

OREGON

Indemnity clauses in construction contracts are governed by ORS 30.140, which will not permit a party to indemnify another party for that other party's *sole negligence*. Nor can a party be indemnified if it negligently designed the construction project, or for its sole negligence in the inspection of the project. With these restrictions in mind, the following language is recommended for building trade contracts:

Contractor hereby releases and shall indemnify, defend, and hold harmless **Authority**, its subsidiaries affiliates, officers, agents employees, successors, assigns, and authorized representatives of all of the foregoing from and against all suits, actions, legal or administrative proceedings, claims, demands, liabilities, interest, attorney fees, costs, and expenses of any kind or nature, whether arising before or after completion of the work hereunder and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part, or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence of **Contractor**, its sub-contractors, or of anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract.

Contractor's aforesaid release, indemnity, and hold harmless obligations, or portions of applications thereof, shall apply even in the event of the fault, negligence, or strict liability of the parties released, indemnified, or held harmless to the fullest extent permitted by law, but in no event shall they apply to liability caused by the sole negligence of the parties released, indemnified, or held harmless. If any portion of this indemnity clause is invalid or unenforceable, it shall be deemed excised and the remaining portions of the clause shall be given full force and effect.

Contractor hereby agrees to require all its subcontractors or anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract to execute an indemnity clause identical to the preceding clause, specifically naming **Authority** as indemnitee.

Contractor's failure to require a sub-contractor or anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract to execute an identical indemnity clause to the preceding clause renders **Contractor** liable to indemnify **Authority** to the extent it would have been indemnified had the requirement been fulfilled.

For contracts other than those involving the building trades, the following language is recommended:

Contractor hereby releases and shall indemnify, defend, and hold harmless **Authority**, its subsidiaries affiliates, officers, agents, employees, successors, assigns, and authorized representatives of all of the foregoing from and against all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorney fees, costs, and expenses of any kind or nature, whether arising before or after completion of the work hereunder, and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part, or claimed to be caused, occasioned or contributed to in whole or in part, by reason of any act, omission, fault, or negligence of **Authority**, **Contractor**, **Contractor's** sub-contractor, or of anyone acting under **Contractor's** direction or control or on **Contractor's** behalf in

connection with or incidental to the performance of this contract. **Contractor's aforesaid release, indemnity and hold harmless obligations, or portions of applications thereof, shall apply even in the event of Authority's sole negligence or strict liability.** Authority shall be indemnified and held harmless to the fullest extent permitted by law. If any portion of this indemnity clause is invalid or unenforceable, it shall be deemed excised and the remaining portions of the clause shall be given full force and effect.

Contractor hereby agrees to require all its sub-contractors or anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract to execute an indemnity clause identical to the preceding clause, specifically naming **Authority** as indemnitee.

Contractor's failure to require a sub-contractor or anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract to execute an identical indemnity clause to the preceding clause renders **Contractor** liable to indemnify **Authority** to the extent it would have been indemnified had the requirement been fulfilled.

NOTE: If the non-construction contractor will not accept the broad indemnification language recommended above, substitute the building trades contract indemnification language.