

**CITY OF NEWPORT, OREGON
PERSONAL SERVICES CONTRACT
SHORT-TERM RENTAL COMPLIANCE SUPPORT**

This Agreement is between the City of Newport, an Oregon municipal corporation ("City") and MUNIRevs, Inc., a Colorado limited liability company ("Contractor"), for the MUNIRevs Short-Term Rental Compliance Module, LODGINGRevs.

RECITALS

- A. City adopted Ordinance No. 2144, effective May 6, 2019, relating to the regulation of short-term rentals within the city limits; and
- B. Ordinance No. 2144 puts in place a framework for licensing the annual operation of short-term rentals in order to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character or residential neighborhoods; protect the City's supply of needed housing; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and nuisances (e.g. accumulation of refuse, light pollution, etc.); and
- C. City desires to support enforcement of Ordinance No. 2144 with contract services, including (a) short-term rental detection, monitoring, and compliance assistance; (b) a 24/7 bilingual complaint phone hotline and online complaint reporting form; (c) a centralized online complaint database for dispatch and enforcement; (d) tax remittance compliance and support, including an online reporting tool for short-term rental owners; and
- D. Consistent with ORS 279A.055, City selected Contractor using provisions in the public contracting rules that govern personal service contracts other than those related to Architect, Engineer, and Surveying services, and this agreement is structured to comply with the requirements for public contracting set forth in statute, administrative rule, and the Newport Municipal Code.

TERMS OF AGREEMENT

- 1. **Headings.** Headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- 2. **Services to be Provided.** Contractor shall provide short-term rental compliance services to City, as follows:
 - a. **Short-Term Rental Auditing Module.** This Agreement provides City access to a proprietary short-term rental audit module which integrates to an online marketplace booking reporting system and a revenue database ("MUNIRevs"). All Services of Contractor, including but not limited to consulting, shall be governed by and subject to the terms and conditions of this Agreement, whether or not provided pursuant to one or more orders of City.

b. Short-Term Rental Detection, Monitoring and Compliance. Contractor to perform initial census of short-term rentals operating in the City of Newport, reconcile results with City's list of licensed rentals, and issue compliance notices to non-licensed units. This initial implementation step includes training of City staff on utilizing the LODGINGRevs platform and reports. Service further includes:

- i. Ongoing short-term rental census monitoring and discovery with reconciliation and updates to compliance database.
- ii. Capture and storage of evidence of non-compliant use (e.g. screenshots of rental advertisements).
- iii. Listing tracker that captures evidence every five (5) minutes on non-compliant properties.

c. 24/7 Complaint Hotline, Dispatch, and Centralized Complaint Database. Contractor to provide 24/7 bilingual phone hotline and online bilingual complaint form integrated with the LODGINGRevs platform and database. Complaints will be promptly dispatched to the short-term rental operator and all complaint protocols will be documented and made readily available to the City via LODGINGRevs Complaints Dashboard. Complaint protocols and procedures to be developed specific to the City's requests. City staff shall be afforded access to the LODGINGRevs system to identify, maintain, and manage all aspects of enforcement.

d. Tax Remittance Compliance and Support. Contractor to compare booked short-term rental activity from listing data against actual tax remittance data, report results, and provide City access to LODGINGRevs Audit Workflow interface to facilitate audit of individual units. Under this agreement the City will provide tax remittance data via CSV on a monthly basis, which LODGINGRevs will upload into the system.

e. Marketplace Booking Report. Contractor to provide and coordinate with City to integrate, an online reporting module for short-term rental owners to declare actual booking activity, by listing platform.

f. Technical Support. Contractor to provide unlimited email and phone support, unlimited user logins, and 365x7x24 maintenance of host server and IT infrastructure. Contractor to further perform daily data backups and provide City LODGINGRevs software enhancements, when released.

3. Use of Service.

a. Short-Term Rental Listing Integration. LODGINGRevs locates short-term rental listings on 30+ sites (Exhibit A), via the combined data processing that Contractor provides from intermediaries such as Airbnb.com, Craigslist,

Flipkey, Invited Home, Luxury Retreats, Home Away, One Fine Stay, Tripz and VRBO. Some of these sites are aggregator sites that pull listings from other platforms, and by that mechanism we are pulling data from the 30+ sites. Contractor monitors new listing platforms and adds data processing capability as new platforms emerge that may have new, unique listings that are not also listed on the other platforms. Through automation and the work of a review team, Contractor reviews each listing and performs the following:

- i. identifies and updates the compliance status of listings;
- ii. for non-compliant listings, creates Notifications via a Notification Module. The City can have an unlimited number of notifications for the various states of compliance.
- iii. The Notification module automatically emails any notifications that have an email address available (via the MUNIRevs system or other data on the account). City staff can print and mail, via a single PDF document, any notifications that either do not have an email address or the City would like to deliver via official mail. City can review all notifications, email delivery and email opens on every property.
- iv. LODGINGRevs integrates to the MUNIRevs system. When a new non-compliant property is discovered, an account is generated (if necessary) and required compliance related workflows are generated. For example, when a new listing is discovered, an account in MUNIRevs is created and Contractor assigns the workflows for licensing (if possible). In the MUNIRevs system, City users can link to the actual advertisements for advertising rentals.
- v. LODGINGRevs includes a dashboard that assists the City in monitoring Contractors compliance efforts and the City's compliance rates.

b. **Contractor Support and Responsibilities.** Notifications from the LODGINGRevs portal will include contact information for Contractors support team and Contractor will provide City support for the services as detailed herein.

c. **Third Party Contractor Use.** City may allow its third party contractors to use the Service solely on behalf of and for the benefit of City and only in compliance with the terms and conditions of this Agreement. City is responsible for compliance with the terms of this Agreement by its third party contractors.

4. **Term.** This Agreement shall expire, unless otherwise extended or terminated, on July 1, 2022.

5. **Compensation.** Payment for all Contractor fees shall be as specified in Exhibit B which is incorporated herein and made a part of this Agreement. Unless

otherwise provided in Exhibit B, all Contractor invoices for services rendered shall be due and payable within 30 days of the date of the invoice. Interest shall accrue at the rate of one percent (1%) per month, from the date of the invoice, on any payments not received when due.

6. Mutual Confidentiality.

a. **Definition of Confidential Information.** Confidential Information means all confidential information disclosed by a party ("Discloser") to the other party ("Recipient"), whether orally or in writing, that is designated as confidential ("Confidential Information"). Contractor's Confidential Information includes without limitation the Service, Licensed Documentation (defined in section 7.c. below), and City's Confidential Information, which includes without limitation, the City Data.

b. **Protection of Confidential Information.** The Recipient must use the same degree of care that it uses to protect the confidentiality of its own Confidential Information (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Discloser for any purpose outside the Service under this Agreement. The Recipient must make all commercially reasonable efforts to limit access to Confidential Information of Discloser to those of its employees and third party Contractors who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with Recipient no less restrictive than the confidentiality terms of this Agreement.

c. **Exclusions.** Confidential Information *excludes* information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser, (ii) was known to the Recipient prior to its disclosure by the Discloser without breach of any obligation owed to the Discloser, (iii) is received from a third party without breach of any obligation owed to Discloser, or (iv) was independently developed by the Recipient without use or access to the Confidential Information of the Discloser. The Recipient may disclose Confidential Information to the extent required by law, including an Oregon Public Records request. The parties acknowledge that an Oregon Public Records Request may seek information about Contractor's proprietary computer software programs and that computer software is not included in the definition of "Public Records" pursuant to O.R.S. 192.005(5); thus, making requests related to the computer software exempt from an Oregon Public Records Request.

d. If Contractor's data system crashes or otherwise becomes disabled, Contractor shall use good faith and reasonable efforts to immediately recover the system and all City Data and shall be fully responsible for all costs incurred in the recovery of such data, with no additional costs to be borne by the City.

7. Proprietary Rights.

a. **Reservation of Rights by Contractor.** The software, workflow processes, user interface, designs, know-how and other technologies provided by Contractor as part of the Service are the sole property of Contractor, and all right, title and interest in and to such items, including all associated intellectual property rights, are and shall remain only with Contractor. Contractor reserves all rights not expressly granted in this Agreement.

b. **City Restrictions.** *City may not.*

- i. Use the Service or the Licensed Documentation beyond its internal operations;
- ii. Reverse engineer the Service, the Licensed Documentation, the software or any other technology or Confidential Information associated therewith;
- iii. Remove or modify any proprietary marking or restrictive legends in the Service and Licensed Documentation; or
- iv. Access the Service or the Licensed Documentation to build a competitive product or service; or copy or derive any feature, function or graphic of the Service for competitive purposes.

c. **Licensed Documentation.** Any Service user guides, sample data, marketing, training and other items provided through the Service or by Contractor, are licensed to City as follows:

Contractor grants City a non-exclusive, license for the duration of the Service to such items for City's internal use solely with the Service, with the right to make additional copies of the material for the duration and purpose of the Service ("Licensed Documentation").

8. **Exclusion of Damages and Limitation of Liability.** Except as otherwise provided in this agreement and other than for gross negligence or intentional misconduct, neither party is liable for any indirect, special, incidental or consequential damages arising out of or related to this Agreement (including without limitation, costs of delay, loss of data or information, and any failure of delivery of the service).

9. **Cooperation.** The parties shall reasonably cooperate to ensure timely and accurate delivery of service. Specifically, City agrees to provide complete and accurate information to Contractor when and as requested. Contractor shall not be responsible or liable for delays resulting from City's failure to provide timely or accurate information. Payment of Contractor's fees set forth in Exhibit B shall not be reduced, delayed or modified as a result of City's failure to provide timely or accurate information.

10. Insurance. Contractor and its subcontractors shall maintain insurance acceptable to City in full force and effect throughout the term of this contract. The insurance shall cover all activities of the contractor arising directly or indirectly out of Contractor's work performed hereunder, including the operations of its subcontractors of any tier. The policy or policies of insurance maintained by the Contractor and its subcontractor shall provide at least the following limits and coverages:

a. **Commercial General Liability Insurance.** Contractor shall obtain, at contractor's expense, and keep in effect during the term of this contract, Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form (1996 ISO or equivalent). This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

<u>Coverage</u>	<u>Limit</u>
General Aggregate	\$1,000,000
Products-Completed Operations Aggregate	\$1,000,000
Personal & Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
Errors and Omissions (or equivalent) Aggregate	\$500,000
Each Occurrence	\$500,000

b. **Workers' Compensation Insurance.** The Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this Agreement that are either subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers or employers that are exempt under ORS 656.126. 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. Contractors who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than \$500,000 each accident.

c. **Additional Insured Provision.** The Commercial General Liability Insurance policies and other policies the City deems necessary shall include the City as an additional insured with respect to this contract.

d. **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the City. Any failure to comply with this provision will not affect the insurance coverage provided to the City. The certificates of insurance provided to the City shall state that the insurer shall endeavor to provide 30 days' notice of cancellation to the City.

e. **Certificates of Insurance.** As evidence of the insurance coverage required by the contract, the Contractor shall furnish a Certificate of Insurance to the City. No Agreement shall be effected until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within this contract. A renewal certificate will be sent to the above address 10 days prior to coverage expiration.

f. **Primary Coverage Clarification.** The parties agree that Contractor's coverage shall be primary to the extent permitted by law. The parties further agree that other insurance maintained by the City is excess and not contributory insurance with the insurance required in this section.

G. **Cross-Liability Clause.** A cross-liability clause or separation of insureds clause will be included in all general liability, professional liability, pollution, and errors and omissions policies required by this contract.

The procuring of required insurance shall not be construed to limit contractor's liability under this agreement. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

11. Independent Contractor. It is understood that Contractor is an independent professional contractor and that Contractor will not in any event be construed as or hold themselves to be employees of City. It is also agreed that Contractor, as an independent contractor, is not restricted to working exclusively for City during the Term of the Agreement. Contractor and any persons employed by Contractor for the performance of the Service hereunder shall be independent contractors and not agents of the City. As an independent contractor, Contractor is not entitled to workers' compensation benefits except as may be provided by the independent contractor nor to unemployment insurance benefits. Contractor is obligated to pay all federal and state income tax on any moneys earned or paid pursuant to this Agreement.

12. Method and Place of Submitting Notice, Bills and Payments. All notices, bills and payments shall be made in writing and may be given by personal delivery or mail. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices and other information:

City:

City of Newport
Attn: Community Development Director
169 SW Coast Highway
Newport, Oregon 97365
Business Phone: 541-574-0626

Contractor:

MUNIREvs, Inc.
Attn: Manager
27696 Highway 145
Dolores, Colorado 81323
Business Phone: 970-769-4121

Notices mailed to the address provided for notice in this section shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery.

13. Termination Without Cause. At any time and without cause, City or Contractor shall have the right to terminate this Agreement by giving written notice to the other party 120-days prior to the termination date.

14. Termination with Cause.

a. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

- i. If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds.
- ii. If 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 Agreement.
- iii. If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.
- iv. If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.

Any such termination of this agreement under paragraph (a) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

b. City, by written notice of default (including breach of contract) to Contractor, may terminate the whole or any part of this Agreement:

i. If Contractor fails to provide services called for by this agreement within the time specified herein or any extension thereof, or

ii. If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.

iii. If Contractor fails to eliminate a conflict as described in Section 11 of this agreement.

The rights and remedies of City 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 or under this Agreement.

If City terminates this Agreement under paragraph (b), Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed for such total fee; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

15. Final Payment and Return of Data and Suspension of Service.

a. Upon termination by right by City for any reason or no reason, City shall pay any unpaid fees through the date of termination, and shall return or destroy all Contractor property. City upon request will confirm that it has complied with these requirements.

b. Within 30-days after termination of this Agreement, Contractor shall export to City all City Data from within the Service only in CSV format. Contractor does not ensure the availability of all of City Data for export after such 30-day period and Contractor shall have no obligation to store the City Data and may destroy such data without further notice to City.

16. Access to Records. City shall have access to books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

17. Merger. This writing is intended both as a final expression of the Agreement between the parties with respect to the included terms and as a complete and

exclusive statement of the terms of the Agreement. No modification of this Agreement shall be effective unless and until it is made in writing and signed by both parties.

18. Force Majeure. Neither City nor Contractor shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disenabled, including but not restricted to, an act of nature or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the parties so disenabled shall within 10 days from the beginning of the delay, notify the other party in writing of the cause of delay and its probable extent. The notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate the cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

19. Non-Waiver. The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

20. Non-Discrimination. Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statues, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659.425, and all regulations and administrative rules established pursuant to those laws.

21. Errors. Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delay and without additional cost.

22. Indemnification. City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws. Acceptance of contractor's work by City shall not operate as a waiver or release. Contractor agrees to indemnify and defend the City, its officers, agents, employees and volunteers and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this contract, except to the extent that the liability arises out of the negligence of the City and its employees. Contractor's indemnification shall also cover claims brought against the City under state or federal workers' compensation laws. If any aspect of this

indemnity shall be found to be illegal or invalid for any reason whatsoever, the illegality or invalidity shall not affect the validity of the remainder of this indemnification.

23. Attorney's Fees. In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the court may adjudge reasonable attorney fees and court costs, including attorney's fees and court costs on appeal.

24. Governing Law. The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon.


25. Compliance with State and Federal Laws/Rules. Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapter 279B, the provisions of which are hereby made a part of this agreement. (See Exhibit C.)

26. Severability. The invalidity or enforceability of a particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

27. Counterparts Facsimiles; E-Mail. This Agreement may be signed in any number of counterparts, which together shall constitute one and the same instrument. Original signatures of the parties hereto on copies of this Agreement transmitted by facsimile or electronically/scanned and e-mailed copies shall be deemed originals for all purposes hereunder, and such copies shall be binding on all parties hereto.

28. Effective Date. This Agreement shall be effective upon execution by both parties.

CITY OF NEWPORT



By: Spencer Nebel, City Manager

07-16-19

Date



By: President, MUNIREvs, Inc.

7/16/19

Date

Exhibit A				
LODGINGRevs Short Term Rental Site Inventory				
	Listing Platform	Included In All Destinations	Included in Certain Destinations	Excluded: Non-USA Listing Platforms
1	Abritel	x		France
2	Agoda			Japan
3	Airbnb	x		
4	AlugaTemporada			Brazil
5	Belvilla			Europe
6	Bookabach			New Zealand
7	Booking.com	x		
8	CanadaStays	x		
9	Casamundo	x		
10	Cofman			United Kingdom
11	Craigslist	x		
12	CyberRentals	x		
13	Dobovo			Ukraine
14	Dream Exotic Rentals	x		
15	e-Domizil			Europe
16	Evolve	x		
17	Expedia	x		
18	Flat4Day			Turkey, Europe, Middle East
19	Flipkey			
20	GreatRentals	x		
21	HolidayLettings	x		
22	HomeAway.co.uk			United Kingdom
23	HomeAway.com			
24	HomeAway.com.au			Australia
25	HomeAway.de			Germany
26	HomeAway.es			Spain
27	Home1days.com	x		
28	HomeLike			European
29	HouseTrip	x		
30	HRS Holidays			European
31	Kozaza			Korea
32	LuxuryRetreats			
33	MountainSkiTrips		Ski Destinations	
34	Niumba			Spain
35	Novasol			Denmark, Norway, France, Croatia, Italy and other European countries
36	OneFineStay			
37	Orbitz	x		
38	OwnersDirect	x		
39	PerfectPlaces	x		
40	Stayz.com.au			Australia
41	Toprural.es			Spain
42	Travelmob	x		
43	TravelStaytion			Europe
44	Tripadvisor	x		
45	Tripping.com	x		
46	Tripz	x		
47	VacationRentals	x		
48	Villas.com	x		
49	VRBO	x		
50	WeNeedAVacation		Martha's Vineyard & Cape Cod	

EXHIBIT B

Contractor Charge Rates for Services

Item	One-Time Implementation Cost	Monthly Cost
Initial census of short-term rentals operating in the City of Newport, reconcile results with City's list of licensed rentals, and issue compliance notices to non-licensed units.	\$ 2000	
Ongoing short-term rental census monitoring and discovery, with reconciliation and updates to compliance database.	N/A	\$650 / Month
Non-compliant evidence capture	Included	Included
Listing tracker that captures evidence every five (5) minutes on non-compliant properties.	Included	Included
Online bilingual complaint form and call center during business hours	Included	Included
24/7 bilingual complaint hotline with dashboard integration	\$500	\$300 / Month
Remittance audit tool with audit workflow	\$500	\$450 / Month
Marketplace booking reporting	\$500	\$200 / Month
Notification module, including unlimited notification templates, targeted and customized notices by compliance status	Included	Included
Total	\$3,500	\$1,600 / Month

EXHIBIT C

PERSONAL SERVICES CONTRACT BUILDING INSPECTION SERVICES

RELEVANT PROVISIONS OF ORS CHAPTER 279B

279B.220 Conditions concerning payment, contributions, liens, withholding. Every public contract shall contain a condition that the contractor shall:

- (1) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract.
- (2) Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract.
- (3) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.
- (4) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167

279B.230 Condition concerning payment for medical care and providing workers' compensation.

- (1) Every public contract shall contain a condition that the contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.
- (2) Every public contract shall contain a clause or condition that all subject employers working under the contract are either employers that will comply with ORS 656.017 (Employer required to pay compensation and perform other duties) or employers that are exempt under ORS 656.126.

279B.235 Condition concerning hours of labor; compliance with pay equity provisions; employee discussions of rate of pay or benefits.

- (1) Except as provided in subsections (3) to (6) of this section, every public contract subject to this chapter must provide that:
 - (a) A contractor may not employ an employee for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires otherwise, and in such cases, except in cases of

contracts for personal services designated under ORS 279A.055, the contractor shall pay the employee at least time and a half pay for:

(A)(i) All overtime in excess of eight hours in any one day or 40 hours in any one week if the work week is five consecutive days, Monday through Friday; or

(ii) All overtime in excess of 10 hours in any one day or 40 hours in any one week if the work week is four consecutive days, Monday through Friday; and

(B) All work the employee performs on Saturday and on any legal holiday specified in ORS 279B.020.

- (b) The contractor shall comply with the prohibition set forth in ORS 652.220, that compliance is a material element of the contract and that a failure to comply is a breach that entitles the contracting agency to terminate the contract for cause.
- (c) The contractor may not prohibit any of the contractor's employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or another person and may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits or other compensation with another employee or another person.
- (2) A contractor shall give notice in writing to employees who work on a public contract, either at the time of hire or before work begins 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 contractor may require the employees to work.
- (3) A public contract for personal services, as described in ORS 279A.055, must provide that the contractor shall pay the contractor's employees who work under the public contract at least time and a half for all overtime the employees work in excess of 40 hours in any one week, except for employees under a personal services public contract who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.
- (4) A public contract for services at a county fair, or for another event that a county fair board authorizes, must provide that the contractor shall pay employees who work under the public contract at least time and a half for work in excess of 10 hours in any one day or 40 hours in any one week. A contractor shall notify employees who work under the public contract, either at the time of hire or before work begins on the public 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 contractor may require the employees to work.
- (5)(a) Except as provided in subsection (4) of this section, a public contract for services must provide that the contractor shall pay employees at least time and a half pay for work the employees perform under the public contract on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020 (1)(b)(B) to (G) and for all time the employee works in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater.

(b) A contractor shall notify in writing employees who work on a public contract for services, either at the time of hire or before work begins on the public 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 contractor may require the employees to work.

(6) This section does not apply to public contracts:

(a) With financial institutions as defined in ORS 706.008.

(b) Made pursuant to the authority of the State Forester or the State Board of Forestry under ORS 477.406 for labor performed in the prevention or suppression of fire.

(c) For goods or personal property.