

CITY OF PENDLETON

**REQUEST FOR PROPOSALS FOR
THE INSTALLATION OF RESIDENTIAL
SOLAR ENERGY SYSTEMS**

INVITATION FOR PROPOSALS

Notice is hereby given that proposals are invited and will be received for Professional Services related to the installation of residential solar energy systems through the Pendleton Solar Program. The program consists of services to design, procure and install new, residential, direct-owned photovoltaic (PV) systems for a cohort of Pendleton homeowners based upon the scope of work contained in this Request for Proposal. The intent is to select one or more firms to provide services.

The Request for Proposal document may be obtained by email or by hard copy at the City of Pendleton, Public Works Director's Office, City Hall, 500 SW Dorion Avenue or by calling (541) 966-0202. Sealed proposals must be submitted to Bob Patterson, Public Works Director, no later than **2:00 p.m., February 18, 2010**, to City Hall, 500 SW Dorion Avenue, Pendleton, OR 97801. The sealed proposals will be publicly opened after submittal closing in City Hall Chambers.

For more information, contact **Lee Jorgensen, Project Manager, (541) 966-0248**.

Dated this 26th day of January, 2010.

Bob Patterson, Public Works Director

ANTICIPATED PROJECT TIME LINE

Action	Location	Date	Time
RFP Announced	City Hall 500 SW Dorion Avenue	January 26, 2010	2-4 p.m.
Pre-proposal questions due		February 10, 2010	2 p.m.
Responses to pre-proposal questions distributed by City		February 12, 2010	5 p.m.
Proposals Due , proposal opening	City Council Chambers City Hall 500 SW Dorion Avenue	February 18, 2010	2 p.m.
Interviews*		February 22, 2010	
Notice of intent to award contract	Via Email	February 23, 2010	5 p.m.
Award of contract by City Council	City Council Chambers City Hall 500 SW Dorion Avenue	March 2, 2010	7 p.m.
Participating homeowner list available		March 17, 2010 to June 1, 2010	
Installations completed**		October 1, 2010	

Dates are approximate and subject to change.

*The need for interviews will be determined by the City of Pendleton Solar Program evaluation team.

**Estimated completion date

SCOPE OF WORK

1. The City of Pendleton is seeking a firm to provide consulting and other services for the design and installation of residential solar electric systems for a cohort of Pendleton homeowners, in accordance with the general scope of services outlined below. Proposers may use this outline as a guide for organizing a scope of work for their proposal, but are encouraged to expand upon, refine or suggest alternative approaches based on previous experiences with similar projects.

- a. **Background.**

The City-lead Pendleton Solar Program will respond to an influx of enthusiasm surrounding sustainable energy solutions in Pendleton by providing the resources necessary to help residents overcome existing monetary and logistical hurdles. The purpose of this project is to install photovoltaic systems for homeowners in Pendleton, a region serviced by Pacific Power, at a per-watt price lower than the typical residential installation.

The City of Pendleton, with support from Energy Trust of Oregon, will solicit participation from homeowners and coordinate the outreach and educational components of the program. The Pendleton Solar Program will help homeowners save money, improve home comfort, generate clean electricity, reduce carbon emissions, create jobs, and promote equity by creating economic opportunities and career pathways in the region.

The City of Pendleton will retain one or more firms to provide the site assessment, design, equipment procurement, and installation services for homeowners that choose to participate. The selected firm(s) will provide a single pricing structure for all participants, depending on total capacity of the project. Similar initiatives in the Portland metro resulted in installation costs below \$7 per watt. While Pendleton presents different challenges and opportunities, such solar programs help inform current pricing expectations.

Interested homeowners will pledge by June 1, 2010 to install a system. Pending successful site evaluations by the selected contractor, total project capacity should be projected by June 1. The Pendleton Solar Program hopes to have all installations completed by the end of September 2010.

- b. **General Scope of Services.**

The number of participating homes and total capacity of the project is unknown. The project is open to all Pendleton homeowners. An initial outreach mailing has generated over 250 responses to date from interested individuals, with more being received daily.

In March, April and May, The City of Pendleton, Energy Trust of Oregon, and other project partners will deliver educational workshops. The selected firm(s) are expected to have staff available to answer questions and provide an interface to the community at these workshops. Other neighborhood outreach opportunities may be created that selected firm(s) can participate in if they wish.

The Energy Trust of Oregon will provide initial Solar Energy Reviews for interested homeowners. Once homeowners receive their basic Solar Energy Review and understand the basic solar potential on their site, they will be directed to the selected firm(s).

A list of homeowners who wish to proceed with an installation will be provided to the selected firm(s) on a rolling basis. If more than one firm is selected, the City of Pendleton will refer homeowners to the firms in an equitable manner. The selected firm(s) will provide site assessments and system design proposals for each homeowner on the list to establish each site's suitability for solar, identify the selected system size and finalize the installation cost for each home. Site assessments will include an analysis of the impact of shading, tilt and orientation on annual electricity production, and note any electrical, mechanical or structural considerations that may incur costs above and beyond the per-watt pricing schedule for the project.

Individual system designs should be aesthetically pleasing, taking into consideration the preferences of a given homeowner, while minimizing project costs and maximizing solar energy production.

The installations will be carried out by the selected firm(s) in conformance with all applicable laws and codes, interconnection requirements for net-metered installations, Energy Trust and Oregon Department of Energy Installation Requirements, and existing rules and timelines.

For each participating home, the selected firm(s) will be responsible for securing all required permits, completing and submitting Energy Trust of Oregon incentive applications, and scheduling and passing all jurisdictional and Energy Trust inspections. The selected firm(s) will provide guidance and assistance to each homeowner with completing a net-metering agreement with their utility. The firm(s) will provide each homeowner with the information, documentation and Tax-Credit-Certified Technician signature required to complete the Oregon Department of Energy Residential Energy Tax Credit application. The firm(s) will also provide each homeowner appropriate documentation and guidance for applying for the federal energy tax credit.

c. Services Provided by the City of Pendleton.

The City of Pendleton will provide a Project Manager who will be responsible for overall project management. They will provide coordination between the selected firm and participating homeowners, including timely response to any inquiries. The Project Manager will be reasonably available for any meetings.

The City of Pendleton, Energy Trust of Oregon and other project partners will deliver educational workshops ranging from solar project basics to topical sessions on net-metering, technical nuts & bolts, incentives & tax credits, financing options, home energy efficiency, and weatherization. Energy Trust of Oregon will also offer free Solar Energy Reviews – one-hour, informational walk-throughs – that answer basic homeowner questions about solar and help them understand: their energy consumption, site suitability for solar, eligibility for incentives and tax credits, how solar will impact their bill, and other energy improvements to consider.

The City of Pendleton, with support from the community, is committed to publicizing the project at local events, via newsletters, bulletins, flyers, and other community communication outlets.

PROPOSAL PROCESS

2. The City follows Oregon Revised Statutes Chapters 279A, 279B and 279C in the procurement of professional services. In some cases, the City has more restrictive limits than State law. The proposal process is as follows:
 - a. Any party interested in a request for proposal document may request a copy, free of charge, from Lee Jorgensen, lee.jorgensen@ci.pendleton.or.us. Any addenda will be e-mailed to the address provided by the proposer.
 - b. City staff will email the request for proposal document to the interested proposer list and advertise the request for proposal.
 - c. Lee Jorgensen, 541 966-0248, fax 541 966-0251, lee.jorgensen@ci.pendleton.or.us will accept written questions seeking clarification about the proposal requirements and will accept any exceptions to specifications or contract requirements until **2:00 p.m., February 10, 2010**. All questions, including clarification of or exception to specifications, questions regarding proposal submittal instructions, questions or exceptions regarding contract terms and questions or exceptions to the basis of award must be received by this date and time. No questions about the request for proposal document or the proposal process will be accepted after this date and time.
 - d. Written answers to all questions will be sent to proposal holders as an addendum by **February 12, 2010**.
 - e. Sealed proposals must be submitted to Bob Patterson, Public Works Director, City Hall, 500 SW Dorion Ave, Pendleton, OR 97801 no later than **2:00 p.m., February 18, 2010**. Proposals received after this date/time shall be marked with the date/time received and held unopened by the City of Pendleton.
 - f. Proposals will be publicly opened and read at **2:00 p.m., February 18, 2010**. The proposal tabulation will include only the names of the proposers submitting proposals and will be publicly available immediately after the

proposal opening. Proposal documents will not be available for review by the public until after the contract has been awarded.

- g. At any time prior to the due date for the submission of proposals, a proposer may request to modify or withdraw the proposal in the following fashion:
 - I. Modification: The proposer may submit a written modification in accordance with the instructions for submitting a proposal as identified in this request for proposals. Any modification is required to have a date and time placed on it by the proposer, and the words “This modification amends and supersedes the prior offer” written on the modification.
 - II. Withdrawal: A proposer may request to withdraw a proposal by filing such request in writing, on the letterhead of the proposer, signed by a person authorized to do so. Alternatively, the proposer may request to have a proposal withdrawn by making the request in person, producing appropriate identification and evidence that the person is authorized to withdraw the offer. The City will void the time and date stamp on the offer envelope and return the proposal to the proposer unopened.
 - III. A withdrawal will not preclude the submission of another proposal by the proposer prior to the time and date set for the opening proposals.
 - IV. After proposals have been opened, proposals may not be withdrawn by the proposer for a period of thirty (30) days and at no time after award of contract. Proposals may not be modified after they have been opened.
- h. Following the public proposal opening, staff will review the proposals submitted for completeness and compliance with the proposal requirements. All proposals shall be evaluated based on the criteria identified in section five: Form of Proposal and Evaluation Criteria. The City reserves the right to waive irregularities and minor informalities if it is in the public interest to do so.
- i. The City of Pendleton may invite the top ranked proposers to make a brief oral presentation and/or be interviewed by the evaluation team. Criteria for oral interviews will be provided upon invitation.
- j. After evaluation of proposals and any interviews, staff will send a letter stating the City’s intent to award the contract to all proposers submitting a proposal. Proposers will have seven (7) calendar days to protest; any protest filed after the protest period will be late and will not be considered. To file a protest, a proposer must submit the protest in writing to the person named in section c. above and state the reasons for the protest. The City Manager will review any protest and make a decision as to the award of the proposal.
- k. The successful proposer(s) will be expected to complete a contract (Solar Services Agreement) after being notified of award.
- l. The City reserves the right to cancel this request for proposals and/or reject all proposals if it is in the best interest of the City to do so in accordance with ORS 279B.100. If the City cancels this request for proposals after proposals have been submitted, the proposals will be returned, but the City will keep a list of the proposals received.
 - I. The City of Pendleton reserves the right to reject the offer of any proposer who previously failed to perform properly to the satisfaction of the City of Pendleton, or complete on time an agreement of a similar nature, or to reject the offer of any proposer who is not in a position to perform such an agreement satisfactorily as determined by the City of Pendleton.
 - II. The City reserves the right to accept the offers and award a contract to a responsible proposer, to postpone the acceptance of the offer and the award of the contract for a period not to exceed thirty (30) calendar days, or to reject any and all offers received and further advertise the project for offers.

- III. The City may reject any offer not in compliance with all prescribed public purchasing procedures and requirements, and may reject for good cause any or all offers upon finding of the City it is in the public interest to do so.
- m. Costs for developing the proposal, including travel, mileage, printing and per diem, are entirely the responsibility of the Proposer and shall not be chargeable to the City of Pendleton.
 - n. The City reserves the right to seek clarification of each proposal.
 - o. No work will be conducted during the Pendleton Round Up, September 13-18, 2010.

CONTRACT REQUIREMENTS

3. All proposers must accept the terms included with this Request for Proposals as part of the contract. If a proposer is exempt from a particular term due to a statutory or regulatory exception or exemption, whether the exception or exemption applies to the contract matter, the type of work or the proposer, the proposer will be considered to have met the requirements of that term. Any proposer who does not agree with a term of this contract must file an exception to requirement notice as identified in section 2.c above. The City reserves the right to negotiate a final Contract that is in the best interest of the City.

The Subcontractor Disclosure Form shall be submitted as directed in Contractual Requirements section 4.g, excluding the monetary values. Once the scope of the program narrows and the total participant capacity has been determined, the successful proposer will be expected to provide monetary values for the Subcontractor Disclosure Form in accordance with the Bureau of Labor and Industries requirements.

INSTRUCTIONS FOR SUBMITTING THE PROPOSAL

4. Submittal Instructions:

- a. The proposal must be submitted as identified in the section labeled “Form of Proposal and Evaluation Criteria,” below.
- b. Proposals must be prepared using recycled paper and printed two-sided where feasible. Mail or deliver five copies of the proposal in a sealed envelope to the address identified in section 2.e.
- c. Hard copy proposals must be plainly marked in the lower left-hand corner of the envelope as follows:

Item: Pendleton Solar Program

Time: 2:00 p.m.

Date: February 18, 2010

Proposer Name:- your name here –
- d. Facsimile proposals will not be accepted for this project.
- e. The proposal must be signed. Submission of a signed proposal will be interpreted to mean that proposer has hereby agreed to all terms and conditions set forth in all of the sheets which make up this solicitation document.
- f. Estimated pricing schedule (Exhibit A) must be submitted in a separate, sealed envelope marked ‘Fee Schedule.’

FORM OF PROPOSAL AND EVALUATION CRITERIA

5. Proposers should create project proposals in 8½” x 11” document size using a minimum 11 point font size. Proposals shall not exceed 20 pages, including any appendices, but not including pricing schedule and Exhibit A. Proposals shall be in accordance with the requirements stipulated in this request, and will be evaluated and scored based on the following weighted criteria:

a. Cover letter (0 points)

Section 1 shall be a signed cover letter stating the highlights, key features and distinguishing points of the Proposal. Include the name and address of the organization submitting the proposal, together with the name, address and telephone numbers of the contact person who will be authorized to make representations for the organization, the firm’s federal tax identification number, its Oregon Construction Contractors Board number and a list of subcontractors, if any. The cover letter shall include a statement that the proposal is valid for sixty (60) days after receipt.

b. Table of Contents (0 points)

Section 2 shall be a detailed Table of Contents and shall include an outline of the submittal identified by sequential page number and by section reference number and section title as described herein.

c. Proposing Firm Profile (20 points)

Section 3 shall include a description of the proposing firm’s profile including the Proposer’s firm size and Proposer’s local organizational structure. Include a discussion of the firm’s financial stability, capacity and resources.

Describe the demonstrated experience of the firm in developing, designing and installing residential solar electric systems, particularly on a community-wide scale, along with a discussion of how experience on previous projects relates to the Pendleton Solar Program project. As part of this discussion, list any recent similar residential installations by size and location, with a contact name and telephone number where appropriate.

Firms must be general contractors registered with the Oregon Construction Contractors Board, and in good standing, in order to be considered for this project. Firms must also be approved Energy Trust of Oregon Solar Electric trade allies and employ one or more Oregon Department of Energy Tax Credit-Certified Technicians.

Provide a statement describing the firm’s capability to complete the project within the desired time schedule. This should take into consideration the Energy Trust of Oregon’s limit of 12 ‘active’ projects in Pacific Power territory per contractor. ‘Active’ here describes projects that have applied for funds but are not yet complete.

d. Qualifications of the project team (20 points)

Section 4 shall identify the key project team members by name and position, and provide qualifications and experience. Provide names, addresses, contact information, and contractor license numbers for all specified subcontractors the firm intends to employ for the project.

e. Use of Local and Sustainability Oriented Providers (10 points)

Section 5:

A. Sustainability Practices: Provide documentation listing the city and state of participants, including manufacturers, installers, and any other partners in the project. Describe the major sustainable attributes of Proposer’s business practices, as well as that of other partners.

B. Local and Neighborhood-Based Providers: Provide documentation of Oregon and Pendleton-based employees, consultants, or subcontractors. Provide information about your firm or your subcontractor’s

involvement with the Pendleton region, including professional or volunteer organization memberships and past work in the area.

f. Employment Practices (10 points)

Section 6 shall provide information about employment practices, including wages, benefits, apprenticeships and mentoring programs.

- A. Wages. The City of Pendleton favors contractors who pay a “family wage.” Describe how your firm provides compensation and advancement opportunities for employees.
- B. Employee Benefits. Describe employee benefits, including health benefits, family leave provisions, equality for spouses and domestic partners, retirement plans, and labor relations practices.
- C. Apprenticeship and Mentoring Programs. The City of Pendleton encourages contractors who recognize the value of quality training for employees by participating in registered apprenticeship and other credential-granting programs. Provide information about your firm’s participation in training and certification programs, as well as any innovative training models that you have deployed, or intend to implement for this program.

g. Scope of Services and Schedule (20 points)

Provide a detailed scope of service addressing the requirements listed in Section 1: Scope of Work. Address all necessary work tasks in narrative form and prepare a project schedule showing the timeline for completion of the work. Begin schedule with the receipt of the list of participating homeowners.

Describe how the proposing firm will establish and maintain quality control through the project work, as well as process for permitting and inspections. Provide details outlining the number of residential systems per week that your firm or subcontractors are capable of installing, and what factors are accounted for in these estimates.

Provide information about the minimum and maximum system size (in kW) to be installed for customers as part of the program, and the manufacturer and/or models of PV modules, inverters, racking equipment, and various mounting options. Include details about manufacturer’s equipment warranties, applicable labor and roof penetration warranties, as well as the system monitoring capability provided by the firm or by equipment manufacturers.

Describe any educational opportunities available, such as a community kiosk with real time power production information for public education, or access to online real time data available that could be added to the City of Pendleton’s project website.

h. Pricing Schedule (20 points)

Provide in a separate, sealed envelope a proposed pricing schedule based on the total capacity (in kilowatts_{DC}) of participation in the project. Pricing schedules should conform to the format outlined in Exhibit A. It is anticipated that as the capacity of participation increases, the price per-watt will decrease, however flat rate pricing will be considered as well. Pricing based solely on individual system size will not be considered. If your firm proposes different prices based on various equipment manufacturers, provide details. Itemize structural, access, roof, mounting, electrical, or other conditions that would increase system costs for participants, and estimate additional costs per installation on either a per watt or per system basis.

Pricing must include all materials, equipment, labor, transportation, permits, warranties, and services required to assess the proposed homes and design and install the systems in accordance with applicable laws and codes, interconnection requirements, Energy Trust of Oregon, and Oregon Department of Energy Installation Requirements. Additional services and features not stipulated by these requirements, such as extended warranties, maintenance contracts or ancillary monitoring equipment, may be listed and priced separately.

Pricing should be presented as price per-watt of installed capacity, before any eligible Energy Trust incentives or state and federal tax credits. Final pricing for the program will be determined once contractor selection is made. In the event that more than one contractor is selected to provide services, a single price will need to be negotiated between the selected firms to provide uniformity in program marketing. Additionally, development of the Oregon State Volumetric Incentive Rate pilot program (Feed-in Tariff, or FIT) may create interest in this alternative incentive structure. The installed price shall be independent of whether the customer chooses a net-metered or FIT incentive structure.

The proposer should include any financing options that the firm can make available to homeowner participants.

i. Appendix: Supporting Information

The Appendix may include any supporting information, such as resumes, references or other data, that will support your firm as the best proposer for the project.

j. Offer / Certifications / Offer Commitment

The form on pages 10 – 11 of this Request for Proposal shall be completed and submitted with the proposal.

PROPOSER IDENTIFICATION

Business Name: _____

Address: _____

City/State/Zip: _____

Phone: _____ **FAX:** _____

Primary Contact: _____ **Title:** _____

Printed Name

The undersigned has the authority to commit the proposer to the proposal as identified in these documents and certifies that this information is true and accurate.

This organization is a Corporation of the State of _____
 Partnership
 Sole Proprietorship
 Other (specify _____)

In witness whereof the undersigned has caused this instrument to be executed this _____ day of _____, 2010.

By: _____
Printed Name

Signature: _____

Title: _____

WITNESS:

The undersigned attests that the person above is authorized as _____ of _____
to commit the proposer to the proposal executed this _____ day of _____, 2010.

Attest: _____

Title: _____

CONTRACTUAL REQUIREMENTS

1. GENERAL REQUIREMENTS

- a. The City will enter into a Solar Services Agreement professional services contract.
- b. Negotiations may be undertaken with those proposers whose proposals show them to be qualified, responsible, experiences and are capable of performing the work.
- c. The Solar Services Agreement that may be entered into will be that most advantageous to the City, price and other factors considered. The City reserves the right to consider proposals or modifications thereof received at any time before the award is made, if such action is in the interest of the City.
- d. The selected proposer will be required to assume responsibility for all services offered in his or her proposal, as detailed in the Solar Services Agreement, whether or not they produce them. Further, the selected proposer will be considered the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the Solar Services Agreement.

2. CITY RESPONSIBILITIES

- a. City agrees to pay Contractor within thirty (30) days of receiving an invoice for services performed. City will report all payments made to Contractor required by the Federal Internal Revenue Service and the State of Oregon Department of Revenue.

3. STATUS

- a. Contractor is retained as an independent contractor and will be responsible for any State or Federal taxes resulting from this Contract. Contractor is not an "employee" for purposes of OAR 459-10-030(6). Contractor will not be under direct control of City in performing this Contract.
- b. Contractor will furnish all of the equipment and supplies necessary under this Contract.
- c. Contractor will not be eligible for any Federal Social Security, State Workers' Compensation, Unemployment Insurance or PERS benefits from this Contract, except as a self-employed individual or as required by ORS 237.103.

4. SPECIAL CONDITIONS

- a. The Contractor shall make payment promptly, as due, to all persons supplying to such Contractor labor or materials for the prosecution of the work provided in the Contract.
- b. The Contractor shall provide workers' compensation insurance coverage for all individuals, others than those exempt under ORS 656.027, who perform labor under the Contract before labor under the Contract commences. Contractor shall pay all contributions or amounts due for Workers' Compensation coverage from the Contractor incurred in the performance of the contract.

A copy of each insurance policy, or certificate thereof, issued by a responsible and solvent insurance corporation or association authorized to issue such policy or policies under the laws of the State of Oregon shall be delivered to the City within a reasonable period of time after the same is issued by the company or companies or associations issuing such policy or policies. All said policies or certificates shall provide for a minimum of thirty (30) days notice to the City in the event of cancellation or material change in the terms.

- c. The Contractor will not permit any lien or claim to be filed or prosecuted against the City on account of any material or labor furnished to the Contractor.
- d. The Contractor will pay to the Oregon Department of Revenue all sums withheld from employees pursuant to Oregon Statutes.
- e. The Contractor shall demonstrate that an employee drug testing program is in place.

- f. If the 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 such claim shall become due, the proper officer or officers representing the City may pay such claim to the person furnishing the labor or service and charge the amount of the payment against funds due or to become due to the Contractor by reason of this Contract. The payment of a claim in this manner authorized by this paragraph shall not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claim.
- g. The Contractor shall, within two (2) working hours after the advertised bid closing date and time, notify the Public Works Director in writing of the names of the first-tier sub-contractors on the disclosure form in Section 5. Submission of the first-tier sub-contractors disclosure form only applies to public contracts for public improvements with a contract value of more than \$100,000 (ORS 279.027(3)(c)).
- h. In addition to required performance bonds which may be used for unpaid wages, all contractors and subcontractors who work on public works projects subject to the Prevailing Wage Rate law shall file a \$30,000 Public Works Bond with the Construction Contractor's Board before starting work on the project to be used exclusively for unpaid wages determined to be due by BOLI {ORS 279C.830(3)(a)}. (See form included on page 19) Contractors must verify that subcontractors have filed a Public Works Bond before permitting subcontractor to start work on a project. For more information regarding this requirement, contact the Construction Contractor's Board at (503) 378-4621.
- i. If the Contractor or a first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with this Contract within thirty (30) days after receipt of payment from the public contracting agency or a contractor, the Contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580 (4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the Contractor or first-tier subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is thirty (30) days after the date when payment was received from the public contracting agency or from the Contractor, but the rate of interest shall not exceed thirty (30) percent. The amount of interest may not be waived.
- j. If the Contractor or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. Every contract related to this Contract shall contain a clause setting forth this requirement.
- k. If requested in writing by a first-tier subcontractor, the Contractor, within ten (10) calendar days after receiving the request, shall send to the first-tier subcontractor a copy of that portion of any invoice, request for payment submitted to the public contracting agency or pay document provided by the public contracting agency to the Contractor specifically related to any labor or materials supplied by the first-tier subcontractor.
- l. Except where the Contractor is a party to a collective bargaining agreement in effect with a labor organization, no person shall be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, the employee shall be paid at least time and a half pay:
 - (A) For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday except for individuals under this contract who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime; or
 - (B) For all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; except for individuals under this contract who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime; and
 - (C) For all work performed on Saturday and on the following legal holidays:
 - (i) Each Sunday.
 - (ii) New Year's Day on January 1.
 - (iii) Memorial Day on the last Monday in May.
 - (iv) Independence Day on July 4.

- (v) Labor Day on the first Monday in September.
- (vi) Thanksgiving Day on the fourth Thursday in November.
- (vii) Christmas Day on December 25.

- (D) Each time a holiday, other than Sunday, listed above falls on Sunday, the succeeding Monday shall be recognized as a legal holiday. Each time a holiday listed above falls on Saturday, the preceding Friday shall be recognized as a legal holiday.
- (E) The Contractor must give notice to employees who work on a public contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

- m. Each worker in each trade or occupation employed in the performance of the Contract either by the contractor, subcontractor or other person doing or contracting to do or contracting for the whole or any part of the work on the contract, shall be paid not less than the applicable prevailing rate of wage as required by ORS Chapter 279C.

The existing prevailing rate of wages in effect on January 1, 2010, is as published by the Oregon Bureau of Labor and Industries. Copies of the existing prevailing wages are available online at www.oregon.gov/boli or upon request by calling (971) 673-0839.

- n. The 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 to sickness or injury, to the employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from wages of employees pursuant to any law, contract, or agreement for the purpose of providing or pay for such service.
- o. Any and all employees of Contractor or his contractors while engaged or performing any work or services required by him under this agreement shall be considered his employees only and not employees of the City and any claims that may arise under the Workers' Compensation Act on behalf of the said employees while so engaged in any and all claims made by third parties as a consequence of any act or omission on the part of him or his employees while so engaged on any of the work or services provided to be rendered herein shall be the sole obligation responsibility of Contractor and/or his contractors. The parties to this agreement recognize that Contractor and his employees, officers, agents and subcontractors are providing professional services as independent contractors and are not providing services as employees of the City and are therefore not entitled to the benefits provided by the City to his employees, including but not limited to Workers' Compensation benefits, group health insurance, social security, pension plans, or any other benefit accruing to City's employees. Contractor hereby agrees to hold the City harmless from, and shall process and defend at his own expense, all claims, demands, or suits of whatever nature, brought against him arising from his performance under this agreement. Contractor shall advise his officers, agents, employees and subcontractors of this provision.
- p. The Contractor shall keep himself informed and at all times comply with any ordinance, laws, and regulations dealing with the preservation of environmental pollution and the preservation of natural resources that may be affected in the performance of the contract. The following are a list of agencies that may have enacted ordinances or regulations dealing with the preservation and environmental pollution and the preservation of natural resources:

Federal Agencies:

Agriculture, Department of
Forest Service
Soil Conservation Service
Defense, Department of
Army Corps of Engineers
Energy, Department of
Fed. Energy Regulatory Commission
Environmental Protection Agency
Health and Human Services, Department of
Housing and Urban Development,
Department of Solar Energy and Energy
Conservation Bank
Interior, Department of
Bureau of Land Management
Bureau of Indian Affairs
Bureau of Mines
Bureau of Reclamation
Geological Survey
Mineral Management Service
U.S. Fish and Wildlife Service
Labor, Department of
Occupational Safety and Health
Administration
Mine Safety and Health Administration
Transportation, Department of
Coast Guard
Water Resources Council

State Agencies:

Administrative Services, Department of
Dept of Agriculture
Department of Consumer & Business Services,
State of Oregon
Occupational Safety & Health Division
Environmental Quality, Department of
Fish and Wildlife, Department of
Forestry, Department of
Geology and Mineral Industries, Department of
Health Division
Historic Preservation Office
Human Resources, Department of
Land Conservation and Development Commission
Parks and Recreation, Department of
Soil and Water Conservation Commission

State Engineer
State Land Board (Lands, Division of State)
Transportation, Department of
Water Resources Department

Local Agencies:

City of Pendleton City Council
Umatilla County Commissioners
Board of Port of Umatilla
Fire Protection Districts
City of Pendleton Planning Commission
Umatilla County Planning Commission
Confederated Tribes of the Umatilla Indian
Reservation

- q. Liability and Indemnity:
- (1) Indemnification. Contractor shall indemnify and defend City from, and reimburse City for, any cost, claim, loss, or liability suffered directly or from a third-party claim arising out of or related to any negligent activity of Contractor on the in the execution of this contract. City shall have no liability to Contractor for any injury, loss, or damage caused by Contractor or third parties.
 - (2) Liability Insurance. Before beginning execution of the contract, Contractor shall obtain and thereafter during the term of the contract shall continue to carry the following liability insurance at Contractor's cost: comprehensive general liability insurance in a responsible company with limits of not less than \$200,000/500,000 for injury to one person, \$500,000 for injury to two or more persons in one occurrence, and \$50,000/\$500,000 for damage to property. Such insurance shall cover all risks arising directly or indirectly out of Contractor's activities. Such insurance shall protect Contractor against the claims on account of the obligations assumed by Contractor under Section 11;.a, and shall name City as an additional insured. Certificates evidencing such insurance and bearing endorsements requiring 10 days' written notice to City before any change or cancellation shall be furnished to City before Contractor begins execution of the Contract.
- r. The Contractor must obtain a City of Pendleton Business License.
1. Any subcontractor engaged in any activity for which registration with the Oregon Construction Contractors Board is required pursuant to Oregon Revised Statutes, Chapter 701, must obtain a City of Pendleton Business License or comply with the alternative in paragraph 18.c, below.
 2. The Contractor or any subcontractor engaged in any activity for which registration with the Oregon Construction Contractors Board is required pursuant to Oregon Revised Statutes, Chapter 701, must include, as part of the application for a City of Pendleton business license, a copy of a current certificate of registration issued by the Oregon Construction Contractors Board.
 3. A prime contractor engaged in a Construction Project may obtain a Construction Project License as an alternative to obtaining a City of Pendleton Business License for each subcontractor engaged in the Construction Project. The Construction Project License is in lieu of a Business License for subcontractors only and is in addition to the Business License of the prime contractor. The application for a Construction Project License must contain, among other items, a signed statement by the prime contractor and each subcontractor engaged in the Construction Project that each signatory is registered under the provisions of this Oregon Revised Statutes, Chapter 701, and stating that the registration is in full force and effect. For the prime contractor and each subcontractor, a copy of a current certificate of registration issued by the Oregon Construction Contractors Board is also required.
- s. The Oregon Government Standards and Practices laws may apply to Contractor. ORS 244.040(1)(a) prohibits any government officer, employee, or agent from using the governmental relationship to obtain a financial gain or avoid a financial detriment that would not otherwise be available but for the governmental relationship. For further information on this matter contact the Oregon Government Standards and Practices Commission; 100 High Street SE, Suite 220; Salem, Oregon 97310; phone 503/378-5105.
- t. Contractor certifies that:
1. Contractor is free from direction and control over the means and manner of providing the labor or services, subject only to the right of City to specify the desired results;
 2. Contractor is responsible for obtaining all assumed business registrations or professional occupational licenses required by state law or local governmental ordinances;
 3. Contractor furnishes the tools or equipment necessary for performance of the contracted labor or services;
 4. Contractor has the authority to hire and fire employees to perform the labor or services;
 5. Payment for the labor or services is made upon completion of the performance of specific portions of the project or is made on the basis of a periodic retainer;
 6. Contractor is registered under ORS chapter 701 (Construction Contractors), if Contractor provides labor or services for which such registration is required;
 7. Federal and state income tax returns in the name of the business or a business Schedule C or farm Schedule F as part of the personal income tax return were filed for the previous year if the contractor performed labor or services as an independent contractor in the previous year; and
 8. Contractor represents to the public that the contractor is an independently established business. Except where Contractor files a Schedule F as part of the personal income tax return and the contractor performs farm labor

or services that are reportable on Schedule C, Contractor is considered to be engaged in an independently established business when four or more of the following circumstances exist:

[Initial those that apply]

- i ___The labor or services are primarily carried out at a location that is separate from the residence of contractor or are primarily carried out in a specific portion of the residence, which portion is set aside as the location of the business;
 - ii ___Commercial advertising or business cards as is customary in operating similar businesses are purchased for the business, or the contractor has a trade association membership;
 - iii ___Telephone listing and service are used for the business that is separate from the personal residence listing and service used by contractor;
 - iv ___Labor or services are performed only pursuant to written contractors;
 - v ___Labor or services are performed for two or more different persons within a period of one year; or
 - vi ___Contractor assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services provided.
- u. If any action is instituted in connection with any claim or controversy arising out of this agreement, attorney fees may not be awarded by the court of competent jurisdiction and each party shall bear its own expenses of such action.
- v. This agreement and the parties rights under it shall be construed and regulated by the laws of the State of Oregon and venue for any dispute hereunder shall lie in Pendleton, Umatilla County, Oregon.
- w. The Contractor shall notify the City forty-eight (48) hours in advance of time work will be performed on Saturdays, Sundays or Holidays or other than normal working hours.
- x. The Contractor shall plan, coordinate and be responsible for all construction work and proceed with minimum interference to the operation of the existing facility or other construction work. Prior to starting the construction, confer with the City to develop an approved construction schedule, which will permit the facility to function as normal as practical during the construction. If it becomes necessary to do certain parts of the construction outside normal working hours, or change/modify sequence of activities in order to avoid undesirable conditions, it shall be the obligation of the contractor to do this work at such a time at no additional cost to the City.
- y. The Contractor shall maintain proper and required construction related impact controls, including controls for such impact as noise, dust, erosion and hours of operation.
- z. The Contractor shall provide and receive written approval from the City of Pendleton a payment schedule prior to construction.
- zz. Damage of existing structure - when the existing structure or facility, which is intended to remain, is damaged by the Contractor during demolition or construction, the Contractor shall promptly repair and replace the damaged portion of the facility at no cost to the City.

DATED: _____, 2010

Contractor: _____

By: _____

5. FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM

**CITY OF PENDLETON
FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM**

Bids which are submitted by Bid Closing, but for which a required disclosure submittal has not been made by the specified Disclosure Deadline, are not responsive and shall not be considered for Contract award.

AGENCY SUPPLIED INFORMATION:

Project Name: Pendleton Solar Program
Bid Closing Date: February 18, 2010 **Time:** 2:00 p.m.
Disclosure Deadline Date: February 18, 2010 **Time:** 4:00 p.m.

THIS DISCLOSURE FORM MUST BE SUBMITTED to the City of Pendleton at the location specified and in accordance with the date and time in the Advertisement for Bids. A separate form must be submitted for each Schedule. If necessary, use additional forms to satisfy the Disclosure requirements.

The contracting agency will insert "N/A" if the contract value is not anticipated to exceed \$100,000, otherwise, this form must be submitted either with the bid or within two (2) working hours after the advertised bid closing date and time; but no later than the Disclosure Deadline stated above.

List below the NAME, ADDRESS, DOLLAR VALUE, CONSTRUCTION CONTRACTOR BOARD (CCB) NUMBER, CONTACT NAME and TELEPHONE NUMBER of each Subcontractor that will be furnishing labor and/or materials that are required to be disclosed in accordance with ORS 279C.370.

ENTER "NONE" IF THERE ARE NO SUBCONTRACTORS THAT NEED TO BE DISCLOSED.
(Attach additional sheets if needed)

<u>NAME/ADDRESS OF SUBCONTRACTORS</u>	<u>\$ VALUE/CCB #</u>	<u>CONTACT NAME/PHONE #</u>
1) _____ _____ _____	<u>\$ To Be Determined</u> <u>CCB#</u>	_____ _____
2) _____ _____ _____	<u>\$ To Be Determined</u> <u>CCB#</u>	_____ _____
3) _____ _____ _____	<u>\$ To Be Determined</u> <u>CCB#</u>	_____ _____

The above listed first-tier subcontractor(s) are providing labor and/or materials with a Contract value equal to or greater than:

- a) 5% of the total project amount proposed or \$15,000, whichever is greater; or
- b) \$350,000, regardless of the percentage of the total project amount proposed.

Disclosure submitted by: _____
Signature – Bidder Name

Contact Name: _____ Print/type – Bidder Name _____ Phone Number

Unless otherwise stated in the original solicitation, this document shall not be faxed. It is the responsibility of the Bidder to separately submit this Disclosure Form and any additional sheets with the Project Schedule and Name clearly marked in accordance with the date and time in the Advertisement for Bids.