

W. G. E. I.

AGENDA COVER MEMO

Memorandum Date: May 19, 2010

Order Date: June 23, 2010

TO: Lane County Board of Commissioners

DEPT: Public Works

PRESENTED BY: Michael Johns, Public Works Fleet Manager

AGENDA ITEM TITLE: In the Matter of Awarding a Three-Year Requirements Contract to PetroCard Systems, Inc for the Purchase of Cardlock Fuel and Fueling Services in Eugene, Contract Number RFP 10/11 FS-01.

I. MOTION

MOVE TO AWARD A THREE-YEAR REQUIREMENTS CONTRACT TO PETROCARD, INC.,
FOR THE PURCHASE OF CARDLOCK FUEL AND FUELING SERVICES IN EUGENE, CONTRACT
NUMBER RFP 10/11 FS-01.

II. ISSUE OR PROBLEM

Shall Lane County approve awarding a requirements contract to PetroCard Inc., for the purchase of cardlock fuel and fueling services in the downtown Eugene area?

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

Lane County Department of Public Works Fleet Services Division has contracted for cardlock fuel in downtown Eugene since 1991 when the county owned downtown service station was decommissioned.

Fleet Services and the Sheriff's Office purchase approximately 150,000 gallons of fuel annually in downtown Eugene. The existing three-year fuel and fueling services contract expires June 30, 2010.

Fleet Services solicited bids via a Request for Proposal (RFP) process. Criteria included 24-hour fuel availability, a location within five (5) blocks of the Public Service Building, a cardlock self-service operation, an itemized transaction record, and electronic management reports that are compatible to download into the Fleet Services' Equipment Management System.

B. Policy Issues

None

C. Board Goals

Purchase of motor fuel is necessary to provide direct and indirect services to the citizens of Lane County, to maintain satisfactory operations of the County's road system, and to meet the health, safety, and economic good of the citizens and industries of our community as defined in Section B3.a.2 of the Strategic Plan.

D. Financial and/or Resource Considerations

The purchase of motor fuel was approved in the Fleet Services FY10/11 budget and sufficient funds are available for these motor fuel purchases.

E. Analysis

The Request for Proposal was advertised in The Register Guard on May 23, 2010 and opened on June 7, 2010. The County received 2 responses that conformed to bid specifications.

PetroCard Systems, Inc., quoted unleaded gasoline at \$.09 over OPIS rack price. Tyree Oil Inc., bid \$.052 over OPIS rack price. Tyree Oil withdrew their bid the same day after discovering an error in their calculations.

F. Alternatives/Options

1. Approve entering into a requirements contract with PetroCard Systems, Inc., and delegate the County Administrator authority to execute the contract. Contracting for fuel provides a somewhat lower price than purchasing fuel from retail stations. A card-lock station also provides additional security and ease in record keeping of fuel transactions with additional management information. Reports include vehicle identification, employee name, time, date, gallons, and cost for every transaction and summary data including miles per gallon and total fuel purchased per vehicle. The PetroCard Systems service station is located on the corner of 6th and Lincoln, convenient to the PSB.

2. Do not enter into this contract.

IV. Timing/Implementation

Upon approval of the Board, a requirements contract will be executed between PetroCard Systems, Inc., and the County Administrator.

V. Recommendation

It is recommended that the Board approve entering into a requirements contract with PetroCard Systems, Inc., for fuel and fueling services in downtown Eugene and delegate the County Administrator authority to execute the contract.

VI. Follow-up

None.

VII. Attachments

Board Order
Bid Recap

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER) IN THE MATTER OF AWARDING A
) THREE YEAR REQUIREMENTS
) CONTRACT TO PETROCARD SYSTEMS
) FOR THE PURCHASE OF CARDLOCK
) FUEL AND FUELING SERVICES IN
) EUGENE, CONTRACT NO. RFP10/11
) FS-01

WHEREAS, bids were received on June 7, 2010, for providing fuel and fueling services in the downtown area; and

WHEREAS, there were two responsive bids to conform to bid specifications, however one of them was withdrawn the same day. The sole remaining responsive bid that conformed to bid specifications was received from PetroCard Systems, and the Director of the Department of Public Works recommends that the bid be accepted; therefore it is hereby

ORDERED that a contract be awarded to PetroCard Systems for fuel and fueling services, in accordance with the bid specifications; and it is hereby further

ORDERED that a requirements contract be executed in accordance with this Order and the bid specifications and the County Administrator be authorized to sign the contract on behalf of the County.

Effective date: _____ day of _____, 2010.

Bill Fleenor, Chair
Board of County Commissioners

APPROVED AS TO FORM

Date 6-13-10 lane county

John Vesell
OFFICE OF LEGAL COUNSEL

RFP 10/11 FS-01 Bid Summary

CARDLOCK FUEL & FUELING SERVICES IN EUGENE AREA

Proposer

Unleaded Gasoline

1. Tyree Oil

~~Amount per gal over Rack \$.052~~

Bid Withdrawn 6/7/10

2. Petro Card

Amount per gal over Rack \$.09

LANE COUNTY BID COVER SHEET

1. **PROJECT TITLE:** FUEL AND FUEL SERVICES IN THE EUGENE, OR DOWNTOWN AREA FOR THREE (3) CONSECUTIVE YEARS COMMENCING JULY 1, 2010 AND ENDING JUNE 30, 2013.

CONTRACT NO.: RFP10/11 FS-01
DEPARTMENT: Public Works **DIVISION:** FLEET SERVICES

2. **BID PREPARED BY:** ANNE MORRIS-MCALLISTER 8580 5/19/2010

- | | |
|--|---|
| <input checked="" type="checkbox"/> a. Instructions to Bidders | <input checked="" type="checkbox"/> e. Contract Form |
| <input checked="" type="checkbox"/> b. Specifications | <input checked="" type="checkbox"/> f. General and Special Conditions |
| <input checked="" type="checkbox"/> c. Bid Form | <input checked="" type="checkbox"/> g. Performance Bond Provisions |
| <input checked="" type="checkbox"/> d. Bid Security Provision | <input checked="" type="checkbox"/> h. Other: Insurance Requirements |

3. **LEGAL NOTICE PREPARED:** Anne M Morris-McAllister 8580 5/19/10
Name/Signature Phone/Ext. Date

NAME OF PAPER **DATE(S) OF NOTICE**
a. Register Guard Sunday May 23, 2010
b. Portland Business Today Friday May 21, 2010

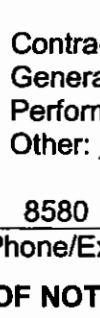
4. **LEGAL COUNSEL APPROVAL:**  4429 ³³⁰¹ 5-20-10
Name/Signature Phone/Ext. Date

5. **RISK MANAGER APPROVAL:**  4392 5/20/10
Name/Signature Phone/Ext. Date

6. **BIDS OPENED BY:** _____ 8580 _____
Name/Signature Phone/Ext. Date

7. **DEPARTMENT BUDGET REVIEW** (Funds are available in the Budget or Reserves to fund this project).

CONTRACTOR BID AMOUNT: \$ _____ **COST CODING:** _____
BUDGET CODE: 521321-619-3630030 P1025 3630795
Acct-Fund-Organization-Dept. ID

REVIEWED BY:  6925 6-7
For Tanya M. Heaton, Administrative Services Mgr Phone/Ext. Date

8. **PREPARATION OF BID AWARD (Initial Below)**

- | |
|---|
| <input checked="" type="checkbox"/> a. Bid Recap Sheet Prepared and Attached |
| <input checked="" type="checkbox"/> b. Bid Securities Proper and Noted on Bid Opening Recap Sheet |
| <input checked="" type="checkbox"/> c. Bid Forms Complete and Agenda Item Prepared |

REMARKS ON ANY DEVIATIONS:

RECOMMENDED BY:  6910 6/9/10
Marsha A. Miller, Public Works Director Phone/Ext. Date

Request for Proposal
Vehicle Fuel and Fueling Services

Lane County Fleet Services has announced the solicitation of proposals for purchasing fuel and fueling services from a cardlock fueling station in the Eugene downtown area. The downtown area is roughly defined by the following boundaries:

West - Jefferson Street
East - Hilyard Street
North – 5th Avenue
South – 11th Avenue

Estimated annual purchases are 150,000 gallons of unleaded regular gasoline. The primary users of the fuel service will be law enforcement and general government vehicles. The total estimated number of vehicles requiring use of the automated fuel services in the downtown area is 300.

The Request for Proposal (RFP) is open to any qualified contractor that can provide the required facilities and services. Lane County is an Affirmative Action/Equal Opportunity Employer; interested minority businesses are encouraged to submit proposals.

Criteria for submittal of a proposal, due date, specifications, draft proposed contract, and all pertinent information for this solicitation are encompassed in the attached RFP. Any questions concerning the RFP should be directed to Michael Johns, Public Works Fleet Services Manager, at (541) 682-8583. This letter is not to be construed as a contract or commitment of any kind. Your interest in providing this service to Lane County is appreciated.

Sincerely,


Michael Johns
Fleet Services Manager

Attachments

LANE COUNTY FLEET SERVICES REQUEST FOR PROPOSAL NO.RFP 10/11 FS-01

LANE COUNTY – OREGON

REQUEST FOR PROPOSAL

TO FURNISH AND DELIVER TO LANE COUNTY, fuel and fuel services in the Eugene, Oregon downtown area for three (3) years commencing July 1, 2010 and ending June 30, 2013.

Notice is hereby given that sealed proposals for **“Cardlock Fuel and Fueling Services at Eugene”** shall be received by Michael Johns, at the Lane County Public Works Fleet Services Building, 3040 N. Delta Hwy, Eugene, Oregon 97408, **until the hour of 10:00 a.m. PST on Monday, June 7, 2010** at which time all proposals received in proper form will be opened and read aloud in the Department of Public Works Fleet Services Conference Room, commencing at 10:15 a.m.

The outside of the sealed envelope shall be clearly marked with the Proposer’s Name, Address, Request for Proposal Name and Number, and the Opening Date.

The Request for Proposal documents may be obtained by contacting Michael Johns Lane County Department of Public Works, 3040 N. Delta Hwy, Eugene, Oregon 97408. Requests may be made in person, or by mail or telephone, (541) 682-8583. You may also download a copy on the Lane County web site at:
<http://www.lanecounty.org/Departments/PW/Pages/PurchasingRequestsIndex.aspx>

Each proposal must be submitted in the requested format and contain a statement as to whether the Proposer is a resident Proposer, as defined in ORS 279.029. The resulting contract will not be for a public work.

Lane County may reject any proposal not in compliance with all prescribed public contracting procedures and requirements and may, for good cause, reject any and all proposals upon a finding of the County that it is in the public interest to do so.

All Proposers are required to comply with the provisions of ORS 279A and 279 B and the applicable provisions of the Equal Opportunity Act of 1972 and the Civil Rights Act of 1964, as amended.

Michael Johns, Manager
Public Works, Fleet Services Division

Downtown Eugene Fuel and Fuel Services Proposal Instructions

Proposals

- **Proposals will be accepted until 10:00 a.m., Monday June 7, 2010.** Each proposal shall include the name of the individual who will serve as the prime contact in responding to questions or finalizing the service specifications.
- All responses to the attached request for proposal (RFP) shall be delivered to:

Michael Johns
Lane County Department of Public Works, Fleet Services
3040 N. Delta Hwy
Eugene, Oregon 97408
- **All proposals will be opened at 10:15 a.m., Monday June 7, 2010.**
- The selection committee will consist of the Fleet Services Manager and a Senior Parts Procurement Specialist.
- An evaluation of the proposal will be used as the basis for a three-year contract. The RFP responses will be evaluated on a number of factors, including those listed on page 7 and the following: 1) 24-hour availability of fuel products; 2) proximity of facility to Lane County Courthouse/ Public Services Building and Lane County Jail; 3) number of dispensers and dispenser hoses; 4) ease of ingress and egress from facility; 5) offered price of fuel; 6) properly formatted, itemized purchase record and invoice delivered electronically as an e-mail attachment, or on a 3.5" DD compatible disk in ASCII format, or ability for County to dial up modem and retrieve purchase data into the Fleet Services Equipment Management System; and 7) billing frequency.
- Additional proposed contract terms listed on page 6, outlines the specifications which the County will include in its evaluation.
- The selection of a contractor shall be made on June 7, 2010. The selection, if a satisfactory respondent is found, shall then be recommended for contract award to the Board of County Commissioners. The three-year contract will commence on July 1, 2010.
- **Opportunity to Comment**

Proposers may comment on, question or protest any of the specifications that they feel may limit competition. Comments, questions and protests regarding the specifications or the process must be made in writing and received by the Department of Public Works at least five (5) calendar days before the proposal closing date. All responses to such comments and/or questions will be made in writing and will be sent to all holders of the Request for Proposal documents.

Evaluation of Proposals

Proposers should be aware that the findings of County staff will likely result in a recommendation for the award of a contract. The final decision of actual award of a contract rests with the Board of County Commissioners or its authorized representative.

In evaluating the proposals and selecting a contractor, Lane County reserves the following rights:

- a. To reject any and all proposals;
- b. To issue subsequent Requests for Proposals, if desired;
- c. Not to award a contract for the requested services;
- d. To waive any irregularities or informalities in any proposal;
- e. To accept that proposal which Lane County deems to be the most beneficial to the public and Lane County;
- f. To negotiate with any officer to further amend, modify, refine, or delineate its proposal; and
- g. To negotiate and accept, without readvertising the Request for Proposal, the proposal of any other offerer in the event that a contract cannot be successfully negotiated with the selected offerer.

Right of Appeal

Anyone responding to this Request for Proposal who is not recommended for award by the selection committee may appeal the recommendation to the decision maker, either the Board of County Commissioners or County Administrator, in accordance with Lane Manual 21.107(9).

- a. Any appeal must be made in writing, be received before the contract is awarded by the decision maker, clearly state the grounds for the appeal, and indicate what condition(s) resulted in their proposal not being recommended for award. Any appeal which does not comply with the applicable procedures may be rejected.
- b. Unless otherwise stated in the RFP, the appeal must be received by the department which issued the RFP not later than seven (7) calendar days after notice of the evaluation committee's decision was mailed. Upon receipt of the appeal, the Department shall notify the Proposer being recommended for the contract award that an appeal has been received. The Proposer and the committee shall have three (3) calendar days from the date the appeal was filed to respond to the appeal in writing if they so desire.
- c. The Department shall then make a recommendation to the Board of County Commissioners as to the appropriate action to be taken.

- d. The grounds for appeal are:
1. Different criteria were used to evaluate different proposals;
 2. The evaluation committee unfairly applied the evaluation criteria to a proposal;
 3. A member or members of the evaluation committee had a relationship with a Proposer that represented a conflict of interest;
 4. The criteria used to evaluate proposals did not pertain to the services or products requested; or
 5. A member or members of the evaluation committee demonstrated bias toward a proposal or responder.
- e. If the decision maker is the Board of County Commissioners per Lane Manual 21.107(9), at the time of the decision, the department which issued the RFP shall present the issues. The appellant shall then have ten (10) minutes to specifically address the appeal criteria and the evaluation committee and the recommended Proposer shall have a total of ten (10) minutes to respond, divided between them as they wish. If the decision maker is the County Administrator, the decision shall be made on the written record.
- f. The decision maker shall carefully evaluate any appeal before rendering a decision and shall state the conclusions reached and reasons either in writing or on the record in a public meeting. Any decision to overturn the recommendation shall be based on a finding that one of the criteria of Lane Manual 21.107(9) occurred to the substantial prejudice of the appellant.
- g. The appeal procedures and limits set forth herein to be followed by the County are directory and not mandatory, and failure to follow or complete the action in the manner provided shall not invalidate the decision.

Any appeal must be:

- Made in writing.
- Made before a contract is awarded by the Board of County Commissioners or its authorized representative.
- Structured so as to state clearly the basis for the appeal and indicate what condition or conditions resulted in their proposal not be recommended for contract award.

MATERIALS AND SERVICES SPECIFICATIONS FOR DOWNTOWN EUGENE FUEL AND FUEL SERVICES

It is the intent of Lane County to receive proposals from qualified contractors for the provision of fuel and fuel services in downtown Eugene for County vehicles as described in the following specifications.

Note: Lane County is required to pay State fuel tax, but is exempt from paying Federal fuel tax.

GENERAL CONTRACT REQUIREMENTS

County Responsibilities – The following services shall be furnished by the County:

- List of all vehicle unit identification numbers requiring fuel cards.
- List of all authorized employees requiring fuel cards.
- Payment of properly documented and formatted invoices within 30 days of receipt by County.
- County employees shall pump fuel into County vehicles (if successful contractor is a card-lock facility).

Contractor Responsibilities – The County desires to receive the following services from the Contractor:

- Provide vehicle and driver cards within 72 hours of receipt of request.
- Provide modern fueling facilities with adequate ingress, egress, and a sufficient number of dispensers to minimize customer queues.
- Provide tank/dispenser systems that meet current E.P.A. and D.E.Q. regulations governing underground fuel storage tank systems.
- Provide unleaded gasoline on a 24-hour/7-day schedule. County estimates annual requirement (including law enforcement vehicles) as 150,000 gallons unleaded gasoline.
- Invoice County every 30 days for fuel used. Invoice shall include State fuel tax but not Federal fuel tax.
- Invoice shall include the following information for each fuel transaction. Invoice shall list all transactions for each vehicle separately in a date/time/unit number sequential order.

- Vehicle Number (5 digit County unit number)
- Driver Name
- Date/Time
- Fuel Type
- Odometer
- Miles per Gallon
- Gallons Pumped
- Price per Gallon
- Total Sale

- Invoice shall include a summary for each vehicle showing total fuel pumped during month and average MPG.
- Fuel transactions shall be submitted either as an e-mail attachment, or on a 3.5" disk along with a hard copy of the monthly invoice. E-mail attachment or disk will include information described above for each transaction. E-mail attachment or disk shall be formatted in ASCII and be compatible with County data process system. For technical information regarding the format required, please contact Joe Myers, Lane County Information Services Department, (541) 682-8570. In lieu of an e-mail attachment or disk, contractor may allow County to access data through a dial-up modem.

Proposal Evaluation Criteria

The following matrix details the standards by which points will be awarded. Please address each of the items listed under A. and B. in your proposal.

- A. The qualifications of the firm and staff to perform the services required, as evidenced by the following information (50 points possible).
1. Financial resources (10 points)
 2. Experience record (10)
 3. Operations and management personnel (10)
 4. Current client relationships (20)
- B. The proposed operating plan for fuel facilities management (250 points).
1. Days and hours of operation (15 points)
 2. Location of fuel facility (50)
 3. Operations and maintenance standards (10)
 4. Fuel card generation and delivery – promptness (5)
 5. Quality of facilities (10)
 6. Number of dispensers/hoses (15)
 7. Ease of ingress/egress (15)
 8. Tank system design and compliance with regulation (10)
 9. Billing criteria – frequency of billing, when payment is due, etc. (10)
 10. Invoice format (10)
 11. Purchase transactions provided via e-mail attachment, on disk, or via modem (15)
 12. Price of unleaded gasoline proposed to Lane County as of **12:01 p.m.**, Thursday, May 27, 2010. The method of determination: state **xx** cents above or below Eugene OPIS unbranded rack price – **attach copy of OPIS to submitted bid.** If selected, the Proposer shall apply this add-on or discount (**xx** cents) to the rack price during the duration of the contract. (85 points)

Proposal Format – The general conditions and instructions for submission of proposals are:

A. Proposal shall be submitted to:

Michael Johns
Lane County Department of Public Works, Fleet Services Division
3040 N. Delta Hwy
Eugene, Oregon 97408

B. Proposals must be received:

- a. Three (3) copies, **NOTARIZED**
- b. Not later than **10:00 a.m., Monday June 7, 2010.**

C. Lane County reserves the right to reject any and all proposals, or any part thereof, received by reason of this request for proposal. The County is under no obligation to award a contract if, in its opinion, no suitable contractor can be determined.

D. All submitted proposals remain the property of Lane County.

EXHIBITS

- A. Sample Lane County Contract
- B. Insurance Requirements

**CONTRACTOR'S PROPOSAL
PROPOSAL TO LANE COUNTY
FOR FUEL AND FUEL SERVICES IN DOWNTOWN EUGENE**

The undersigned, as Proposer, declares that he/she has carefully examined the Specifications and requirements of the "Lane County Request for Proposals for Fuel and Fuel Services in Downtown Eugene" and that Proposer agrees, if the proposal is accepted, that Proposer will contract with the County to furnish the services as specified, in accordance with the proposal offered here-in.

The Proposer may withdraw the proposal at any time prior to the date of the opening. However, all proposals shall be irrevocable for a period of sixty (60) days from date of opening.

The Proposer hereby certifies that he/she is _____ is not _____ a resident bidder, as defined in ORS 279.029, of the State of Oregon.

By initialing this space _____ Proposer hereby certifies that she/he has not discriminated against any minority, women, or emerging small business enterprises in obtaining any required subcontracts. By initialing this space _____ Proposer hereby certifies that to the best of Proposer's knowledge, she/he is in compliance with all the Oregon tax laws described in ORS 305.380(4).

The Proposer represents that the proposal is made without connection or agreement with any person, firm, or corporation making a proposal for the same services, and is in all respects fair and without collusion.

Firm's Name (Print or Type)

Signature

Address

Print or Type Name

Business Identification Number

Telephone Number

Signed and sworn to before me this _____ day of _____, 2010 by

Notary Signature

*Notary Public for the State of _____
My Commission Expires: _____*

LANE COUNTY REQUIREMENTS CONTRACT

In consideration of the covenants set forth below _____, hereinafter referred to as CONTRACTOR and Lane County, a political subdivision of the State of Oregon, acting by and through its Board of Commissioners, hereinafter referred to as COUNTY, mutually contract as follows:

1. Contractor agrees and covenants to provide fuel products and fueling services _____ as per the specifications, on an as-needed basis as submitted in the Request for Proposal, RFP 10/11 FS-01, attached hereto and incorporated herein in full, at a unit price to the County as stated in the proposal, in accordance with the attached specifications identified as Contractor's Proposal _____. All of the attached specifications together with this contract constitute the contract documents. Contractor shall perform the scope of work identified in the solicitation documents, and meet the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services. The consequences for failure to perform the scope of work identified or meet the established performance standards may include, but are not limited to:
 - a. Reducing or withholding payment;
 - b. Requiring the contractor to perform, at the contractors expense, additional work necessary to perform the identified scope of work or meet the established performance standards; or
 - c. Declaring a default, terminating the public contract and seeking damages and other relief available under the terms of the public contract or other applicable law.

Lane County agrees it shall purchase a minimum of \$100.00 of _____
fuel products during the term of the contract.

2. The applicable provisions of the Lane Manual setting forth standard provisions for public contracts (LM 21.130) are hereby incorporated by reference as if fully set forth herein.
3. Contract period shall be from 7/1/2010 to 6/30/2013.
4. Payments shall be duly processed upon receipt of invoice. Payments shall normally be made within thirty (30) days of receipt of invoice.
5. The contract may be cancelled by the COUNTY for willful failure or refusal of the CONTRACTOR to perform according to the terms of the contract by providing written notice, including the effective date. The parties may jointly agree to terminate this agreement and upon the terms of such termination. Either party may terminate this contract at any time, for any reason or for no reason with no liability, except compensation for services (and product) previously provided, by giving the other party 30 days written notice.

6. Contractor agrees that the performance of this contract is at Contractor's sole risk. The service or services to be rendered under this contract are those of an independent contractor who is not an officer, employee, or agent of the County as those terms are used in ORS 30.265. Notwithstanding the Oregon Tort Claims Act or provisions of any other contract, Contractor is acting as and assumes liability of an independent contractor as to any claims between County and Contractor. Contractor is solely liable for any worker's compensation coverage; social security, unemployment insurance or retirement payments; and federal or state taxes due as a result of payments under this contract. Any subcontractor hired by the Contractor shall be similarly responsible.
7. Contractor will not be eligible for any Federal Social Security, State Workers' Compensation, unemployment insurance or Public Employees Retirement System benefits from this contract payment.
8. County will report the total amount of all payments to Contractor, including any expenses, in accordance with Federal Internal Revenue and State of Oregon Department of Revenue regulations.
9. Contractor shall not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished, shall assume responsibility for satisfaction of any lien so filed or prosecuted and shall defend against, indemnify and hold County harmless from any such lien or claim.
10. The Contractor certifies possession of all necessary licenses, permits or certificates of registration necessary to perform the work covered by this contract, and certifies that all subcontractors shall likewise have all necessary licenses, permits, or certificates before performing any work. The failure of Contractor to have or maintain such licenses, permits or certificates is grounds for rejection of a bid or immediate termination of the contract.
11. The Contractor agrees to indemnify, defend and hold Lane County, its Commissioners, agents, officers, and employees harmless and defend all damages, losses, and expenses included but not limited to attorney's fees and to defend all claims, proceedings, lawsuits, and judgments arising out of or resulting from the fault of the Contractor, the Contractor's agents, representatives, or subcontractors, in the performance of or failure to perform this contract.
12. The Contractor shall not delegate, subcontract or assign any duties covered by this agreement without the prior written approval of the County.
13. The Contractor, its subcontractors, if any, and all employers working under this contract are subject employers under the Oregon Worker's Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers.

By execution of this contract, Contractor certifies under penalty of perjury that:

- a. To the best of Contractor's knowledge, Contractor is not in violation of any tax laws described in ORS 305.380(4); and
- b. Contractor has not discriminated against minority, women, or small business enterprises in obtaining any required subcontract.

14. Contractor shall provide all insurance called for on the page entitled "Insurance Coverage Required". As evidence of the insurance coverages required by this contract, the Contractor shall furnish a certificate of insurance to: Lane County Risk Management Division, 125 E. 8th Ave., Eugene, OR, 97401. The certificate will specify parties who are Additional Insured and must include a notice provision regarding cancellations. Insurance coverages required under this contract shall be obtained from insurance companies authorized to do business in the State of Oregon. If Contractor is self-insured under the laws of the State of Oregon, Contractor shall provide appropriate declarations of coverage.

15. Contractor shall not cancel, materially change, or not renew insurance coverages. Contractor shall notify Lane County Risk Manager, 125 E. 8th Ave., Eugene, OR, 97401, of any material reduction or exhaustion of aggregate limits. Should any policy be canceled before the final payment by Lane County to Contractor and should Contractor fail to immediately procure other insurance as specified, County reserves the right to procure such insurance and to deduct the cost thereof from any sum due Contractor under this contract. Any insurance bearing any adequacy of performance shall be maintained after completion of the contract for the full guaranteed period, and should the Contractor fail to immediately procure such insurance as specified, County reserves the right to procure such insurance and to charge the cost thereof to Contractor.

16. Responsibility for payment of damages: Nothing contained in these insurance requirements is to be construed as limiting the extent of Contractor's responsibility for payment of damages resulting from Contractor's operation under this contract.

17. Contractor is not currently employed by County and will not be under direct control of County.

18. If this payment is to be charged against federal funds, Contractor certifies that he/she is not currently employed by the federal government and the amount charged does not exceed the normal charge for the type of service provided.

19. All modifications and amendments to this contract shall be in writing executed by the parties.

20. Waiver. Failure of the County to enforce any provision of the contract shall not constitute a waiver or relinquishment by the County of the right to such performance in the future nor of the right to enforce that or any other provision of this contract.

21. Severability. If any provision of this contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.

22. Audit. Contractor agrees that County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by the County.

23. This agreement constitutes the entire agreement between the County and the Contractor on the subject matter hereof. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both the County and Contractor. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The delay or failure of the County to enforce any provisions of this agreement shall not constitute a waiver by the County of that provision or any other provision. The Contractor, by the signature below of its authorized representative, hereby acknowledges that it has read this agreement, understands it, and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, the parties hereto have executed this contract on this _____ day of _____, 2010.

CONTRACTOR

LANE COUNTY, OREGON

Company Name

Jeff Spartz
County Administrator

By _____
Signature

Date _____

Print or Type Name

Address

City State Zip

Approved as to Form
Date _____ Lane County

Telephone No.

Office of Legal Counsel

Social Security or Business ID Number

Date

STANDARD PROVISIONS

21.130 Standard Contract Provisions.

The following standard public contract clauses shall be included expressly or by reference where appropriate in every contract of the County.

(1) Contractor shall make payment promptly, as due, to all persons supplying to such contractor labor or material for the prosecution of the work provided for in the contract, and shall be responsible for payment to such persons supplying labor or material to any subcontractor.

(2) Contractor shall pay promptly all contributions or amounts due to the State Industrial Accident Fund and the State Unemployment Compensation Fund from contractor or any subcontractor in connection with the performance of the contract.

(3) Contractor shall not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished, shall assume responsibility for satisfaction of any lien so filed or prosecuted and shall defend against, indemnify and hold County harmless from any such lien or claim.

(4) Contractor and any subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

(5) For public improvement and construction contracts only, if 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 County may pay such claim 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 the contract. The payment of a claim in the manner authorized hereby shall not relieve the contractor or its surety from the obligation with respect to any unpaid claim. If the County is unable to determine the validity of any claim for labor or services furnished, the County may withhold from any current payment due contractor an amount equal to said claim until its validity is determined, and the claim, if valid, is paid by the contractor or the County. There shall be no final acceptance of the work under the contract until all such claims have been resolved.

(6) Contractor shall make payment promptly, as due, to any person, co-partnership, association or corporation furnishing medical, surgical, hospital or other needed care and attention, incident to sickness or injury, to the employees of contractor, of all sums which the contractor agreed to pay or collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing payment for such service.

(7) With certain exceptions listed below, contractor shall not require or permit any person to work more than 10 hours in any one day, or 40 hours in any one week except in case of necessity, emergency, or where public policy absolutely requires it, and in such cases the person shall be paid at least time and a half for:

(a) 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, or

(b) 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, and

(c) All work performed on the days specified in ORS 279B.020(1) for non-public improvement contracts or ORS 279C.540(1) for public improvement contracts.

For personal/professional service contracts as designated under ORS 279A.055, instead of (a) and (b) above, a laborer shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under these contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. Sections 201 to 209, from receiving overtime.

Contractor shall follow all other exceptions, pursuant to ORS 279B.235 (for non-public improvement contracts) and ORS 279C.540 (for public improvement contracts), including contracts involving a collective bargaining agreement, contracts for services, and contracts for fire prevention or suppression. For contracts other than construction or public improvements, this subsection (7) does not apply to contracts for purchase of goods or personal property.

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.

(8) The hourly rate of wage to be paid by any contractor or subcontractor to employed workers or other persons doing or contracting to do all or part of the work contemplated by the public works contract shall be not less than the applicable prevailing rate of wage for an hour's work in the same trade or occupation in the locality where such labor is performed, in accordance with ORS 279C.838 and ORS 279C.840. For projects also covered by the federal Davis-Bacon Act (40 USC §3141 et seq.), contractors and subcontractors shall pay workers or others performing work contemplated by the contract the higher of the state or federal prevailing rate of wage, as determined by the Commissioner of the Bureau of Labor and Industries in accordance with ORS 279C.830.

(9) The contractor, its subcontractors, if any, and all employers working under the contract are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, or otherwise be exempt under ORS 656.126.

(10) As to public improvement and construction contracts, Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to those dealing with the prevention of environmental pollution and the preservation of natural resources that affect the performance of the contract. A list of entities who have enacted such laws or regulations is found in the Oregon Attorney General's Model Public Contract Rules Manual, OAR 137-030-0010, Commentary 4. If new or amended statutes, ordinances, or regulations are adopted, or the contractor encounters a condition not referred to in the bid document not caused by the contractor and not discoverable by reasonable site inspection which requires compliance with federal, state, or local laws or regulations dealing with the prevention of environmental pollution or the preservation of natural resources, both the County and the contractor shall have all the rights and obligations specified in ORS 279C.525 to handle the situation.

(11) The contract may be canceled at the election of County for any substantial breach, willful failure or refusal on the part of contractor to faithfully perform the contract according to its terms. The County may terminate the contract by written order or upon request of the contractor, if the work cannot be completed for reasons beyond the control of either the contractor or the County, or for any reason considered to be in the public interest other than a labor dispute, or by reason of any third party judicial proceeding relating to the work other than one filed in regards to a labor dispute, and when circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the work. In either case, for public improvement contracts, if the work is suspended but the contract not terminated, the contractor is entitled to a reasonable time extension, costs and overhead per ORS 279C.655. Unless otherwise stated in the contract, if the contract is terminated, the contractor shall be paid per ORS 279C.660 for a public improvement contract.

(12) If the County does not appropriate funds for the next succeeding fiscal year to continue payments otherwise required by the contract, the contract will terminate at the end of the last fiscal year for which payments have been appropriated. The County will notify the contractor of such non-appropriation not later than 30 days before the beginning of the year within which funds are not appropriated. Upon termination pursuant to this clause, the County shall have no further obligation to the contractor for payments beyond the termination date. This provision does not permit the County to terminate the contract in order to provide similar services or goods from a different contractor.

(13) By execution of this contract, contractor certifies, under penalty of perjury that:

(a) To the best of contractor's knowledge, contractor is not in violation of any tax laws described in ORS 305.380(4), and

(b) Contractor has not discriminated against minority, women or small business enterprises in obtaining any required subcontracts.

(14) Contractor agrees to prefer goods or services that have been manufactured or produced in this State if price, fitness, availability or quality are otherwise equal.

(15) Contractor agrees to not assign this contract or any payments due hereunder without the proposed assignee being first approved and accepted in writing by County.

(16) Contractor agrees to make all provisions of the contract with the County applicable to any subcontractor performing work under the contract.

(17) The County will not be responsible for any losses or unanticipated costs suffered by contractor as a result of the contractor's failure to obtain full information in advance in regard to all conditions pertaining to the work.

(18) All modifications and amendments to the contract shall be effective only if in writing and executed by both parties.

(19) The contractor certifies he or she has all necessary licenses, permits, or certificates of registration (including Construction Contractors Board registration or Landscape Contractors Board license, if applicable), necessary to perform the contract and further certifies that all subcontractors shall likewise have all necessary licenses, permits or certificates before performing any work. The failure of contractor to have or maintain such licenses, permits, or certificates is grounds for rejection of a bid or immediate termination of the contract.

(20) Unless otherwise provided, data which originates from this contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the County. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights. Data which is delivered under the contract, but which does not originate therefrom shall be transferred to the County with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so; provided that such license shall be limited to the extent which the contractor has a right to grant such a license. The contractor shall exert all reasonable effort to advise the County, at the time of delivery of data furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this contract. The County shall receive prompt written notice of each notice or claim of copyright infringement received by the contractor with respect to any data delivered under this contract. The County shall have the right to modify or remove any restrictive markings placed upon the data by the contractor.

(21) If as a result of this contract, the contractor produces a report, paper, publication, brochure, pamphlet or other document on paper which uses more than a total 500 pages of 8 1/2" by 11" paper, the contractor shall conform to the Lane County Recycled Paper Procurement and Use policy, LM 2.440 through 2.448, by using recycled paper with at least 25% post-consumer content which meets printing specifications and availability requirements.

(22) The Oregon Standard Specifications for Construction adopted by the State of Oregon, and the Manual on Uniform Traffic Control Devices, each as is currently in effect, shall be applicable to all road construction projects except as modified by the bid documents.

(23) As to contracts for lawn and landscape maintenance, the contractor shall salvage, recycle, compost or mulch yard waste material in an approved site, if feasible and cost-effective.

(24) As to public improvement contracts for demolition, the contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective.

(25) When a public contract is awarded to a nonresident bidder 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 the total contract price, terms of payment, length of contract and such other information as the department may require before the County will make final payment on the contract. *(Revised by Order No. 98-12-2-4, Effective 12.2.98; 04-6-30-12, 6.30.04; 05-2-16-8, 2.28.05; 05-12-14-9, 1.1.06; 08-2-13-1; 2.13.08)*

Revised 2.13.08

INSURANCE COVERAGES REQUIRED

Contractor shall not commence any work until Contractor obtains, at Contractor's own expense, all required insurance as specified below. Such insurance must have the approval of Lane County as to limits, form and amount. The types of insurance Contractor is required to obtain or maintain for the full period of the contract will be:

X **COMPREHENSIVE COMMERCIAL GENERAL LIABILITY** insurance including personal injury, bodily injury and property damage with limits as specified below. The insurance shall include:

<i>COVERAGES</i>		<i>LIMITS</i>	
<input checked="" type="checkbox"/>	Explosion & Collapse	<input checked="" type="checkbox"/>	\$2 million per occurrence
<input checked="" type="checkbox"/>	Underground Hazard	_____	Oregon Tort Claim limits currently at \$1 million combined single limit per accident or occurrence; \$2 million all claimants per accident or occurrence (aggregate)
<input checked="" type="checkbox"/>	Products/Completed Operations	_____	Other
<input checked="" type="checkbox"/>	Contractual Liability		
<input checked="" type="checkbox"/>	Broad Form Property Damage		
_____	Owners' & Contractors' Protective		

FORM All policies must be of the occurrence form with combined single limit for bodily injury and property damage. Any deviation from this must be reviewed by the Risk Manager. All claims-made forms must have tail coverage and the prior approval of Risk Manager. Submit a complete copy of claims-made policies and endorsements with the certificate of insurance.

_____ **AUTOMOBILE LIABILITY** insurance comprehensive form with limits as specified below. The coverage shall include owned, hired and non-owned automobiles and include Lane County and its divisions, its commissioners, officers, agent, and employees as additional insureds.

LIMITS

- _____ \$2 million combined single limit per accident for bodily injury and property damage
- _____ Not less than the Oregon Tort Claims limits
- _____ \$1 million combined single limit per accident or occurrence
- _____ \$2 million all claimants per accident or occurrence (aggregate)

_____ **PROFESSIONAL LIABILITY** insurance – with limits not less than \$1 million per occurrence.

_____ **POLLUTION LIABILITY INSURANCE** – with limits not less than \$1 million per occurrence.

X **ADDITIONAL INSURED CLAUSE** The general and auto liability insurance coverage's required for performance of this contract shall be endorsed to name Lane County and its divisions, its commissioners, officers, agents and employees as additional insureds on any insurance policies required herein with respect to Provider's activities being performed under the Contract. The additional insureds must be named as an additional insured by endorsement, and the policy must be endorsed to show cancellation notices to the Lane County department who originated the contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

X **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY** as statutorily required for persons performing work under this contract. Any subcontractor hired by Contractor shall also carry Workers' Compensation and Employers' Liability coverage.

EMPLOYER'S LIABILITY _____ Limits of \$500,000.

_____ **BUILDER'S RISK** insurance special form. Limits to be the value of the contract or \$ _____.

_____ **FIDELITY BOND** covering the activities of any person, named or unnamed, responsible for collection and expenditures of funds. Limit \$ _____ per employee.

Any questions concerning insurance and indemnity should be directed to Lane County Risk Management at 541-682-4392.