



Top 10 Strategies for Hiring Contractors

By Martha Sharp

Whether you plan to build-out a large scale development, a single lot or simply remodel your home, you will likely hire one or more contractors. Although most contractors are honest and legitimate, problems with contractors often arise. In fact, recent surveys suggest that over one-half of those retaining contractors had issues related to the scope or quality of work. While not all disputes can be avoided, taking the steps outlined below will decrease the chance of conflict with your contractor and where a dispute occurs, may help to alleviate your damage and/or diminish your monetary losses.

1. Contact the Oregon Contractors' Construction Board ("CCB") and verify that your contractor is licensed. If you use a contractor that is not licensed and you run into a problem, your remedies are significantly limited.

The CCB maintains vital information about licensed contractors, such as insurance information and any complaints lodged with the CCB.

2. Put your agreement in writing and get the writing signed by your contractor before work begins. Absent a written, signed agreement, the rights and obligations of the contractor and the owner are often not clear and are not enforceable if a dispute arises.

3. Make sure that the contractor's scope of work is clear and concise and specify when the contractor will complete the work. If the project is large, complex or time demanding, set firm deadlines for speci-

fied phases of work and for overall project completion.

4. List the specific building materials that the contractor will use during the work and the permits that the contractor is responsible for pulling. Include in the

written contract that failure to comply with these requirements is a material breach of contract.

5. Spell out what happens if you have a dispute with your contractor, such as where the claim will be heard, who will decide the claim and who pays for fees related to the dispute. Often parties choose to have the CCB mediate claims. However, if the difference of opinion is not resolved through the CCB dispute resolution process, make sure that the next steps are laid out in detail.

6. Don't pay 100% of the contractor's cost of the work up-front. Rather, pay your contractor after the work has been completed, for materials only, or in phases.

Coupled with a written contract, this strategy will help you to avoid scams and dishonest practices.

7. Check the limits on your contractor's liability insurance policy and ask that you be named as an additional insured on that policy. In the event that a claim arises and your contractor refuses to pay the claim and/or refuses to tender the claim to the insurance company, as an additional insured, you can submit the claim directly to your contractor's liability insurance carrier.

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8. Ask that your contractor defend, indemnify and hold you harmless for any claims, losses or other problems arising out of the contractor's work. Put the indemnification language in your written contract.

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9. Require that any changes to the contract be made on a written "change order" signed by both you and the contractor.

Hire a specialist early to review your contract.

10. Get help from a specialist before a dispute arises. Often, the best way to avoid a disagreement is to be proactive and ensure that all of the details are accounted for upfront so that everyone knows

what is expected. Absent a complex situation, reviewing a project and the respective contract should not take more than a few hours of time. Frequently, the expense incurred in ironing out these details at the start of your project is significantly less than the time, effort and cost expended during a formal dispute resolution process.

If you have a question about how contracting affects your business, please contact us.

This article contains general information only and may not be relied on as a substitute for specific legal advice.



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