

IMPORTANT NOTICE!!

If you download these materials and wish to be added to the proposer list contact:

Jayne McMahan jmcmahan@springfield-or.gov

Information to be provided:

“RFP# 702 Library Materials Vendor Services” in subject line

Company name

Primary contact name

Primary contact title

Primary contact direct phone #

Primary contact email

It will be the responsibility of each participating Vendor to refer daily to the City of Springfield – Purchasing/Contracts website to check for any available addendum to current opportunities, cancellations or intents to award posted there.



REQUEST FOR PROPOSALS

**City of Springfield
Public Library**

**RFP # 702
Library Materials Vendor Services**

March 1, 2012

**CITY OF SPRINGFIELD
OREGON**

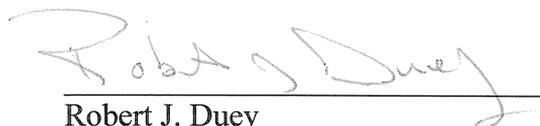
**Request for Proposal #702
Library Material Vendor Services**

Sealed proposals will be received by the Finance Department, City of Springfield, 225 Fifth St. Springfield OR, 97477, Attn: Jayne McMahan until 2:00 p.m. local time, the 2nd of March, 2012 and opened at 2:00 p.m. local time the same day, for proposals regarding Library Material Vendor Services. Sealed bids must be marked "**RFP #702 Library Material Vendor Services**".

Springfield Public Library is looking to partner with the leading distributors of books, videos and music products that can help us grow our collections and meet our patrons' needs.

Proposal packets are available on the City's website at www.springfield-or.gov (select the hyperlink from the left menu titled *Purchasing/Contracts* then *RFP #702 Library Material Vendor Services*) or by contacting Jayne McMahan at (541)726-3708 or by email: jmcmahan@springfield-or.gov.

The City of Springfield reserves the right to accept or reject any or all proposals or to waive any specifications or requirements, or to negotiate with any vendor submitting a proposal regarding any aspect of this Request for Proposal when doing so is deemed to be in the best interest of the City.



Robert J. Duey
Finance Director
City of Springfield, OR

Publication Schedule:

The Register Guard: March 1, 2012
Daily Journal of Commerce March 1, 2012

I. Proposal Overview

The City seeks qualified proposers to supply the Springfield Public Library (SPL) with books and other media. Founded in 1908, the Library offers a wide range of informational, educational, cultural and recreational materials to more than 60,000 community members. Library patrons range from infants to active adults. In addition to providing books in all subject areas, the Library offers a reference collection, large print materials, newspapers, magazines, audio books, CDs and DVDs in English and Spanish. The SPL collection currently houses over 150,813 books, CDs, DVDs, and magazines. In addition the library offers on site and remote access to databases, digital audio books, and e-books. SPL is looking to partner with the leading distributors of books, videos and music products who can help us grow not only our collections and meet our patrons needs but to achieve the greatest value for our taxpayers.

An RFP packet may be downloaded from the City of Springfield home page (www.springfield-or.gov) by clicking on the Purchase/Contracts hyperlink, or by contacting Jayne McMahan at jmcmahan@springfield-or.gov or by phone at (541)726-3708. Prospective Proposers are requested to confirm receipt of downloaded RFP packets by email to City of Springfield, Attn: Jayne McMahan at the above email address.

It is the City's intent to establish an agreement(s) with a qualified supplier(s) of books, references materials, CDs, DVDs and services. The City may choose to award agreements to one or more qualified suppliers. The agreement(s) may be updated after the initial term, to extend the term for not more than two successive one year periods, upon mutual agreement of the parties. If extended, City shall consider the requirements of the Springfield Municipal Code (SMC) Section 2.708(3) and each extension shall not be effective until reviewed and approved by the Springfield Common Council. It is conceivable that the agreement may become a multi-Supplier agreement. Proposers are encouraged to propose all or part of the library materials in **Attachment 1 IV (a)** in this Request for Proposal.

II. Proposal Format

Proposals must include the items listed below.

- A. Proposer's firm name, mailing and physical addresses, telephone number, fax number, and taxpayer identification number.
- B. Primary contact person's name, title, phone number, fax number and email address.
- C. Identify whether you qualify as resident bidder as described in ORS 279A.120 (1) (b) and if you are licensed to do business in the State of Oregon.
- D. Specifications of proposal and background information are outlined in Attachment 1. Please express how you propose to meet the specifications in your proposal. Detail proposing firm's experience in providing books, reference material, other media and services. Preference may be given to proposers who have extensive experience in providing the materials and services desired.

- E. Signed Attachment #4 – Authorization to Legally Bind Bidder
- F. Completed Attachment #5 - Minority Women Emerging Small Business Form (MWESB)

III. Contact Person

Proposers may contact Jayne McMahan for further information regarding this process. **Contact with other City officials may be grounds for disqualification.** Jayne McMahan can be reached by email at jmcmahan@springfield-or.gov or by phone at (541) 726-3708. Questions regarding specifications will be forwarded by Jayne McMahan to the appropriate Public Library personnel when more detailed technical explanations are required, and upon receipt of response from City of Springfield Public Library personnel, Ms. McMahan will disseminate the information by written addenda issued by the City (See Section VII).

IV. Schedule For Selection Process

Proposals Advertised	March 1, 2012
RFP Available	March 1, 2012
Questions or Requests to Consider Equal Specification Due	March 19, 2012 5pm PDST
Requests to Consider Exceptions Due	March 19, 2012 5pm PDST
Determination Regarding Equal Spec.	March 23, 2012
Proposals Due /Opening	April 2, 2012 2pm PDST
Notice of Intent to Award	April 20, 2012(Approximate)
Contract(s) Awarded	April 27, 2012(Approximate)

V. Selection Criteria And Process

Each proposal will be compared to the specifications stated herein. Points will be assigned to proposals that most closely match or exceed the RFP requirements based on the selection criteria. The Proposal with the highest number of assigned points will be selected for the contract. Please express how you propose to meet the specifications in your proposal.

A. Discounts	45 Points
B. Online ordering system	25 Points
C. Shipping	20 Points
D. Experience/References	5 Points
E. Conformity of proposal to RFP	5 Points

In the event of a tie the tie breaker will be the **A. Discounts**, a second tie breaker will be the **B. Online ordering system**.

Proposals must be signed by a principal member of the proposing entity capable of binding the entity. Included with the signature should be principal's written name, title, address, and telephone number (see Attachment 4 Authorization to Legally Bind Bidder).

One original and four (4) copies of the proposal, clearly marked "**RFP #702 – Library Materials Vendor Services**" and contained in a sealed envelope or box shall be received no later than 2:00 PM local time, April 2, 2012 at the following address:

City of Springfield
Administrative Services Dept.
Attention: Jayne McMahan, Sr. Management Analyst
225 Fifth Street,
Springfield, Oregon 97477

Proposals will be opened on April 2, 2012 at 2:00 pm local time. All proposals shall be valid through 90 days after the RFP closing date.

VI. Late Proposals Not Considered

Proposals must be received by 2:00PM local time on April 2, 2012 at the address listed above. Any proposals received after the deadline will not be considered. Faxed or emailed proposals will not be accepted.

VII. Addenda to RFP

In the event that it is necessary to amend, revise, or supplement any part of the RFP, City of Springfield will post addenda on the City website (www.springfield-or.gov) and will make reasonable effort to provide addenda to all Proposers to whom City provided the initial RFP. This includes the amendment of dates in the Schedule for Selection Process. Any addenda so issued are to be considered part of the specifications of the RFP. City is not responsible for any explanation, clarification, interpretation or approval made or given in any manner except by written addenda issued by City.

Addenda may be downloaded from the City of Springfield home page (www.springfield-or.gov) by clicking on the [Purchase/Contracts](#) hyperlink, or by contacting Jayne McMahan at jmcmahan@springfield-or.gov. Prospective Proposers are requested to confirm receipt of downloaded Addenda by email to City of Springfield, Attn: Jayne McMahan at the above email address.

In case of any doubt or differences of opinion as to the services to be furnished hereunder, or the interpretation of the provisions of the RFP, the decision of City shall be final and binding upon all parties.

VIII. Contract

The successful Proposer(s) will be expected to enter into a contract with the City. An example of said contract is attached herein as Attachment 2.

Contract(s) shall commence on a date agreed upon by both parties and shall continue for three years unless, extended, modified, or terminated as provided in the contract. Contract(s) may be extended for two additional one (1) year periods upon compliance with the provisions of the contract and agreement of both parties. If extended, City shall consider the requirements of the Springfield Municipal Code (SMC) Section 2.708(3) and each extension shall not be effective until reviewed and approved by the Springfield Council.

IX. Negotiation Of Agreement

City reserves the right to negotiate a final contract(s) which is in the best interest of City considering cost effectiveness and quality control. Once tentative selections have been made by the evaluation committee, Staff will attempt to negotiate a contract(s) with the preferred Proposer(s). If the negotiations are not successful, staff will negotiate with other qualified Proposers in the order of their respective qualifications until agreements are reached or staff decides to terminate the selection process. If contract negotiations are successful, the contract(s) will be forwarded to the appropriate City authority for award.

X. City Selection Discretion

City reserves the right to reject any or all proposals and to waive irregularities and informalities in the selection process. The City further reserves the right to negotiate, amend, and refine proposals in consultation with one or more of the prospective Proposers.

XI. Proposal Ownership

All material submitted by the Proposers shall be considered property of City, and City shall not be required to return same to any Proposer. The material submitted by Proposers will be treated in the same manner as City's own records.

After proposal opening, all proposals become part of the public record and are available for public review unless exempt under Oregon Public Records Law. Proposers wishing to exempt appropriate portions of their proposals from disclosure as public records are encouraged to discuss their concerns with City's Finance Director (address listed below) prior to the submissions of their proposals.

Bob Duey, Finance Director
City of Springfield Finance Department
225 Fifth Street
Springfield, OR 97477

XII. Exceptions To RFP

If, for any reason, a Proposer should desire an interpretation of a term or condition of this RFP, find fault with the structure of this RFP or with the evaluation process, concerns may be submitted in writing to:

Jayne McMahan
City of Springfield
225 Fifth Street
Springfield, OR 97477
Phone: (541) 726-3708
Fax: (541) 726-3782

City will make every effort to answer questions and, if warranted, amend the RFP. Responses to questions and amendments to the RFP will be posted on the City of Springfield home page (www.springfield-or.gov), click on the Purchase/Contracts page. Proposers who are unable or unwilling to meet one or more of the requirements of this RFP should include, as part of their response, written exceptions to those requirements. Such request shall be delivered on or before **March 19, 2012**.

XIII. Equal Specification Change Requests

A prospective Proposer may deliver to Jayne McMahan, Management Analyst at City of Springfield Finance Department, a written request for change to any of the requirements listed in this Request for Proposal. Such request shall be delivered on or before **March 19, 2012**. A written request for change shall include:

- A detailed description of the legal and factual grounds for the request,
- A description of the resulting prejudice to the prospective Proposer,
- A statement of the form of relief requested or any proposal changes to the specifications.

The City will review the change request and notify the prospective Proposer of the decision in writing prior to the RFP closing date. To the extent possible, the City will notify other prospective Proposers of any changes or modifications to the Request for Proposal.

XIV. Protest

Any Proposer who has submitted a proposal to the City of Springfield and who is adversely affected by the City's award of the Contract to another Proposer and who desires to protest said award shall submit within 7 days after issuance of the Notice of Intent to Award the Contract, to submit a written protest of the award to the City of Springfield. Such right to protest shall conform to the requirements of OAR 137-047-0740 and specify the grounds upon which the protest is based.

Failure to file a protest as specified herein waives Proposers right to pretest or contest the award. An adversely affected Proposer must exhaust all avenues of administrative relief and review before seeking judicial review of the City's Contract award. Concerns must be submitted to:

Robert Duey
Finance Director
City of Springfield
225 Fifth Street
Springfield, OR 97477

XV. Cost Of Proposal

The City of Springfield is not liable for any costs incurred by vendors for the preparation and presentation of their proposals. This includes any costs in the submission of a proposal or in making necessary studies or designs for the preparation thereof.

XVI. Submission Requirements

Your proposal must contain all of the information requested in the request for proposal. Specific requirements, including background information are included in Attachment 1.A completeness check will be conducted for each proposal. Incomplete proposals will not be accepted.

ATTACHMENT 1

LIBRARY MATERIALS VENDOR SERVICES

I. PROPOSAL OVERVIEW

- a. Founded in 1908, the Library offers a wide range of informational, educational, cultural and recreational materials to more than 60,000 community members. Library patrons range from infants to active adults. In addition to providing books in all subject areas, the Library offers a reference collection, large print materials, newspapers, magazines, audio books, CDs and DVDs in English and Spanish. The SPL collection currently houses over 150,813 books, CDs, DVDs, and magazines. In addition the library offers on site and remote access to databases, digital audio books, and e-books. SPL is looking to partner with the leading distributors of books, videos and music products who can help us grow not only our collections and meet our patrons needs but to achieve the greatest value for our taxpayers.

II. SUPPLIER BACKGROUND

- a. Qualifications
 - I. Supplier business background information – provide information about your company structure and organization.
 - II. Number of years in business
 - III. Dunn and Bradstreet number
 - IV. Inventory
 1. Number of titles
 2. Units on hand
 - V. A minimum of three (3) references from recent customers (within the last 2 years). Provide Company name, contact name, contact title, email and phone #
- b. Location of warehouses that would service SPL.

III. AUTOMATED SYSTEM REQUIRMENTS

- a. Must be capable of 9XX and EDI ordering via SirsiDynix Symphony.
- b. Must be able to supply MARC records at ordering and then interface with OCLC to update holdings and supply full MARC Records.

IV. TYPE OF LIBRARY MATERIALS OFFERED

a. Materials must be appropriate for a public library collection consisting of mostly popular titles. A variety of bindings should be available, including library binding, hardcover, paperback, board books, books with CDs, etc. Types of material include:

- I. Adult print fiction and nonfiction, including large print
- II. Teen print fiction and nonfiction
- III. Children's print fiction and nonfiction
- IV. Graphic novels – all levels
- V. Standing orders for print titles and series – all levels
- VI. Unabridged audio books on CD – all levels
- VII. Music CDs – all levels
- VIII. Instructional, educational and other nonfiction CDs – all levels
- IX. Documentary, instructional, educational, travel, and other nonfiction DVDs –all levels
- X. Entertainment, fiction DVDs – all levels
- XI. Periodicals – all levels
- XII. World languages, primarily Spanish, all media types, for adults, teens and children
- XIII. Electronic media and E-books
- XIV. Other

b. **Indicate which of the above you offer as part of your standard service.**

- I. If any are not part of your standard service, indicate whether they are provided at an extra charge
- II. Indicate the discount rate on each of the above off of list price
- III. How many titles and volumes of the above materials are available in your warehouse(s)?
- IV. What is your service charge for special and/or standing orders?

V. SELECTION TOOLS

- a. Describe selection tools available.
- b. What are the charges for these tools? SPL prefers premium package at no cost.
- c. Do you have an online ordering supply system?
- d. Is it compatible with Sirsi Dynix Workflows?
- e. Do you have examples of libraries that use Sirsi as part of a library consortium who use your online ordering? If yes, then please provide references.
- f. Is your online ordering system real time?

- g. Does your online ordering system allow us to track our orders?
- h. Can orders be placed by phone, fax, electronically or by mail?
- i. Does online ordering system perform duplicate checks with the library catalog, as well as current and previous orders?
- j. Once an order is placed, how many days does it take you to fill and ship an order, on average?

VI. REPORTING

- a. Describe in detail your system reporting including reports available to assist the monitoring of titles ordered, backordered, and canceled.
- b. What is your cancellation policy? SPL policy: if not filled within six months, we no longer want the item, or will re-order it from somewhere else.
- c. What is the frequency of these reports?
- d. What is the charge for each report?
- e. How are the reports sent?
- f. What is the file "type" (PDF, excel etc.) of each report?

VII. INVOICING

- a. Provide details about how you provide invoices (with shipment, mail, fax, electronically).
- b. Do you invoice items before or after shipping?
- c. How do you handle the invoicing of backordered items?
- d. What are your payment terms?
- e. Do you take credit cards for payment?
- f. Review City invoicing requirements below and comment yes or no on each if you can comply
 - I. Purchase order (P.O.) number must appear on all invoices, shipping papers, packages, labels, bills of lading, etc
 - II. Name of person who placed the order
 - III. All invoices must include P.O. and Line numbers for each item.
 - IV. Only one P.O. per invoice
- g. SPL strongly prefers free shipping for every order regardless of dollar value, quantity ordered or warehouse used. Can you meet this preference?
- h. Do you have an online ordering system that will allow us to review our invoices and payments?

VIII. RETURNS POLICY

- a. What is the procedure for canceling items?
- b. Are there any restocking fees applied to returns? If yes, what is the charge and how is it assessed (per units ex.)

- c. Supplier must accept any publisher defective book up to one year and issue full credit with no restocking fee. Can you meet this requirement?
- d. Does the returns policy differ for cataloged/processed items?
- e. Will the supplier issue a call tag for items needing to be returned?
- f. Is SPL required to obtain a return authorization before returning damaged or defective items or shipment errors?
- g. What is the return policy for audio books and DVDs?
- h. Can supplier accept return of individual CDs or DVDs from a set?
- i. What is your dispute resolution process?

IX. ACCOUNT SERVICES

- a. What account representation will you provide?
- b. What services will our account representative provide?

X. OPTIONAL PROCESSING SERVICES

- a. Can you provide the following processing services? If yes indicated the cost for those services:
 - I. Books: property stamp, barcode, spine label, Mylar cover and security tag
 - II. Media: property label, barcode, donuts, and spine label

XI. VALUE ADDS

- a. Describe other value adds your company can offer SPL.
- b. Describe other cost saving measures you can offer SPL.
- c. Do you have collection development assistance? If yes, please explain.

- 3. Services to be Performed by Independent Contractor.** Contractor will provide books, reference materials, CDs, DVDs and services as described Attachment 1 – “Independent Contractor” RFP #702 response dated “xxxx” attached hereto and incorporated by this reference.
- 4. Solicitation Process.** This contract was awarded pursuant to the City’s RFP #702 Library Materials Vendor Services.
- 5. Term.** This Agreement is effective as of the date first set forth above and shall continue until June 30, 2015 unless earlier terminated in accordance with the provisions of this Agreement or by mutual consent of the parties. The Agreement may be amended annually, to extend the term stated herein, for not more than two (2) successive one-year periods, upon mutual agreement of the parties. In negotiating any extension CITY shall consider the requirements or SMC Section 2.708(3) and each extension shall not be effective until reviewed and approved by the Springfield Common Council.
- 6. Independent Contractor Status.** By its execution of this Agreement, Independent Contractor certifies its status as an “Independent Contractor” as that term is used under the laws of the State of Oregon, and that all performance of any labor or services required to be performed by Independent Contractor under the terms of this Agreement shall be performed in accordance with the standards set forth in ORS 670.600, and as more specifically set forth on Exhibit “A” attached hereto and incorporated herein by this reference.
- 7. Conformance with Oregon Public Contracts Law (ORS Chapter 279).** Independent Contractor shall comply with all applicable provisions of Oregon law for public contracts, including, but not limited to ORS 279B.220, ORS 279B.225, ORS 279B.230, and ORS 279B.235, and as more fully set forth on Exhibits “A” and “B” attached hereto and incorporated herein by this reference.
- 8. Work Performed.** The work to be performed by Independent Contractor includes services generally performed by Independent Contractor in his/her/its usual line of business.
- 9. Tax duties and Liabilities.** Independent Contractor shall be responsible for all federal, state and local taxes, if any, applicable to any payments received pursuant to this Agreement, including but not limited to income tax, payroll tax, social security and self-employment tax. CITY shall not withhold, pay, or in any other manner be responsible for payment of any taxes on behalf of Independent Contractor.
- 10. Reimbursement Of Expenses.** Independent Contractor shall not be entitled to reimbursement by CITY for any expenses incurred by Independent Contractor unless otherwise agreed in writing.
- 11. Materials and Supplies.** Independent Contractor shall supply all materials and supplies needed to perform the services required unless otherwise agreed in writing.
- 12. No Authority To Bind CITY.** Independent Contractor shall have no authority to enter into contracts on behalf of CITY, its’ officers, agents and employees. This Agreement shall not create a partnership or joint venture of any sort between the parties.

13. Federal Employment Status. In the event payment made pursuant to this Agreement is to be charged against federal funds, Independent Contractor hereby certifies that it is not currently employed by the Federal Government and the amount charged does not exceed Independent Contractor's normal charge for the type of services provided

14. Indemnification and Hold Harmless. The Independent Contractor shall assume all responsibilities for the work, and bear all losses and damages directly or indirectly resulting to the Independent Contractor, the City, or to others on account of the character or performance of the work, unforeseen difficulties, accidents, or any other cause whatsoever. The Independent Contractor shall assume defense of, indemnify and save harmless the City, its officials, agents, and employees from all claims, liability, loss, damage and injury of every kind, nature and description, directly or indirectly resulting from activities in the performance of the Contract, the ownership, maintenance or use of motor vehicles in connection therewith, or the acts, omissions, operations, or conduct of the Independent Contractor or any Subcontractor under the Contract or any way arising out of the Contract, irrespective of whether any act, omission or conduct of the City connected with the Contract is a condition or contributory cause of the claim, liability loss, damage or injury and irrespective of whether act, omission, or conduct of the Independent Contractor or Subcontractor is merely a condition rather than a cause of a claim, liability, loss damage or injury. The Independent Contractor shall not be liable for nor be required to defend or indemnify, the City relative to claims for damage or damages resulting solely from acts or omissions of the City, its officials, agents or employees. The absence of or inadequacy of the liability insurance required in section 15 below shall not negate Independent Contractor's obligations in this paragraph.

15. Insurance.

15.1. General Insurance. The Independent Contractor shall maintain in force for the duration of this agreement a Commercial General Liability insurance policy written on an occurrence basis with limits not less than \$2,000,000 per occurrence and \$3,000,000 in the aggregate for bodily injury or property damage. The policy will contain a "per project" aggregate endorsement. Automobile Liability (owned, non-owned and hired) insurance with limits not less than \$1,000,000 per occurrence shall be maintained. The City, its employees, officials and agents will be named as an Additional Insured where operations are being conducted related to this contract, on the General Liability policy as respects to work or services performed under this agreement to the extent that the death or bodily injury to persons or damage to property arises out of the fault of the Independent Contractor or the fault of the Independent Contractor's agents, representatives or subcontractors. This insurance will be primary over any insurance the City may carry on its own.

15.2. Professional Liability. Independent Contractor shall maintain in force during the duration of this Agreement (and, if it is a claims made policy, for a year following completion of the project) a professional liability policy, approved by the City's Risk Manager as to terms, conditions and limits.

15.3. Workers' Compensation. Independent Contractor shall provide and maintain workers' compensation coverage for its employees, officers, agents, or partners, as required by applicable workers' compensation laws. If Independent Contractor is exempt from coverage, a written statement signed by Contractor so stating the reason for the exemption shall be provided to the City.

15.4. Evidence of Insurance Coverage. Evidence of the required insurance coverages issued by an insurance company satisfactory to the City shall be provided to the City by way of a City approved certificate of insurance before any work or services commence.

- 15.5. Notice of Cancellation or Material Change in Coverage.** The certificate of insurance shall contain a requirement that the Insurance company notify the City 30 days prior to any cancellation or material change in coverage. If the approved insurance company will not provide this 30 day notice, the Contractor shall provide written notice to the City contract manager within 2 days after the Contractor becomes aware that their coverage has been canceled or has been materially changed. The Contractor shall either fax 541-726-3782 said notice or email it directly to Bob Duey (rduey@springfield-or.gov), Finance Director at the City. Regardless of what circumstances caused Contractors insurance coverage to cease or be modified, it is the contractor's responsibility to notify the City. Failure to maintain proper insurance or provide notice of cancellation or modification shall be grounds for immediate termination of this contract. _____ **(Contractor initials)**
- 15.6. Equipment and Material.** The Independent Contractor shall be responsible for any loss, damage, or destruction of its own property, equipment, and materials used in conjunction with the work.
- 15.7. Assignment/Subcontract.** Independent Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this agreement, in whole or in part, without the prior written approval of CITY. No such written approval shall relieve Independent Contractor of any obligations of this Agreement, and any transferee or subcontractor shall be considered the agent of Independent Contractor. Independent Contractor shall remain liable as between the original parties to this Agreement as if no such assignment had occurred.
- 15.8 Exception or Waivers.** Any exception or waiver of these requirements shall be subject to review and approval from the City's Risk Manager.

16. Termination. The performance of work under this Agreement may be terminated by CITY, in whole or in part, whenever for any reason CITY shall determine that such termination is in the best interest of CITY. Any such termination shall be effected by delivery to the Independent Contractor of a Notice of Termination specifying the extent to which performance of the work under the Agreement is terminated and the date on which such termination is effective.

17. Rights In Data. All original written material, including programs, card decks, tapes, listings, and other documentation originated and prepared for CITY pursuant to this Agreement, shall become exclusively the property of CITY. The ideas, concepts, know-how, or techniques developed during the course of this Agreement by Independent Contractor personnel can be used by either party in any way it may deem appropriate. Material already in Independent Contractor's possession, independently developed by Independent Contractor outside the scope of this Agreement, or rightfully obtained by Independent Contractor from third parties, shall belong to Independent Contractor. This agreement shall not preclude Independent Contractor from developing materials which are competitive, irrespective of their similarity to materials which might be delivered to CITY pursuant to this Agreement. Independent Contractor shall not, however, use any written materials developed under this Agreement in developing materials for others, except as provided in this section.

18. Confidentiality. During the course of performance hereunder, Independent Contractor or its agent, employees, or contractors, may receive confidential information. Independent Contractor agrees to use its best efforts to maintain the confidentiality of such information and to inform each agent and employee performing services of the confidentiality obligation that pertains to such information.

- 19. Assignment/Subcontract.** Independent Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this agreement, in whole or in part, without the prior written approval of CITY. No such written approval shall relieve Independent Contractor of any obligations of this Agreement, and any transferee or subcontractor shall be considered the agent of Independent Contractor. Independent Contractor shall remain liable as between the original parties to this Agreement as if no such assignment had occurred.
- 20. Successors In Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors and assigns.
- 21. Compliance With All Government Regulations.** Independent Contractor shall comply with all Federal, State and local laws, codes, regulations and ordinances applicable to the work performed under this Agreement. Failure to comply with such requirements shall constitute a breach of contract and shall be grounds for termination of this Agreement. Damages or costs resulting from noncompliance shall be the sole responsibility of Independent Contractor.
- 22. Attorney Fees.** In the event a lawsuit of any kind is instituted on behalf of CITY to enforce any provision of this Agreement, Independent Contractor shall pay such additional sums as the Court may adjudge reasonable for attorney fees plus all costs and disbursements at trial and on any appeal.
- 23. Force Majeure.** Neither party to this Agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. CITY may terminate this Agreement upon written notice after determining such delay or default will unreasonably prevent successful performance of the Agreement.
- 24. Assistance Regarding Patent And Copyright Infringement.** In the event of any claim or suit against CITY on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any material furnished or work or services performed hereunder, Independent Contractor shall defend CITY against any such suit or claim and hold CITY harmless from any and all expenses, court costs, and attorney's fees in connection with such claim or suit.
- 25. Severability.** If any provision of this Agreement 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 Agreement did not contain the particular provision held to be invalid.
- 26. Access To Records.** CITY and its duly authorized representatives shall have access to books, documents, papers and records of Independent Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.
- 27. Waiver.** Failure of CITY to enforce any provision of this Agreement shall not constitute a waiver or relinquishment by CITY of the right to such performance in the future nor of the right to enforce any other provision of this Agreement.

28. Amendments. The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, without prior written approval of CITY. No modification of this Agreement shall bind either party unless reduced to writing and subscribed by both parties, or ordered by a Court.

29. Nondiscrimination. Independent Contractor shall comply with all applicable requirements of Federal and State civil rights and rehabilitation statutes, rules and regulations.

30. Dual Payment. Independent Contractor shall not be compensated for work performed under this contract from any CITY agency other than the agency which is a party to this contract.

31. Remedies. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, and any litigation arising out of this Agreement shall be conducted in the courts of the State of Oregon, County of Lane.

32. Entire Agreement. This Agreement signed by both parties is the parties' final and entire Agreement and supersedes all prior and contemporaneous oral or written communications between the parties, their agents and representatives. There are no representations, promises, terms, conditions or obligations other than those contained herein.

IN WITNESS WHEREOF the parties have executed this Agreement to be effective the date first set forth above.

CITY OF SPRINGFIELD:

INDEPENDENT CONTRACTOR

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

ATTACHMENT 1 to Contract#XXX

Proposer's RFP #702 Response

EXHIBIT "A"

CITY OF SPRINGFIELD INDEPENDENT CONTRACTOR AGREEMENT

Independent Contractor Status

All performance of any labor or services required to be performed by Independent Contractor shall be performed in accordance with the standards set forth in ORS 670.600 (2005), and as follows:

A person is customarily engaged in an independently established business if any three of the following six requirements are met:

1. The person maintains a business location:
 - a. That is separate from the business or work location of the person for whom the services are provided; or,
 - b. That is in a portion of the person's residence and that portion is used primarily for the business.
2. The person bears the risk of loss related to the business or the provision of services as shown by factors such as:
 - a. The person enters into fixed-price contracts;
 - b. The person is required to correct defective work;
 - c. The person warrants the services provided; or,
 - d. The person negotiates indemnification agreements or purchases liability insurance, performance bonds or errors and omissions insurance.
4. The person provides contracted services for two or more different persons within a 12-month period, or the person routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
5. The person makes a significant investment in the business, through means such as:
 - a. Purchasing tools or equipment necessary to provide the services;
 - b. Paying for the premises or facilities where the services are provided; or
 - c. Paying for licenses, certificates or specialized training required to provide the services.
6. The person has the authority to hire other persons to provide or to assist in providing the services and has the authority to fire those persons.

EXHIBIT “B”

City of Springfield Public Contracts Conformance with Oregon Public Contractors Laws

Pursuant to Oregon law, every public contract shall contain the following conditions:

- 1) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract. ORS 279B.220(1)
- 2) Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract. ORS 279B.220(2).
- 3) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. ORS 279B.220(3).
- 4) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167. ORS 279B.220(4).
- 5) If the agreement is for lawn and landscape maintenance, it shall contain a condition requiring the contractor to salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective. ORS 279B.225.
- 6) Promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services. All employers shall comply with ORS 656.017. ORS 279B.230.
- 7) A person may not be employed for more than 10 hours in any one day, or 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 designated under ORS 279A.055, the employee shall be paid at least time and a half pay:
 - a) For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days; or
 - b) For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
 - c) For all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

An employer must give notice in writing to employees who work on a public contract, 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. ORS 279B.235(1)-(2).

- 8) If the agreement is for personal services, the contract shall contain a provision that the employee 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 personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201-209 from receiving overtime. ORS 279B.235(3).
- 9) Contracts for services must contain a provision that requires that persons employed under contracts shall receive at least time and half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020(1)(b)(B)-(G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. Employer shall give notice in writing to employees who work on a contract for services, 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 hours per day and days per week that the employees may be required to work. ORS 279B.235(5).

If this agreement is for a public improvement, the contract shall contain the following conditions:

- 10) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract. ORS 279C.505(1)(a).
- 11) Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract. ORS 279C.505(1)(b).
- 12) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. ORS 279C.505(1)(c).
- 13) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167. ORS 279C.505(1)(d).
- 14) The contractor shall demonstrate that an employee drug testing program is in place. ORS 279C.505(2).

- 15) If the contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the contractor or subcontractor by any person in connection with the public improvement contract as the claim becomes due, the proper officer or officers representing the state or a county, school district, municipality, municipal corporation or subdivision thereof, as the case may be, may pay such claim to the person furnishing labor or services and charge the amount of the payment against the funds due or to become due the contract by reason of the contract. If the contractor or first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract within 30 days after receipt of payment from the contracting agency or a contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580(4) and is subject to a good faith dispute as defined in ORS 279C.580. If the contractor or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. ORS 279C.515.
- 16) The payment of a claim does not relieve the contractor or the contractor's surety from obligation with respect to any unpaid claims. ORS 279C.515(4).
- 17) A person may not be employed for more than 10 hours in any one day, or 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 designated under ORS 279C.100, the employee shall be paid at least time and a half pay:
- a) For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days; or,
 - b) For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and,
 - c) For all work performed on Saturday and on any legal holiday specified in ORS 279B.020. ORS 279C.520(1).
- An employer shall give notice in writing to employees who work on a public contract 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. ORS 279B.520(2).
- 18) If the agreement is for personal services, the contract shall contain a provision that the employee 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 personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201-209 from receiving overtime. ORS 279C.520(3).
- 19) Contracts for services must contain a provision that requires that persons employed under contracts shall receive at least time and half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279C.540(1)(b)(B)-(G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. An employer shall give notice in writing to employees who work on a contract for services, 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. ORS 279C.520(5)
- 20) Solicitation documents for a public improvement contract shall make specific reference to federal, state and local agencies that have enacted ordinances, rules or regulations dealing with the prevention of environmental pollution and the preservation of natural resources that affect the performance of the contract. A solicitation document must also make special reference to known conditions at the construction site that may require the successful bidder to comply with the ordinances, rules or regulations identified under ORS 279C.525(1). If the successful bidder encounters a condition not referred to in the solicitation documents, not caused by the successful bidder and not discoverable by a reasonable prebid visual site inspection, and the condition requires compliance with the ordinances, rules or regulations referred to under ORS 279C.525(1), the successful bidder shall immediately give notice of the condition to the contracting agency. The successful bidder may not commence work nor incur any additional job site costs in regard to the condition encountered and described in ORS 279.525(3) without written direction from the contracting agency. ORS 279C.525.
- 21) Promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services. All employers shall comply with ORS 656.017. ORS 279C.530.
- 22) A contract for public works shall contain a provision stating the existing state prevailing rate and wage and, if applicable, the federal prevailing rate of wage required. Every contract and subcontract shall contain a provision that workers shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838. ORS 279C.830(1).

If this agreement is for demolition, the contract shall also contain the following conditions:

- 23) Contractor must salvage or recycle construction and demolition debris, if feasible and cost-effective. ORS 279C.510(1)

Attachment 3

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Attachment 4

Authorization to Legally Bind Bidder

The person executing this Bid and the instruments referred to herein on behalf of the Bidder has the legal power, right, and actual authority to submit this Bid, and to bind the Bidder to the terms and conditions of this Bid.

(Signature of person authorized to bind Bidder)

Dated

Print Name of Person signing as authorized to bind Bidder

Title of Person signing as authorized to bind Bidder

Firm Name

Phone

Address

Fax

City, State, Zip

email address

Minority, Women, and Emerging Small Business/Disadvantaged Business Enterprise



MWESB/DBE Voluntary Self-Declaration for City Solicitation (ITB/RFP) # _____

The City of Springfield is seeking information on the various business entities that submit bids and proposals. We request that you provide the following information to assist us with evaluating our efforts at reaching the underrepresented sectors of the business communities. The City does not intend to use this data as criteria for selecting the successful bidders or proposers for city-funded procurements. For procurements with state or federal DBE requirements, the City will use the forms and criteria established by the state or federal agency for selecting the successful bidders or proposers.

Please include this form with your bid/proposal submittal to the City.

Prime Bidder/Proposer: _____

Business Name: _____

Contact Person: _____

CCB#/PE#/Other Registration: _____

Business Address: _____

Business Phone: _____

Please check each box indicating the business certificate type that your firm has with the State of Oregon or the federal government, if any:

- Oregon Minority-owned
- Business Oregon Woman-owned
- Business Oregon Emerging
- Small Business Federal Disadvantage

First Tier Sub-contractors:

For each First Tier Subcontractor, provide the same information, using additional sheets as needed.

For more information please visit State of Oregon office of Minority, Women, Emerging Small Business
<http://www.oregon4biz.com/Grow-Your-Business/Business-services/Minority-Owned-Business-Certification/>