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5. MATURITY DATES OF SECURITIES OR BONDS.

Signed and dated at _____, Lane County, Oregon, this __ day of _____, 20__.

(Signature of Depositor/Assignor)

Address: _____

ACCEPTANCE

_____ (Bank or Trust Company) hereby accepts the foregoing Assignment and Safekeeping Receipt No. __, in the total amount of \$ _____, this __ day of _____, 20 __, and hereby acknowledges receipt of the bonds or securities listed in Schedule "A" above to hold in trust for Lane County for the uses and purposes above-stated.

(Authorized Signature)

Exhibit "A" to LM 21.116(2)

(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)

21.117 Personal and Professional Service Contracts.

(1) Personal service contracts are those as described in LM 20.097.

(2) Personal service contracts shall not be used to engage persons who would be deemed County employees, rather than independent contractors. Two of the primary differences are the amount of control the County has the right to exercise over the individual and the method of payment. That a County employee supervises or has the right to supervise the individual (i.e., assign work, review work, review performance) is an indicator the individual would be an employee, not an independent contractor. That the individual is paid for time and services is an indicator the person is an employee, whereas, that he or she is paid for results or for a total project is an indicator the individual is an independent contractor. All personal services contractors must meet the independent contractor standards of ORS 670.600.

(3) Generally, all personal services contracts shall require the contractor to defend, indemnify and hold the County, its officers, agents and employees harmless from all damages, losses and expenses including but not limited to attorney fees and to defend all claims, proceedings, lawsuits and judgments arising out of the contractor's performance or failure to perform the contract. When the Office of Legal Counsel determines the risk of a substantial judgment against the County is minimal, this provision may be waived.

(4) Reasonable care shall be taken in the use of personal service contracts to verify that they do not violate the terms of any collective bargaining agreement to which the County is a party. *(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)*

21.118 Selection of Personal Service Contractor.

Personal service contracts are excluded from competitive bidding; however, the following selection procedures should be utilized unless an exemption, special

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procurement, or other LM Chapter 20 or 21 rule would allow a different competitive selection under the circumstances:

(1) Direct Contracting.

(a) Dollar Amount \$10,000 or less. The County may contract directly with any qualified contractor without competitive selection, except as provided in (b) and (c) for architects, engineers, land surveyors, other related service providers, as applicable.

(b) Dollar Amount \$25,000 or less. The County may contract directly, and without competitive selection, with any qualified architect, engineer, land surveyor or provider of related services (as defined by ORS 279C.100(6)), for public improvement projects involving a highway, bridge or other transportation, except as in (c) .

(c) Qualification Based Selection Required Under ORS 279C.110(2).

The County may not solicit or use pricing information to determine the architect's, engineer's, or land surveyor's compensation until after initially selecting a qualified consultant. For public improvement projects not meeting ORS 279C.110(2), the County may consider pricing information and qualifications in selecting this type of contractor.

(2) Dollar Amounts Greater Than (1) (a) or (b) But Equal to or Less Than \$50,000. For contracts greater than the amounts in (1)(a) or (b) above and up to \$50,000, the Department Director or designated officer shall solicit at least three prospective contractors who appear to meet the minimum requirements for the proposed contract, inform each in reasonable detail of the contract and determine the prospective contractor's interest and ability to perform the contract. If three quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes. The contract should be awarded to the offeror whose quote or proposal will best serve the interests of the County, in the discretion of the County after considering any applicable criteria such as in (5) below. Pricing information may also be solicited and considered, except as provided below in this rule for architects, engineers, and land surveyors. For all such contracts, quotations shall be solicited from appropriate minority, women and emerging small business enterprises certified by the State pursuant to ORS Chapter 200, and as specified through County administrative procedures. The Department shall keep a written record of the prospective contractors contacted, their responses, and basis for recommending the award.

The same condition in (1)(c) applies to qualification based selection required under ORS 279C.110(2). For such contracts, the County will begin negotiating with the highest ranked proposer on a fair and reasonable price in addition to any other contract provisions the County believes is in its best interest to negotiate. If agreement is not reached within a reasonable time, the County may move to the second highest ranked proposer for similar negotiation, and continue the process with the next in line until agreement is reached. See OAR 137-048-0210(4).

(3) Dollar Amounts Greater than \$50,000 But Equal to or Less Than \$100,000.

Where the contract is greater than \$50,000 and equal to or less than \$100,000, the Department Director or designated officer shall comply with (2) above, except that they will prepare a written solicitation, including but not limited to specification/scope of work and receive written offers. The contract should be awarded to the offeror whose quote or proposal will best serve the interests of the County, in the discretion of the County after considering any applicable criteria such as in (5) below. Pricing information may also be solicited and considered, except as provided below in this rule for architects, engineers, and land surveyors. The County shall keep the written solicitation and response documents and written basis for recommending the award. Unsuccessful offerors shall have the right to protest the award decision to the Board of County Commissioners in accordance with procedures set forth in LM 21.105(13).

The same condition in (1)(c) applies to qualification based selection required under ORS 279C.110(2). For such contracts, the County will begin negotiating with the highest ranked proposer on a fair and reasonable price in addition to any other

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contract provisions the County believes is in its best interest to negotiate. If agreement is not reached within a reasonable time, the County may move to the second highest ranked proposer for similar negotiation, and continue the process with the next in line until agreement is reached. See OAR 137-048-0210(4).

(4) Greater Than \$100,000. Where the contract is greater than \$100,000, the Department Director or designated officer shall comply with (3) above, and conduct interviews of at least the two most qualified prospective contractors, if two or more are available. Interviews may be either by telephone, in person or by written questions. Unsuccessful quoters shall have the right to protest the award decision to the Board of County Commissioners in accordance with procedures set forth in LM 21.105(13).

(5) Criteria. The following criteria shall be considered, as appropriate, in the evaluation and selection of personal or professional service contractors:

(a) Specialized experience in the type of work.

(b) Capacity and capability to perform the work within necessary time and other limitations.

(c) Educational and professional record, including past record of performance on contracts with governmental agencies and private parties with respect to cost control, quality of work, ability to meet schedules and contract administration.

(d) Availability to and familiarity with the area in which the specific work is located.

(e) Any other factors relevant to the particular contract.

(6) Requests for Professional Services (RFPS).

(a) Description. A request for professional services (RFPS) is a selection procedure used when the County requires the services of the most highly qualified professional based on demonstrated competence and qualifications, and where a fair and reasonable price rather than lowest competitive price is the focus. It may be used in the discretion of the Department Director, on a project-by-project basis, except a qualifications based process is required for selecting registered professional engineers, registered architects, registered professional land surveyors for public improvement projects where:

(i) The County receives grants, loans or moneys from the Oregon State Highway Fund or from the State that exceeds 10% of the value of the project, and

(ii) The value of the project exceeds \$900,000. ORS 279C.110(2).

(b) Requirements.

(i) An advertisement shall appear at least once in at least one newspaper of general circulation in the area where the project is to be located and/or published electronically in compliance with LM 21.105(2), and shall briefly describe the project, the services sought, where copies of the solicitation may be obtained and the deadline for submitting a response.

(ii) The solicitation document shall contain, at a minimum, the information in LM 21.118(6)(b)(i) above, specifications, project requirements, a statement of the particular professional qualifications for the project, the evaluation criteria, and the screening or evaluation method to be used. It shall also reserve the County's right, at any time during the solicitation or contract process, to reject any or all proposals or cancel the solicitation, without liability, if there is good cause or if doing so would be in the public interest. The contract terms should also be included. For a contract for architectural, engineering, or land surveying services or related services:

(A) Proposals may be opened so as to avoid disclosure of contents during, when applicable, the process of negotiation;

(B) Proposals are not required to be open for public inspection until after the notice of intent to award; however, the County may continue to withhold trade secrets as defined in ORS 192.501 and information submitted to a public body in confidence as described in ORS 192.502.

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(iii) An evaluation committee shall review, score and rank the proposals according to solicitation criteria and results of any oral interviews. Criteria may include, but is not limited to, specialized experience, capabilities and technical competence to meet project requirements, methodology to meet project requirements, availability and resources to perform the work, proportion of candidate staff's time spent on project, experience of key staff, demonstrated ability to successfully complete similar projects, references and recommendations, history in meeting deadlines, submitting accurate estimates, producing quality work, meeting financial obligations, contract administration status of licensing, proposed solutions to any perceived design or construction problems, ownership status and employment practices regarding minority, women and emerging small businesses or historically underutilized businesses; availability and familiarity with project locale, and project management approach. Proposed compensation may be included as evaluation criteria except for solicitations for professional \ engineers, architects, land surveyors services covered by ORS 279C.110.

(iv) Contract negotiations, including refining scope of services, with the highest ranked professional shall be directed toward an agreement on a compensation level which is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the personal services. A department may solicit or use a compensation proposal for projects and services covered by ORS 279C.110 only after evaluating and ranking candidates.

(v) If an agreement is not reached in a reasonable time, the County may terminate negotiations with the highest ranked proposer and begin with the second ranked, and then to the third, if applicable. If no agreement is reached, the solicitation may be terminated.

(vi) A prospective contractor may protest the solicitation process or document in accordance with LM 21.105(6). Contractor may protest the contract award in accordance with process in LM 21.105(13). A proposer submitting a protest of the award must demonstrate that the protesting proposer is the highest ranked proposer because the proposals of all higher ranked proposers failed to meet the requirements of the RFPs or because the higher ranked proposers otherwise are not qualified to perform the services. Untimely protests will not be considered.

(7) Other Competitive Processes. Except when qualification based selection is required, a Department may use other methods of selection for personal service contractors including, but not limited to, formal bid, RFP, sole source, emergency, special procurement, or any other exemption in LM Chapter 20.

(8) Amendments. The selection procedures stated in LM 21.118(1) - (7) above shall be utilized for any amendment of a personal services contract which is more than 50 percent of the original contract amount, or when the aggregate of amendments are more than 50 percent of the original amount. However, they need not be utilized if the scope of the amendment was clearly included in the original selection such that prospective contractors understood this amendment may occur. In addition, they need not be used if the project described in the personal service contract consists of work that has been substantially described, planned or otherwise previously studied or rendered in an earlier contract with the consultant that was awarded pursuant to LM Chapter 20 and 21 rules and the amendment (or new contract) is a continuation of that project. A contract may be awarded directly under this circumstance pursuant to the waiver criteria in (9) below.

(9) Waiver. The selection procedures described above may be waived by the County Administrator prior to selection of the personal services contractor or to permit an amendment in excess of the 50 percent limit of LM 21.118(8) above for any of the following reasons:

(a) An emergency exists which could not have been reasonably foreseen and which requires prompt execution of a contract, or

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(b) The contractor is the only person within a reasonable area who performs this type of work, or

(c) When good cause is demonstrated to the County Administrator, such that he or she believes award of the contract without utilizing the selection procedures is in the public's interest. *(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)*

21.120 Requirements and Pricing Contracts.

Requirements contracts, or pricing agreements, provide for the establishing of unit prices for goods or services (including personal services) when the County knows it will need them, but is unable to determine the quantity in advance. Generally, the vendor agrees to supply some or all of the County's requirements within a specified period of time. Competitive selection and contract/amendment execution authority is governed by the rules which apply to the underlying contract type, i.e., materials, materials and services, services, personal or professional services.

(1) In conducting competitive selection, the County shall inform all potential bidders/proposers:

(a) Whether it will consider awarding and executing more than one requirements contract for a single type of service or good; and

(b) If it anticipates awarding more than one contract, the method to be used in selecting which contractor will perform specific services or provide certain goods.

(2) All requirements contracts shall provide that:

(a) The County will purchase a specified minimum amount of goods or services; or

(b) A maximum, not to exceed amount of goods or services; and

(c) The contract may be canceled upon 30 days written notice by the County; and

(d) The term of the contract, including renewals, shall not exceed three years.

(3) The County departments shall determine a reasonable estimate of the total dollar amount of a requirements contract, including from all amendments, throughout the term of the contract. That dollar figure shall be the basis for determining contract/amendment execution authority under LM 21.145 and 21.147.

(4) When the price of goods and services has been established by a requirements contract including standard contract provisions such as County protection from risk and liability as appropriate, and has been processed and approved by the Board or County Administrator, the County may purchase the goods and services from the supplier without subsequent competitive selection. In order to purchase or pay for goods and/or services under an executed requirements contract, the following steps apply:

(a) For a services/requirements contract, if the scope of work is originally defined in general terms, and the parties anticipate further defining of the work as it arises, i.e., personal services on a project by project basis, the additional defining of the scope of work shall be in writing and executed as an amendment. For contracts approved by the Board, the County Administrator shall have authority to execute any amendment which does not exceed \$100,000. Subject to (b) below, for contracts with a total estimated cost of less than \$300,000, the County Administrator may delegate authority to execute an amendment for a project not exceeding \$50,000 to a Director of the department originating the contract, and for Public Works also to the County Engineer for transportation projects. Subject to (b) below, for contracts with a total estimated cost of \$300,000 or greater, the County Administrator may delegate authority to execute an amendment for a project not exceeding \$100,000 to a Director of a department originating the contract, and for Public Works also to the County Engineer for transportation projects. For contracts approved by the County Administrator, the County