

**UNION COUNTY
MT EMILY RECREATION AREA (MERA)
DEPARTMENT**

REQUEST FOR PROPOSAL

**LOGGING, PRE-COMMERCIAL THINNING,
AND FUELS TREATMENT PROJECT**

**RED APPLE FOREST IMPROVEMENT
PROJECT**

CONTRACT ADMINISTRATOR:

**Sean Chambers, Parks Coordinator
Union County MERA
10513 N McAlister Road, PO Box 1103
Island City, OR 97850
541-963-1319**

ISSUE DATE: SEPTEMBER 17, 2020

BID CLOSING DATE: OCTOBER 6, 2020 4:00 PM

AWARD DATE: no later than OCTOBER 29, 2020 4:00 PM

NO LATE PROPOSALS WILL BE ACCEPTED

PROPOSAL SUBMITTAL LOCATION

Union County Public Works
Attn. Sean Chambers, *Parks Coordinator*
10513 N McAlister Road, PO Box 1103,
Island City, OR 97850

SERVICE POINT OF CONTACT: Charles Sarrett (541) 805-8498

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**PART 1 - INTRODUCTION AND
SUPPLEMENTAL INFORMATION REGARDING BIDDING**

The Union County Mt Emily Recreation Area (MERA) Department (hereinafter called Union County) is requesting proposals from qualified logging CONTRACTORS (hereinafter called CONTRACTOR) to provide all the necessary labor, materials and equipment to treat approximately 190 acres on the Mount Emily Recreation Area (hereinafter called MERA), Union County, Oregon. The harvest is predominantly a sanitation/salvage harvest to help reduce the amount of mortality and fuels build-up taking place in the stand. Thinning for stand health is also a consideration. This silvicultural treatment will also encourage regeneration of ponderosa pine, western larch and Douglas-fir on the site. Mistletoed trees, root rot pockets and trees harboring bark beetles are the primary trees being removed although there will be some thinning to keep the stands being treated growing at a healthy rate.

An estimated average of 4 MBF (thousand board feet) per acre will be removed. Timber to be harvested is designated for cutting by blue paint marks. The County's designated representative will work closely with Contractor to interpret prescription goals and outcomes and to assure that marking meets goals. There is a pulpwood component to be removed as well as precommercial thinning and slash mastication to be completed following harvest. A total of about 800 MBF of saw logs will be harvested. The timber to be harvested ranges from 6" to about 30" in diameter. **Ground based cut-to-length harvesting is required with skidding by forwarder.** Temporary roads and landing locations within the units will be a part of the CONTRACTOR's proposal. Existing roads will be left in as good or better condition as before harvest begins. Logging slash within the harvest unit shall be treated through mastication. Leave trees and regeneration must be protected from damage while harvesting. The unit is located within a public recreation area with trails and roads used for both motorized and non-motorized recreation. Roads and trails shall be protected to the extent possible from damage by logging operations. Public safety is extremely important; therefore all roads and trails will need to be returned to original condition as soon as practical with no hazard trees left hanging over trails and roads. An excellent logging job is expected to be the result of this harvest, as well as the silvicultural treatment.

In addition to the approximate 190 acre area to be logged the entire 190 acre area is to be followed up with a pre-commercial thinning, damaged tree removal, and slash treatment through mastication.

SCHEDULE OF EVENTS

Request for Proposal Issue Date	September 17, 2020
Pre bid conference	September 23, 2020 8:00 AM
Bid Closing Date	October 6, 2020 4:00 PM
Bid Award Date	No later than October 29, 2020 4:00 PM
Log Delivery completion no later than	March 31, 2020
Contract Termination Date	July 31, 2020

PRE-BID CONFERENCE: There will be a **pre-bid conference** and walk through as scheduled above. Attendance at the **pre-bid conference** and walk through is mandatory to be considered as an eligible **bidder**. In the event attendance at the **pre-bid** conference is not possible, contact County's designated representative to make other arrangements. All pertinent sub-contractors are also encouraged to attend. Interested CONTRACTORS shall meet at the Union County Public Works Department in Island City at 8:00 AM on September 23, 2020. Please call the

Public Works office at **541-963-1319** in advance to let the staff know that you are planning to attend. The timber sale area is within the motorized and non-motorized recreation area of MERA. Some but not all roads within the sale area are open to motorized highway vehicles. You are encouraged to preview the sale area

QUESTIONS AND REQUEST FOR CHANGE: All clarifications regarding technical or procedural information, contractual requirements, or other issues, as well as all technical, contractual, or procedural requests for change must be submitted in writing to the individual listed below five working days prior to the **bid** closing date. All requests for change must be received in writing. Requests submitted to other than the person listed below will not be considered. Requests for change may be submitted via Fax.

Sean Chambers, *Parks Coordinator*
10513 N McAlister Road, PO Box 1103,
Island City, OR 97850
Fax: 541-963-7822

Any changes or modification to the specifications or the procurement process will be in the form of an addendum to the **bid** and will be made available to all **bidders**.

PROPOSAL SUBMISSION: **Bidders** responding to this request for proposal must submit one (1) original and one (1) copy of their **bid** and logging and operations plan prior to the **bid** closing date and time to the address indicated on page 1 of this REQUEST FOR PROPOSAL.

REQUESTS FOR PROPOSAL RECEIVED AFTER THAT DATE AND TIME WILL NOT BE CONSIDERED.

CONTRACT AWARD: If any award is made, it must be made within thirty (30) days of the date of the opening of **bids**. UC MERA reserves the right to reject any or all **quotes**, to waive any informality in **quotes**, to accept in whole or part such **quote** as may be deemed in the best interest of UC MERA based on specifications and criteria set forth in REQUEST FOR PROPOSAL. No deviation from the terms of this specification is acceptable. Award will be made in the best interest of the county, after review and acceptance by UNION COUNTY BOARD OF COMMISSIONERS.

INSPECTION OF JOB SITE: By submitting a **bid, bidder** assumes all risk of personally investigating the job site, the work to be performed, and the conditions relating to the performance of the contract. Union County neither represents or warrants the accuracy of any estimates or information; and those **bidders** agree to bear exclusive responsibility for, and to accept all risks associated with, their estimates of the reasonable costs of the performance of this contract.

THREATENED AND ENDANGERED SPECIES INFORMATION: This Union County timber sale contract requires that CONTRACTOR comply with all laws, including the Endangered Species Act (ESA). No threatened or endangered species are known to be affected by this timber sale. Union County does not guarantee that a threatened or endangered species will not be found as a result of ongoing or future survey efforts by Union County or others in or near the sale area. Union County may take steps, including contract alteration or termination as provided in section XVII of this contract, if Union County believes these steps are necessary to protect its interests.

PART 2 - CONTRACTUAL PROVISIONS

I) All work done as a result of any contract developed from this **bid** will be completed to the satisfaction of the Performance Administrator or by person(s) designated by him.

A) PERFORMANCE GUARANTEE:

1) Union County will reserve as retainage, from any progress payment, and the total contract price, an amount equal to five percent of the appropriate payment for each billing period. As work progresses, Union County may solely within its discretion reduce the amount of the retainage if, in Union County's opinion, work is progressing satisfactorily, or may pay in full for completed full

segments of the Contract. The retainage held by Union County shall be included in, and paid to, the CONTRACTOR as part of the final payment of the Contract Price.

The CONTRACTOR shall notify Union County in writing when the CONTRACTOR considers the Work complete and Union County shall, within 15 days after receiving the written notice, either accept the Work or notify the CONTRACTOR of Work yet to be performed on the Contract.

Should CONTRACTOR fail to perform within the terms of this Contract, or fail to comply with the provisions of the Oregon statutes or the regulations of the State Board of Forestry applying thereto, the retainage or portion thereof shall be forfeited in the amount of the damages as determined by Union County. If the damages exceed the retainage, CONTRACTOR hereby acknowledges liability for such excess. Upon satisfactory performance of the terms of this contract, and compliance with applicable statutes and regulations, the obligation of retainage shall be released.

B) DURATION: The logging to be performed under this bid shall become effective on **December 1, 2020** and be completed prior to **March 31, 2021**. **All pre-commercial thinning, and fuels mastication shall be completed prior to July 31, 2021** Union County may grant an extension of time for performance of this contract for causes beyond the reasonable control of the CONTRACTOR as specified in section XVII only upon written request from the CONTRACTOR and with the written consent of an extension of the security by the surety of the CONTRACTOR.

C) PAYMENT: For logging services rendered under terms of this contract, Union County shall pay CONTRACTOR based upon net scale on itemized scaling certificates and load tickets for saw logs and based on weight certificates for cull/chip logs (pulp logs). Payment will be made to CONTRACTOR within fifteen working days from the end of the billing period. Billing periods shall be for logs shipped from the first of the month through the 15th of the month, and for logs shipped from the 16th of the month through the last day of the month. CONTRACTOR shall invoice Union County to coincide with the above payment schedule. Said invoice must include the following information: name of timber sale, type of work, dates and number of loads of logs (verified by copies of log tickets). CONTRACTOR shall not be paid for any logs for which Union County does not receive payment. In addition, CONTRACTOR shall reimburse Union County for any reduction in revenue caused by mis-manufacturing, mis-sorting, mis-shipment and/or handling damage.

D) PERFORMANCE ADMINISTRATION: Unless otherwise specified by Union County, Union County's representative for administering this contract will be the Performance Administrator. At the time of signing this contract, Union County shall specify to the CONTRACTOR who Union County's Performance Administrator will be for this Contract. The Performance Administrator will address detailed questions relating to work conducted under this contract, and be responsible for monitoring CONTRACTOR's compliance with this contract. At the time of signing this contract, the CONTRACTOR will specify to Union County, who will be the CONTRACTOR's Field Representative for the purpose of scheduling and supervising daily work to be done on the above-referenced timber sale. The CONTRACTOR will notify Union County when CONTRACTOR elects to change the designated Field Representative. Any Field Representatives for Log Purchaser(s) shall work directly with Union County Performance Administrator; at no time shall said Representative deal with CONTRACTOR or its sub-contractors without prior written approval of Union County's Performance Administrator.

E) OWNERSHIP OF WORK PRODUCT: All work products or any form of property originated or prepared by CONTRACTOR which results from this Contract are the exclusive property of Union County.

II) INDEMNITY, RESPONSIBILITY FOR DAMAGES: CONTRACTOR shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of work under this Contract, or from any act omission, or neglect of CONTRACTOR, its sub-contractors, or employees. CONTRACTOR shall save, defend, indemnify, and hold harmless the Union County Public Works Department and their officers, agents, employees, and members from all claims, suits, and actions of any nature

resulting from or arising out of the activities or omissions of CONTRACTOR or its sub-contractors, officers, agents, or employees acting under this Contract.

III) DAMAGES:

A) CONTRACTOR shall comply with the Oregon Forest Practices rules and regulations. CONTRACTOR shall exercise all reasonable precautions to protect forest ecosystems, roads, trails, fences, facilities in and adjacent to designated work areas in accordance with instructions and guidelines of the Performance Administrator. CONTRACTOR shall be held responsible for any violations and/or fines that result from willful negligence on its part. **CONTRACTOR may be fined \$500.00 per incident for non-compliance if the approved logging plan is changed without prior approval of the Performance Administrator.**

B) CONTRACTOR shall be exclusively responsible for any damage to, or removal of, reserved timber. If damage to reserved timber occurs and is determined unavoidable by Union County, no charge will be made for damage.

C) If CONTRACTOR's activities result in avoidable damage to reserved timber as determined by Union County, CONTRACTOR shall pay for such damage at the following rates:

- (1) Single the contract value shall be paid when:
 - a) "Minor damage" to reserved timber occurs during the course of normal logging. Minor damage is defined as bark removed down to the cambium layer of a tree, such removal affecting at least 24 square inches, but less than damage defined as "major damage".
 - b) Trees must be cut in order to facilitate operations, or for safety around landings, without prior approval of Union County.
- (2) Double the contract value shall be paid when:
 - a) "Major damage" to reserved timber is caused by operations of CONTRACTOR. Major damage is defined as follows:
 - Bark removed down to the cambium layer over an area of the bole which has one dimension (height or circumference) greater than the diameter of the tree, or any visible bark removal on the tree roots.
 - b) More than 50 percent of live crown is removed.
 - c) Tree is knocked down, or leaning more than 10 degrees from vertical.
- (3) Treble the contract value shall be paid when:
 - a) Reserved timber is intentionally cut or removed.
 - b) Reserved timber is intentionally damaged.
 - c) Repeated major damage occurs to reserved timber.
 - d) Any intentional "notching" or undercutting of reserved timber with an ax or saw occurs.
- (4) For each species sold, contract value is defined as the highest price per MBF being paid to Union County by the purchaser for logs from this Timber Sale.
- (5) EXTENSION may direct damaged timber to be left. In that case, payment for damage shall be reduced by single the contract value of such timber.
- (6) The payment for reserved timber shall not release CONTRACTOR from liability for other damage to the property of Union County.
- (7) If more than 2 reserved trees on any acre suffer "minor damage", or if any reserved timber suffers "major damage" as defined above, Union County reserves the right to:
 - a) Suspend felling and/or yarding until corrective measures have been agreed upon by Union County and CONTRACTOR;
 - b) Require limitations on log length and/or the number of logs in each yarding turn;
 - c) Specify the size and type of equipment to be used.

IV) **INSURANCE.** Prior to commencing any activities in the Contract Area, and throughout the Term, Contractor shall obtain and maintain, at its cost and expense, with companies acceptable to Union County, the following insurance coverages, such being primary with no right of contribution:

- a) Workers' Compensation insurance shall be provided in compliance with the laws of each state in which the services are to be performed. Employers' Liability insurance shall be provided in amounts not less than \$100,000 each accident for bodily injury by accident, \$500,000 policy limit for bodily injury by disease and \$100,000 for each employee for bodily injury by disease. Each employee of Contractor and any subcontractor, and anyone directly or indirectly employed or subcontracted by either shall be covered by the required workers' compensation and employers' liability insurance, notwithstanding any exemption or exception that may apply under applicable law. It is the intent of the parties that each officer, director, member and partner of Contractor and any subcontractor who performs services under this Contract in any manner shall be covered by such insurance.
- b) Contractor shall maintain a Commercial General Liability (Occurrence) policy, which policy shall include coverage for premises and operations, contractual liability, broad form property damage including completed operations, personal injury liability, Logger's Broad Form B property damage, and explosion, collapse, and underground damage if blasting or excavation is to be done. The policy shall have a combined single limit for bodily injury and property damage of not less than \$2,000,000 each occurrence; \$2,000,000 for personal injury liability; \$2,000,000 property damage; \$2,000,000 aggregate for completed operations; and \$2,000,000 general aggregate.
- c) Contractor shall maintain an Automobile Liability policy with a combined single limit for bodily injury and property damage of not less than \$2,000,000 for each accident. The policy shall cover all owned, hired, and non-owned automobiles used in the performance of the work and shall include coverage for Automobile Contractual Liability.
- d) Contractor shall not be permitted to begin performing services, without first delivering to Union County, certificates from Contractor's insurers evidencing the above referenced coverage's and:

For the coverage's provided pursuant to subparagraph (b) above, shall name Union County, its subsidiaries, affiliates, directors, officers, and employees additionally insured.

V) FIRE PREVENTION and HAZARD COMMUNICATION:

A) CONTRACTOR shall take adequate measures for the prevention and suppression of fire in conformance with the requirements of the Oregon statutes, the State Forester's regulation and Union County's fire plan requirements. The Performance Administrator will require that the CONTRACTOR be in compliance at the beginning of each fire season. The Performance Administrator will also conduct spot inspections to ensure that the fire equipment is operational and that CONTRACTOR is maintaining a Fire Safe work site. CONTRACTOR shall suspend operations in conformance with the State Forester's regulation, or when in the judgment of the Performance Administrator such suspension is considered necessary, and shall not resume operations until authorized to do so by the Performance Administrator.

Performance Administrator will work cooperatively with CONTRACTOR to close active operating areas to other forest users during logging suspensions to protect equipment and limit liability of Union County and CONTRACTOR due to the actions of third parties. During periods when conditions of flammability could result in the start and spread of fire, CONTRACTOR shall restrict smoking to specifically designated places, which are subjected to approval by the Performance Administrator. In the event of fire on the area, or along roads used by CONTRACTOR in any operation, CONTRACTOR shall immediately exert every reasonable effort to control, extinguish and prevent the spread of such fire.

B) CONTRACTOR shall be responsible for maintaining a clean work area at all times. All containers, debris and other associated materials shall be cleaned up at the end of each operating day. This shall include any personal litter that may result from CONTRACTOR's activities.

C) CONTRACTOR shall notify Union County prior to using products containing hazardous chemicals to which Union County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon Union County's request, CONTRACTOR shall immediately provide Material Safety Data Sheets, as required by OAR 437-155-025, for the products subject to this provision.

D) Environmental Pollution. Unless disposition of environmental pollution is specifically a part of this contract, CONTRACTOR shall immediately notify Union County of any hazardous substance(s) which CONTRACTOR discovers or encounters during performance of the operation. "Hazardous substance(s)" are those substances, materials, or wastes regulated by state or federal law. CONTRACTOR shall immediately cease operating in any particular area of the operations where a hazardous substance(s) has been discovered or encountered, if continued operations in such area would present a bona fide risk or danger to the health or well-being of CONTRACTOR's or any sub-contractor's work force.

Upon being notified by CONTRACTOR of the presence of hazardous substance(s) on the areas of operations, EXTENSION shall arrange for the proper disposition of such hazardous substance(s) unless it is the CONTRACTOR's spill responsibility.

E) Spill Responsibility. CONTRACTOR will be held responsible for any and all releases of environmental pollution during performance of the contract which occur as a result of, or are contributed by, actions of its agent, personnel, or subcontractors. CONTRACTOR agrees to promptly dispose of such spills or leaks to satisfaction of Union County and proper regulatory agencies in a manner that complies with applicable federal, state, and local laws and regulations. Cleanup shall be at no cost to Union County.

F) CONTRACTOR shall obtain Union County's written consent prior to bringing onto the areas of operations any (i) environmental pollutants or (ii) hazardous substances or materials defined in any applicable federal, state, or local statutes, rules, or ordinances. Notwithstanding such written consent from Union County, the CONTRACTOR, at all times, shall:

- 1) Properly handle, use, and dispose of all environmental pollutants and hazardous substances or materials brought onto the areas of operations, in accordance with all applicable federal, state, or local statutes, rules, or ordinances;
- 2) Be responsible for any and all spills, releases, discharges, or leaks of environmental pollutants or hazardous substances or materials which CONTRACTOR has brought onto the areas of operations; and
- 3) Promptly clean up, without cost to Union County, such spills, releases, discharges, or leaks to Union County's satisfaction and in compliance with all applicable federal, state, or local statutes, rules or ordinances.

G) CONTRACTOR shall be liable for any and all costs, expenses, damages, claims, and causes of action, or any of them, related to or arising out of a spill, release, discharge, or leak of any environmental pollutant or hazardous substance or material. CONTRACTOR shall be liable to the extent such spill, release, discharge, or leak was caused or contributed to by CONTRACTOR's (i) negligence or (ii) failure to perform in accordance with the contract. Nothing in this section shall limit CONTRACTOR's liability or responsibility under Section II.

H) CONTRACTOR shall report all reportable quantity releases to applicable federal, state, and local regulatory and emergency response agencies. Reportable quantities are found in 40 CFR, Part 302, Table 302.4 for hazardous substances and in OAR 340-108 for petroleum products. Upon discovery, regardless of quantity, CONTRACTOR must telephonically report all releases to Union County. A written follow-up report shall be submitted to Union County within 48 hours of the telephonic report. Such written report shall contain, as a minimum:

- 1) Description of items released (identity, quantity, manifest number, and all other documentation required by law.)
- 2) Whether amount of items released is EPA/DEQ reportable, and, if so, when it was reported.
- 3) Exact time and location of release, including a description of the area involved.

- 4) Containment procedures initiated.
- 5) Summary of communications about the release CONTRACTOR has had with members of the press or State officials other than Union County.
- 6) Description of cleanup procedures employed or to be employed at the site, including disposal location of spill residue.
- 7) Personnel injuries, if any, resulting from, or aggravated by, the release.

I) Environmental Clean-up. Prior to contract termination, CONTRACTOR shall notify Union County that all environmental pollution clean-up, which was performed as a part of this contract, has been disposed of in accordance with all applicable rules, regulations, laws, and statutes of all agencies having jurisdictions over such environmental pollution. The notice shall indemnify and hold harmless Union County from any claims resulting from the disposal of the environmental pollution including removal, encapsulation, transportation, handling, and disposal.

VI) COMPLIANCE WITH APPLICABLE LAW: CONTRACTOR agrees to comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the work to be done under this Contract. CONTRACTOR specifically agrees that the provisions of ORS 279.312, 279.314, 279.316, and 279.320 shall govern performance of this Contract. CONTRACTOR also specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Failure or neglect on the part of CONTRACTOR to comply with any or all such laws, ordinances, rules, and regulations shall not relieve CONTRACTOR of these obligations nor of the requirements of this Contract.

VII) TERMINATION. Union County, by written notice to CONTRACTOR, may terminate this contract, in whole or in part, if

- A. Federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Contract or;
- B. Any license or certificate required by law or regulation to be held by CONTRACTOR to provide the services required by this Contract is for any reason denied, revoked, or not renewed.
- C) Union County believes termination is necessary to comply with state or federal law regarding threatened or endangered species

This contract may also be terminated by Union County for default (including breach of contract) if;

- D) CONTRACTOR fails to provide services or materials called for by this Contract within the time specified, or;
- E) CONTRACTOR fails to perform any of the other provisions of this Contract, or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms, and after receipt of written notice from Union County, fails to correct such failures. The rights and remedies of Union County provided in the above clause related to defaults (including breach of contract) by CONTRACTOR shall not be exclusive and are in addition to any other rights and remedies provided by law under this Contract.

After receipt of the notice, and except as directed in the notice, CONTRACTOR shall immediately stop activities under the contract and terminate all subcontracts to the extent they relate to activities terminated. CONTRACTOR shall complete all activities not terminated.

In the event of termination or partial termination, CONTRACTOR agrees that its sole and exclusive remedy shall not exceed the sum of: (1) the value of any project work completed but not paid for by Union County. (2) the estimated expenditures for felling, bucking, lopping, skidding, and decking products so processed, but not removed from the timber sale area; and (3) costs of acquiring and holding bonds, with documented receipts. Cost and expenditure estimates for items listed in (1) and (2) shall be based upon Union County's appraisal for the timber sale. Lost profits or any other consequential damage suffered by CONTRACTOR shall not be reimbursable.

VIII) SEVERABILITY: If any provision of this Contract is declared by a court to be illegal or in conflict with any law, the validity or the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.

IX) ASSIGNMENT: CONTRACTOR shall not assign or transfer its interest nor delegate its obligation in this Contract without the express written consent of Union County. CONTRACTOR shall not enter into any subcontracts for any of the work scheduled under this Contract without obtaining prior written approval from Union County. All provisions of this Contract shall be binding upon and shall insure to the benefit of the parties hereto, and their respective successors and assigns.

X) INDEPENDENT CONTRACTOR STATUS: The services(s) to be rendered under this Contract are those of an independent CONTRACTOR. CONTRACTOR is not to be considered an agent or employee of Union County for any purposes, and neither CONTRACTOR nor any of the CONTRACTOR's agents or employees is entitled to any of the benefits that Union County provides for its employees. CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents or employees during the performance of this Contract. If CONTRACTOR is providing personal services as an individual;

A) CONTRACTOR:

- 1) Is engaged as an independent CONTRACTOR and will be responsible for any federal or State taxes applicable to this payment;
- 2) Will not be eligible for any Federal Social Security, State Workers' Compensation, unemployment insurance, or Public Employees Retirement System benefits from this Contract payment;
- 3) Is not an officer, employee, or agent of Union County as these terms are used in ORS 30-265 and will not be under the direction and control Union County.
- 4) Is not currently employed by the Federal Government and the amount charged does not exceed his normal charge for the type of service provided if payment is to be charged against federal funds;
- 5) Is not a member of the Oregon Public Employees Retirement Systems and is not employed for a total of 600 hours or more in the calendar year, or 1,040 hours or more in a management service or unclassified position, by any public employer participating in the Retirement System;
- 6) Must furnish Form CO-477 in duplicate with this Contract if CONTRACTOR is a non-resident alien and claims exemption from Federal Withholding Tax.

Union County, will report the total amount of all payments to CONTRACTOR, including any expenses, in accordance with Federal Internal Revenue Service and State of Oregon Department of Revenue regulations.

XI) WORKERS' COMPENSATION: CONTRACTOR, its sub-contractors, if any, and all employers providing work, labor or materials under this contract are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide worker's compensation coverage for all their subject workers. CONTRACTOR shall require proof of such workers' compensation by receiving and keeping on file a certificate of insurance from each sub-contractor or anyone else directly employed by either CONTRACTOR or sub-contractor. Out-of-State employers must provide Oregon Workers' Compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Out-of-State employers who do not have employees working at a single location within Oregon for more than 30 days in a calendar year need not obtain such coverage. CONTRACTOR's who perform the work without the assistance of any employees need not obtain such coverage.

XII) CONDITIONS CONCERNING PAYMENT FOR MEDICAL CARE AND ATTENTION TO EMPLOYEES: It is a condition of this Contract that CONTRACTOR shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident of sickness or injury, to the employees of CONTRACTOR, of all sums which CONTRACTOR agrees to pay for such services and all moneys and sums which CONTRACTOR:

- A) May or shall have deducted from the wages of his employees for such services pursuant to the terms of ORS Chapter 655 and any contract entered into pursuant thereto; or
- B) Collected or deducted from the wages of his employees pursuant to any law or contract for the purpose of providing or paying for such service.

XIII) ACCESS TO RECORDS: CONTRACTOR shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. Union County and their duly authorized representatives shall have access to the books, documents, papers, and records of CONTRACTOR which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. CONTRACTOR shall maintain such books and records for three years from the date of Contract expiration unless a shorter period is authorized in writing. CONTRACTOR is responsible for any audit discrepancies involving deviation from the terms of this Contract and for any commitments or expenditures in excess amounts authorized by Union County.

XIV) CONFLICT OF INTEREST: CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. CONTRACTOR further covenants that in the performance of this Contract no person having any such interest shall be employed.

XV) CONDITION CONCERNING PAYMENT OF CLAIMS BY PUBLIC OFFICERS:

- A) It is a condition of this Contract that if CONTRACTOR fails, neglects or refuses to make prompt payment of any claims for labor or services furnished to CONTRACTOR or sub-contractor by any person in connection with the public contract as such claim becomes due, the proper officer or officers representing Union County may pay such claim to the person furnishing the labor or services and charge the amount of payment against funds due or to become due CONTRACTOR by reason of this Contract.
- B) The payment of a claim in the manner authorized in this section shall not relieve CONTRACTOR or his surety from his or its obligation with respect to any unpaid claims.

XVI) TAX COMPLIANCE CERTIFICATION: CONTRACTOR hereby affirms, under penalty of perjury, as provided in OARS 305.385(6), that to the best of CONTRACTOR's knowledge, CONTRACTOR is not in violation of any of the tax laws described in ORS 305.380(4).

XVII) ADJUSTMENT of CONTRACT: Notwithstanding any other provisions of this contract, Union County may, pursuant to Oregon law, make adjustments in the contract when major catastrophes or significant changes in state or federal law after the date of this contract materially affect the volume and value of time, or project work to be done under the contract. Major catastrophes or event beyond the reasonable control of the parties are defined as windstorms, floods, fire, or other acts of God, or significant changes in State or federal law, which are beyond the control of CONTRACTOR and in no way connected with negligent acts or omissions of CONTRACTOR, its officers, employees, agents, or sub-contractors. Such adjustments may be made to place the parties in their original status under the contract insofar as possible; provided, however, that any loss or cost to CONTRACTOR is in no way recoverable from third parties by CONTRACTOR and that CONTRACTOR make written application to Union County within 30 days after discovery of the damage done by the catastrophe.

XVIII) AVAILABILITY OF FUNDS: Union County certifies at the time this Contract is written that sufficient funds are available and authorized for expenditure to finance costs of this Contract within Union County's current appropriation or limitation, provided, however, that continuation of this Contract or any extension, after the end of the fiscal period in which it is written, is contingent upon a new appropriation or limitation for each succeeding fiscal period for the purpose of this Contract.

XIX) NOTICES AND REPRESENTATIVES: All notices, certificates, or communications shall be delivered or mailed postage prepaid to the parties at their respective places of business as identified in the signature block of this Contract, unless otherwise designated in writing. Copies of such correspondence shall also be sent to all other Contract signatories.

XX) WAIVER: Failure of Union County to enforce any provision of this contract shall not constitute a waiver or relinquishment by Union County of the right to such performance in the future, nor of the right to enforce any other provision of this Contract.

XXI) EXECUTION AND COUNTERPARTS: This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

XXII) CAPTIONS: The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.

XXIII) CHOICE OF LAW AND VENUE: This Contract shall be governed by and construed in accordance with the laws of the State of Oregon, as interpreted by the Oregon courts. Any litigation arising out of this Contract shall be conducted in Union County, Oregon.

XXIV) SIMULTANEOUS USE OF AREA. Union County reserves the right to issue written authorization to others to use the timber sale area or access roads provided that, in the determination of Union County, such use will not materially interfere with the operations of CONTRACTOR. During the period of this contract, Union County reserves the right to sell any products or materials from the timber sale area, provided that the products or materials are not covered by this contract and that removal will not materially interfere with the operations of CONTRACTOR. CONTRACTOR shall not interfere with the use of roads by other authorized users. CONTRACTOR shall not be held liable for any acts, omissions, or neglect of authorized simultaneous users.