, judgments, damages or other expenses resulting from injury to any person (including injury resulting in death), or damage to property (including loss or destruction), of whatsoever nature arising out of or incident to the fault, negligence, wrongful act or wrongful omission of Consultant (including but not limited to, the acts or omissions of Consultant's employees, agents, and others designated by Consultant to perform services attendant to this contract).

11.2 Consultant shall not be held responsible for any claims, actions, costs, judgments, damages or other expenses directly, solely, and proximately caused by the negligence of County.

11.3 The purpose of this section is to allocate risk for claims between County and Consultant. Nothing in this section is intended to waive any limitations on liability established by the Oregon Tort Claims Act.

12. Insurance:

Consultant shall, at its own expense, at all times during the term of this agreement, maintain in force:

12.1 A comprehensive professional liability policy with minimum coverage of at least \$2,000,000 combined single limit. County shall be named as an additional insured.

Certificates of Insurance shall be provided to the County upon request.

12.2 A comprehensive general liability policy with minimum coverage of at least \$2,000,000 combined single limit. County shall be named an additional insured. Certificates of Insurance shall be provided to County upon request.

12.3 Currently valid workers' compensation insurance covering all its workers. Certificates of Insurance shall be provided to County upon request.

12.4 A comprehensive automobile liability insurance policy including owned and non-owned automobiles. The coverage under this policy shall be with a minimum coverage of \$2,000,000 per occurrence (combined single limit for bodily injury and property damage claims). Certificates of Insurance shall be provided to County upon request.

13. Default

13.1 There shall be a default under this contract if either party fails to perform any act or obligation required by this contract within ten days after the other party gives written notice specifying the nature of the breach with reasonable particularity. If the breach specified in the notice cannot be completely cured within the ten day period, no default shall occur if the party receiving the notice begins performance of the act or obligation within the ten day period, and thereafter proceeds with reasonable diligence and in good faith to cure the breach as soon as practicable.

13.2 Notwithstanding subsection 13.1, either party may declare a default by written notice to the other party, without allowing an opportunity to cure, if the other party repeatedly breaches the terms of this agreement.

13.3 If a default occurs, the party injured by the default may elect to terminate this contract and pursue any equitable or legal rights and remedies available under Oregon law. All remedies shall be cumulative.

13.4 Any litigation arising out of this contract shall be conducted in Circuit Court of the State of Oregon for Curry County.

13.5 In the event of a breach of contract by Consultant or negligent performance of any of the services, County's rights under this section and any resultant cause of action against Consultant shall not be deemed to accrue until County discovers the breach or negligence, or should have, with reasonable diligence, discovered the breach or negligence. However, the preceding sentence shall not be construed to allow County to prosecute an action against Consultant beyond the maximum time limitation provided by Oregon law.

13.6 Termination shall not prejudice any right of a party prior to the effective date of termination.

14. Termination without Cause:

14.1 In addition to the right to terminate this contract under subsection 13.3, County may terminate by giving Consultant written notice sixty days prior to the termination date.

14.2 If County terminates the contract under subsection 14.1, Consultant will have the right to complete such analyses and records as may be necessary to place its files in order

and, where considered necessary to protect its professional reputation, to complete a report on the work performed to date of termination.

14.3 If County terminates the contract under subsection 14.1, Consultant shall be paid for all fees earned and costs incurred prior to the termination date. Consultant shall not be entitled to compensation for lost profits.

15. Notices

Any notice required to be given under this contract or any notice required to be given by law shall be in writing and may be given by personal delivery or by registered or certified mail, or by any other manner prescribed by law.

15.1 Notices to County shall be addressed as follows:

County Counsel Anthony Pope
94235 Moore Street, Suite 123
Gold Beach, Oregon 97444

15.2 Notices to Consultant shall be addressed as follows:

Abel Insurance Agency
Wendy Abel-Hatzel, Vice President
94210 Second Street
Gold Beach, Oregon 97444

16. Interpretation:

Words, terms, and phrases which are not specifically defined in this contract shall have the ordinary meaning ascribed to them in Consultant's business or profession unless the context clearly indicates otherwise. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular include the plural. The word "shall" is mandatory and not merely directory.

17. Successors:

17.1 The successors, assigns and legal representatives of Consultant and County shall be subject to all provisions of this contract.

17.2 Consultant shall not assign any of Consultant's rights or responsibilities under this contract or enter into any subcontracts for performance of the services without obtaining the prior written consent of County.

18. No Waiver

18.1 County's review, approval, acceptance of, or payment for, any of the services shall not be construed to waive any of County's rights under this contract or of any cause of action arising out of Consultant's breach of this contract or negligent performance of services.

18.2 No provision of this contract shall be deemed waived unless such waiver is in writing and signed by the party waiving its rights. Any waiver of a breach by either party,

whether express or implied, shall not constitute waiver of any other breach.

19. Severability:

If any provision of this contract is held by a court to be invalid, such invalidity shall not affect any other provision of this contract. This contract shall be construed as if such invalid provision had never been included.

20. Entire Agreement:

This contract, documents incorporated in this contract by reference and the attached exhibits constitute the entire and final agreement between the parties. This contract may be changed only by written modifications that are signed by both parties.

CONSULTANT

BY: _____

DATE: _____

FED. ID# _____

BOARD OF CURRY COUNTY COMMISSIONERS



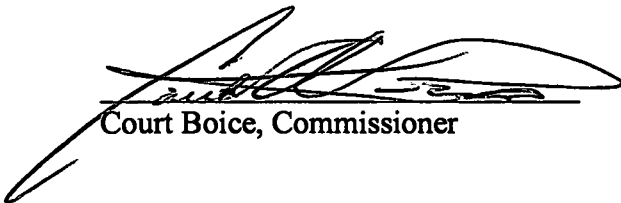
John Herzog, Chair

7-18-22
DATE



Christopher S. Paasen, Vice-Chair

7/13/22
DATE



Court Boice, Commissioner

7-14-22
DATE

Approved as to Form:



Anthony Pope
Curry County Legal Counsel

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CONSULTANT Abel Insurance Agency
BY: W. J. Abel - President DATE: 7-18-2022
FED. ID# 91-0846099

BOARD OF CURRY COUNTY COMMISSIONERS

John Herzog
John Herzog, Chair

7-18-22
DATE

Christopher S. Paasen
Christopher S. Paasen, Vice-Chair

7/13/22
DATE

Court Boice
Court Boice, Commissioner

7-14-22
DATE

Approved as to Form:

Anthony Pope
Anthony Pope
Curry County Legal Counsel

EXHIBIT 1

The compensation of Consultant for the workers compensation coverage shall be in the form of commissions paid directly to Consultant from applicable insurance carries.

The compensation of Consultant for all other property and casualty coverage shall be a flat fee of \$15,000 per fiscal year. Payment will be paid directly to the Consultant by the County. Payment of Consultant may be made annually, quarterly or monthly, per the County's discretion as long as full payment is made before completion of each fiscal year. County will receive a risk management allowance from City County Insurance services on the County's invoice. If the risk management allowance is larger than the flat fee, the County's payment to the Consultant will not change. If the risk management allowance is lower than the flat fee, the Count's payment to Consultant will be reduced to match the risk management allowance.