

AGENDA COVER MEMORANDUM

TO: Board of County Commissioners  
DEPARTMENT: Lane County Sheriff's Office  
PRESENTED BY: Judy Simpson  
SUBJECT: **IN THE MATTER OF APPROVING INTERGOVERNMENTAL AGREEMENT WITH CITY OF EUGENE FOR THE PURCHASE OF SUPERVISION OF EUGENE MUNICIPAL COURT INMATES TO ACCOMPLISH CERTAIN MAINTENANCE WORK ON CITY OWNED LAND**

I. MOTION

MOVE TO APPROVE THE ORDER IN THE MATTER OF APPROVING EXECUTION BY THE COUNTY ADMINISTRATOR OF INTERGOVERNMENTAL AGREEMENT BETWEEN CITY OF EUGENE AND LANE COUNTY.

ISSUE/PROBLEM

Should Lane County Sheriff's Office provide supervision to Eugene Municipal Court Inmates to accomplish certain maintenance work on city owned land and generate additional revenue.

II. DISCUSSION

A. Background

Lane County has previously entered into an Intergovernmental Agreement to provide supervision, as well as necessary material and services, of Eugene Municipal Court Inmates to accomplish certain maintenance work on city owned land.

Intergovernmental Agreement 2004-02901 between Lane County and City of Eugene will be in effect beginning 1 July 2004 and ending 30 June 2007.

City of Eugene agrees to pay Lane County a maximum reimbursement amount for services and materials an amount not to exceed \$66,622 for the period of 1 July 2004 through 30 June 2005.

Consideration for subsequent years under this agreement will be determined during each budget cycle.

**B. Analysis**

Lane County should take advantage of generating additional revenue for providing supervision of Eugene Municipal Court Inmates to accomplish certain maintenance work on city owned land.

**C. Alternatives/Options**

1. Adopt the Order to approve Intergovernmental Agreement 2004-02901.
2. Do not approve the order.

**D. Recommendations**

Recommends Board approval of proposed Board Order.

**E. Timing**

As stated above.

**III. IMPLEMENTATION/FOLLOW-UP**

None Anticipated

**IV. ATTACHMENTS**

1. Proposed Board Order No. \_\_\_\_\_.
2. Intergovernmental Agreement in the form of Exhibit "A".



**INTERGOVERNMENTAL AGREEMENT  
PURCHASE OF SERVICES**

**BETWEEN:** The City of Eugene, a Municipal Corporation of the state of Oregon (City) \_\_\_\_\_

**AND:** Lane County, a unit of local government of the State of Oregon (County)

**CONTRACT NO.:** 2004-02901

**EFFECTIVE DATE:** July 1, 2004

**RECITALS**

- A. ORS 190.010 provides that units of local government may enter into agreements for the performance of any and all functions and activities that any party to the agreement, its officers, or agents have the authority to perform.
- B. County is the administrator of the Corrections Division Road Crew program and wishes to provide work activities for its inmates. City wishes to accomplish certain maintenance work on City owned land. It is advantageous for County and City to jointly participate in field work to the mutual benefit of both parties.
- C. City desires to enter into a contract with County to purchase the services described in this agreement and County is willing to provide such services on the terms and conditions set forth herein and in the following exhibits:

Exhibit - A City of Eugene Standard Contract Provisions  
Exhibit - B Scope of Services

**NOW, THEREFORE**, in consideration of the above premises, the parties agree as follows:

**AGREEMENT**

- 1. **County Obligations.** County shall:
  - 1.1 Select and assign City inmates to crews. Crews will normally consist of

twelve (12) inmates per one deputy. Each crew will be supervised by a County deputy.

- 1.2 Inmates will be provided with a sack lunch, which shall be of a quantity and quality suitable for arduous labor.
- 1.3 Assume responsibility for all supervision of inmate workers and shall be responsible for providing necessary access to medical attention for inmate workers injured while engaged in work under this agreement.
- 1.4 At all times, provide full jurisdiction over and be responsible for the supervision, discipline, and control of inmates assigned to work projects under this agreement.
- 1.5 Be responsible for the transportation of all inmates working under this agreement.
- 1.6 Provide a van, for which City will pay a fee as specified in Exhibit B.

**2. City Obligations. City shall:**

- 2.1 Assign a liaison for each project.
- 2.2 Furnish inmate crews with clothing as appropriate to the season and the task to be performed. This will include rain gear, work gloves, rubber boots, hard hats and any personal protective gear required by safety rules for workers, when required.
- 2.3 Provide necessary training for inmates and deputies as related to projects and maintenance of recreation areas.
- 2.4 Provide a trailer with a portable toilet, signs, equipment boxes, first aid kit, and food and beverage containers. City will either provide a van, or pay for a County van as specified in Exhibit B of this agreement. City will provide fuel, oil and preventive maintenance for the van, whether City or County provides the van.
- 2.5 Provide all hand tools and equipment for cutting, brushing, and digging. This will include axes, machetes, shovels, sandviks, hoes and loppers, when required.
- 2.6 Reimburse County for the cost of medical insurance for inmates. City shall be responsible for any medical costs to the care provider not otherwise covered by medical insurance as provided in ORS 169.152.

2.7 In its determination of projects, ensure that the work sites are suitably safe without inherent risk and that the inmate tasks can be performed in a safe manner.

**3. Mutual Obligations.** The parties mutually agree that:

3.1 The work to be performed under this Agreement constitutes an on-going intergovernmental agreement.

3.2 The work will be performed on Saturdays and Sundays only.

3.3 County will provide a quarterly report showing the number of City inmates assigned to the City Inmate Work Crew, the percentages of Municipal Court sentences completed, and the number of hours worked.

3.4 City will handle any public complaints or information requests related to the program.

3.5 County will provide inmate tracking and program administration.

3.6 City shall submit to County proposed projects with an estimate of the time frame and number of man-days required for each project. City will, with each approaching project, provide a request containing a description of the work to be done, technical specifications, project locations, and required accomplishment dates. A project request may be submitted orally or in writing.

3.7 County and City shall agree in written form upon a rate of reimbursement which is Exhibit B of this agreement. City shall reimburse County its actual costs for providing the service on a quarterly basis.

3.8 County employees and work crew members under this agreement are not City employees. City shall have no responsibility for the payment of wages or related benefits such as health insurance or unemployment compensation.

3.9 City and County will meet as often as necessary to effect the administration of this agreement.

3.10 If City provides the van, City authorizes the County deputy who is assigned crew supervision to drive the City van from storage to pick up the inmate crew and to the project area, and back again. County will provide the Oregon Driver License number to City for any deputy assigned to perform

work under this agreement. City will provide parking for the County deputy's personal vehicle.

3.11 If City provides a van, City's auto liability insurance indemnifies County under certain limitations for any at-fault accident involving injury to others so long as the deputy is acting within the course and scope of his or her duties under this agreement.

4. **Term of Agreement.** This agreement becomes effective upon the date executed by both County and City, as shown below. County shall commence performance of services under this Agreement on July 1, 2004. The services shall continue each weekend for a three-year term, except for those days when Christmas Day falls on a weekend. Crew work may be suspended due to inclement weather, at County's discretion. The termination date of this Agreement is June 30, 2005, unless terminated pursuant to paragraph 6 or both parties agree in writing to renew the Agreement.
5. **Consideration.** The consideration which City shall pay to County, for both the work performed by County and the expenses incurred by County in performing the work, shall not exceed \$66,621.64 for FY05 based on the schedule of rates described in the attached Exhibit B. City shall make payments, based on quarterly invoices from County. City's payment shall be made within 30 days after receipt of County's statement. County shall not be entitled to reimbursement for travel or other expenses unless specified on the attached schedule of rates.

The consideration for subsequent years under this Agreement will be determined during each budget cycle by a Letter of Agreement between parties to address cost adjustments and bargaining agreements. Each annual Letter of Agreement will become an amendment to this Agreement. For purposes of budgeting, a meeting may be called at any time to project cost increases that exceed routine budget estimates, due to different budget cycles and bargaining agreements.

6. **Termination.** Upon seven days' prior written notice delivered to the persons designated in paragraph 7, either party, without cause, may terminate its participation in this contract. In the event of termination, City shall pay County for work performed to the date of termination.
7. **Contract Administration.** Each party designates the following as its representative for purposes of administering this contract:

County: Corrections Division Lieutenant - Bob Hickock  
Lane County Sheriff's Office  
125 E. 8th Avenue  
Eugene, OR 97401

City: Court Administrator  
ASD/Municipal Court  
777 Pearl Street Room 104  
Eugene, OR 97401

Either party may change its designated representative by giving written notice to the other as provided in paragraph 15.

- 8. Records/Inspection.** County shall maintain records of its charges to City under this contract for a period of not less than three full fiscal years following County's completion of this contract. Upon reasonable advance notice, City or its authorized representatives may from time to time inspect, audit, and make copies of any of County's records that relate to this contract. If any audit by City discloses that payments to County were in excess of the amount to which County was entitled under this contract, County shall promptly pay to City the amount of such excess. If the excess is greater than 1 percent of the contract amount, County shall also reimburse City its reasonable costs incurred in performing the audit.
- 9. Indemnification.** To the extent legally possible, County and City agree to indemnify and hold each other harmless from and against any and all claims, actions, liabilities, costs including attorney fees and other costs of defense, arising out of their own or their employees' negligence in carrying out the duties as outlined in this agreement. The indemnity/hold harmless obligations are subject to the limitations of the Oregon Tort Claims Act and Article XI Section 10 of the Oregon Constitution.
- 10. Subcontracting.** County shall not subcontract work under this contract, in whole or in part, without City's prior written approval. County shall require any approved subcontractor to agree, as to the portion subcontracted, to comply with all obligations of County specified in this contract. Notwithstanding City's approval of a subcontractor, County shall remain obligated for full performance of this contract and City shall incur no obligation to any subcontractor. County shall indemnify, defend, and hold City harmless from all claims of its contractors. The County's obligations are subject to the limitations of the Oregon Tort Claims Act and Article XI Section 10 of the Oregon Constitution.
- 11. Assignment.** County shall not assign this contract, in whole or in part, or any right or obligation hereunder, without City's prior written approval.
- 12. Standard Contract Provisions.** County shall comply with City's Standard Contract Provisions, a copy of which is attached hereto as Exhibit A.
- 13. Compliance with Laws.** County shall comply with all applicable federal, state, and local laws, rules, ordinances, and regulations at all times and in the performance of the work hereunder.

14. **Ownership of Work Product.** All work products of County which result from this agreement shall be the exclusive property of City and shall be delivered to City upon completion of the work or the termination of this agreement. County may retain copies of any work product.
15. **Notices.** Any notices permitted or required by this contract shall be deemed given when personally delivered or upon deposit in the United States mail, postage fully prepaid, certified, return receipt requested and addressed to the representative designated in paragraph 7. Either party may change its address by notice given to the other in accordance with this paragraph.
16. **Arbitration.** Any controversy regarding the terms and conditions of this agreement shall be submitted to arbitration. Any party may request arbitration by written notice to the other. If the parties cannot agree on a single arbitrator within 15 days from the giving of notice, each party shall within five days select a person to represent that party and the two arbitrators shall immediately select a third impartial person to complete a three member arbitration panel. If the two arbitrators cannot agree within 15 days on the third arbitrator, then either party may petition the Presiding Judge of the Lane County Circuit Court to select the third arbitrator. The panel shall conduct the arbitration in accordance with the provisions of ORS Chapter 33, or the corresponding provisions of any such future law. The arbitrator(s) shall assess all or part of the cost of the arbitration, including attorney fees, to any or all parties.
17. **Integration.** This contract embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein. This contract shall supersede all prior communications, representations or agreements, either oral or written, between the parties. This contract shall not be amended except in writing, signed by both parties.
18. **Interpretation.** This contract shall be governed by and interpreted in accordance with the laws of the State of Oregon.

**CITY OF EUGENE**

**LANE COUNTY**

By: \_\_\_\_\_  
 (signature)  
 Cindi Hamm  
 Finance and Court Services  
 Executive Director

By: \_\_\_\_\_  
 (signature)  
 Jan Clements  
 Lane County Sheriff

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
 William Van Vactor  
 Lane County Administrator

Date: \_\_\_\_\_

EXHIBIT A

CITY OF EUGENE - STANDARD CONTRACT PROVISIONS

The following provisions if applicable are hereby included in and made a part of the attached contract between the City of Eugene and the Contractor named thereon as provided for in the Eugene Code, 1971, the revised statutes of the State of Oregon, and Federal laws, rules, regulations, and guidelines:

**1. Fair Employment Practice Provisions (Eugene Code, 1971, Section 4.625)**

These provisions are applicable to any contract with a Contractor if the City purchases goods or services from the Contractor costing \$2,500 or more in any fiscal year:

- 1.1 During the performance of this contract, the Contractor agrees as follows:
  - 1.1.1 The Contractor will not discriminate against any employee or applicant for employment because of an individual's race, religion, color, sex, national origin, marital status, familial status, age, sexual orientation or source of income, a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262, or because an individual is a person with a disability which, with reasonable accommodation by the employer does not prevent the performance of the work involved, unless based upon a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business.
  - 1.1.2 Those Contractors employing 15 or more individuals will develop and implement an affirmative action plan to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, sex, age or national origin. Such plan shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.
  - 1.1.3 The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Human Rights Commission setting forth the provisions of this nondiscrimination clause.
- 1.2 The Contractor will, prior to commencement and during the term of this contract, provide to the City such documentation, and permit any inspection of records as may be required or authorized by rules adopted by the city manager to determine compliance with paragraph 1.1 above.
- 1.3 If upon an investigation conducted pursuant to rules adopted by the city manager in accordance with section 2.019 of the Eugene Code, 1971 there is reasonable cause to believe that the contractor or any subcontractors of the Contractor have failed to comply with any of the terms of paragraphs 1.1 or 1.2, a determination thereof shall be made in accordance with the adopted rules. Such determination may result in the suspension, cancellation or termination of the principal contract in whole or in part and/or the withholding of any funds due or to become due to the Contractor, pending compliance by the Contractor and/or its subcontractors, with the terms of paragraphs 1.1 and 1.2.
- 1.4 Failure to comply with any of the terms of paragraphs 1.1 and 1.2 shall be a material breach of this contract.
- 1.5 The Contractor shall include the provisions of paragraphs 1.1 through 1.4 in contracts with subcontractors so that such provisions will be binding upon each subcontractor.

**2. Foreign Contractor Report to Department of Revenue (ORS 279.021)(2)(a)**

The following provision is applicable to all contracts with a contract price exceeding \$10,000 if the Contractor is not domiciled in or registered to do business in the state of Oregon:

Where a public contract is awarded to a foreign Contractor and the contract price exceeds \$10,000, the Contractor shall promptly report to the Department of Revenue on forms to be provided by the Department of Revenue the total contract price, terms of payment, length of contract and such other information as the Department of Revenue may require before final payment can be received on the public contract. The City shall satisfy itself that the requirement of this subsection has been complied with before it issues a final payment on this contract.

**3. Payment of Laborers and Materialmen, Contributions to Industrial Accident Fund, Liens, and Withholding Taxes (ORS 279.312)**

The Contractor shall:

- 3.1 Make payment promptly, as due, to all persons supplying to such Contractor, labor or material for the prosecution of the work provided for in such contract.
- 3.2 Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the contract.
- 3.3 Not permit any lien or claim to be filed or prosecuted against the City of Eugene or any subdivision or agency or

employee thereof on account of any labor or material furnished.

3.4 Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

**4. Payment of Claims by Public Officers (ORS 279.314)**

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 the public contract as such claim becomes due, the public officer or officers representing the City of Eugene may pay such claims to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this contract. The payment of a claim in the manner authorized shall not relieve the Contractor or his/her surety from his or her obligations with respect to any unpaid claims.

**5. Hours of Labor (ORS 279.316)**

5.1 No person shall be employed for more than ten (10) hours in any one day or forty (40) hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279.051, the employee shall be paid at least time and a half pay for all overtime in excess of eight (8) hours in any one day and forty (40) hours in any one week, when the work week consists of five consecutive days, Monday through Friday, or for all overtime in excess of ten (10) hours in one day or forty (40) hours in one week, when the work week is four consecutive days, Monday through Friday, and for work performed on Saturday and on any legal holiday specified in ORS 279.334. The Contractor must give notice to employees who perform 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, the number of hours per day and days per week that the employees may be required to work.

5.2 In the case of contracts for personal services as defined in ORS 279.051, no person shall be employed for more than eight (8) hours in any one day or forty (40) hours in any one week, except in cases of necessity, emergency, or when the public policy absolutely requires it, and in such cases a laborer shall be paid at least time and a half for all overtime worked in excess of forty (40) hours in any one week, except for individuals under this contract who are excluded under ORS 653.010 to 653.261 or under 29 USC Sections 201-209 from receiving overtime.

**6. Payment for Medical Care and Attention to Employees (ORS 279.320)**

6.1 The Contractor shall promptly as due, make payment to any person, co-partnership or 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 monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

6.2 The Contractor and all employers working under this contract are subject employers, and agree to comply with ORS 656.017.

**7. Labor Contract Conditions (Eugene Code, 1971, Section 2.030)**

All contracts wherein labor is required, except contracts for the purchase of materials and supplies, shall contain the following provisions:

7.1 The Contractor will comply with all provisions required by the statutes of the state, of contractors on a "public contract" as defined in ORS 279.310(1).

7.2 The Contractor will comply with all requirements of Eugene Code, 1971, Sections 4.613 to 4.650.

7.3 The Contractor shall, in the event he/she willfully violates the provisions of this section or knowingly files false affidavits of compliance, waive for a period of one year any right to bid upon any public works project let by the City.

7.4 If a Contractor or subcontractor violates the provisions of this section, the City may, at its option, terminate said contract or subcontract and said Contractor or subcontractor in such event shall forfeit all rights under his/her contract except to payment for actual labor and materials furnished to the City. The City may waive in whole or in part any forfeitures or sanctions provided in this paragraph.

**8. Nondiscrimination on the Basis of Disability (Americans with Disabilities Act, 42 USC sec. 12101 et seq.)**

The Contractor shall:

8.1 Comply with all requirements of the Americans with Disabilities Act, 42 U.S.C. sec. 12101, et seq., and all regulations implementing the Act, especially including those regulations set forth at 28 C.F.R. sec. 35.130, or any later replacement for those regulations, directly or indirectly applicable to Contractor as a result of a contract with the City.

8.2 To the extent legally possible, Contractor shall indemnify and hold City, its officers, agents and employees, harmless from and against any and all claims, actions, liabilities, costs, including costs of defense, arising out of or in any way related to any act or failure to act by Contractor and Contractor's employees, agents, officers and contractors in connection with Contractor's obligations concerning services, aid or benefits to be provided to individuals with

disabilities. In the event any such action or claim is brought against City, Contractor shall, upon City's tender, defend the same at its sole cost and expense, promptly satisfy any judgment adverse to City or to City and Contractor jointly, and reimburse City for any loss, cost, damage or expense (including legal fees) suffered or incurred by City. This right of indemnification and to be held harmless shall be in addition to, and not in replacement of any other right that City may have under any statute, under the common law or under this contract.

- 8.3 By acceptance of this agreement, Contractor warrants that Contractor is familiar with the requirements of the Americans with Disabilities Act and the regulations to enforce the Act. Contractor further warrants that Contractor is in compliance with the requirements of the Act concerning local government services applicable to Contractor as a result of this agreement. Contractor shall continue to comply with all applicable provisions of the Act. City shall have the right to inspect, upon reasonable notice, Contractor's records and all locations where the work is to be performed to assure compliance with all applicable provisions of the Act.

**EXHIBIT B**

**SCOPE OF SERVICES**

Payment will be made in reimbursement for actual costs, not to exceed \$66,621.64 for FY05.

**FY05 Projected Costs - July 1, 2004 to June 30, 2005**

<b>Charge Category</b>	<b>Number of Units</b>	<b>Unit Rate</b>	<b>Sub Total Costs</b>
Deputy Sheriff II regular rate	1040	\$49.09	\$51,053.60
Deputy Sheriff II overtime rate	80	\$66.51	\$5,320.80
Vehicle Use	1040	\$2.89	\$3,005.60
Insurance	735	\$7.00	\$5,145.00
Meals	1248	\$1.68	\$2,096.64
		<b>TOTAL PROJECTED COSTS</b>	<b>\$66,621.64</b>