

# AGENDA REQUEST FORM

**Return completed form and complete agenda item to the Clerk of the Board  
Yakima County Commissioners' Office, Room 232**

Prepared by:  
Christina Payer

Department: Purchasing

Requested Agenda Date: 03/17/2020

Presenting: \_\_\_\_\_

Document Title: \_\_\_\_\_

*Board of County Commissioners Record Assigned  
BOCC Agreement*

#  
**071 - 2020**

Yakima County, WA

**APPROVED FOR AGENDA:**

Consent                       Regular  
*Board of County Commissioners Determined*

**Execute agreement for Bid No J12001 Telespar Brand Sign Support System for Traffic Safety Supply**

Action Requested: *Check Applicable Box*

PASS RESOLUTION       EXECUTE or AMEND **AGREEMENT CONTRACT** or GRANT  
 ISSUE PROCLAMATION    PASS ORDINANCE    OTHER \_\_\_\_\_

Describe Fiscal Impact:

**Award amount \$95,870.23**

Background Information:

Formal sealed bid for Bid No J12001 Telespar Brand Sign Support was released to bidders on 2/14/2020 and closed on 2/28/2020. Award on 3/17/20 BOCC Agenda.

Summary & Recommendation:

**Execute Agreement**

Motion:

\_\_\_\_\_

Department Head/ Elected Official

Marie Maghee, Acting Purchasing Mgr.  
Signature

**AGREEMENT Attached Is Approved as to Form  
Corporate Counsel Initial**

STW

*Late Agenda Requests Require BOCC Chairman Signature:*

\_\_\_\_\_

**AGREEMENT  
YAKIMA COUNTY  
BID J12001  
TELESPAR Brand Sign Support System**

BOCC Agreement

**0 7 1 - 2 0 2 0**

Yakima County, WA

**THIS AGREEMENT**, entered into on the date of last execution, between Yakima County ("County"), and Traffic Safety Supply, ("Contractor").

**WITNESSETH:** The parties, in consideration of the terms and conditions herein, do hereby covenant and agree as follows:

**1. Statement of Work**

The Contractor shall perform all work and service(s) and furnish all tools, materials, labor and equipment (collectively referred to as "Services") according to the procedure outlined in Bid J12001 TELESPAR Brand Sign Support System. Specifications which are attached as Exhibit A, and the most recent edition of the ANSI/TIA/EIA and NEC Standards, all of which are incorporated herein by this reference, and shall perform any alterations in or additions to the work provided under this Contract and every part thereof.

The Contractor shall provide and bear the expense of all equipment; work and labor of any sort whatsoever that may be required for the transfer of materials and completing the work provided for in this Contract and every part thereof, except such as are mentioned in the specifications to be furnished by the City of Yakima/Yakima County.

**2. Compensation**

The County agrees to pay the Contractor according to itemized prices as listed in the Contractor's Bid submittal at the time and in the manner and upon the conditions provided for the Contract.

**3. Contract Term**

The period of this Contract shall be for a period of one year from its effective date. The County may, at its option, extend the Contract on a year to year basis for up to four (4) additional years provided, however, that either party may at any time during the life of this Contract, or any extension thereof, terminate this Contract by giving thirty (30) days' notice in writing to the other party of its intention to cancel. Contract extensions shall be automatic, and shall go into effect without written confirmation, unless the County provides advance notice of the intention to not renew. Prices shall remain firm for the first twelve month period of the Contract.

**4. Changes**

Any proposed change in this Contract shall be submitted to the other party, for its prior written approval. If approved, change will be made by a contract modification that will become effective upon execution by the parties hereto. Any oral statement or representation changing any of these terms or conditions is specifically unauthorized and is not valid.

**5. Agency Relationship between City/County and Contractor**

Contractor shall, at all times, be an independent Contractor and not an agent or representative of City/County with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City/County. In no event shall Contractor be authorized to enter into any agreement or undertaking for, or on, behalf of City/County.

**6. Successors and Assigns**

Neither the County, nor the Contractor, shall assign, transfer, or encumber any rights, duties, or interests accruing from this Contract without the prior written consent of the other.

The Contractor for himself, and for his heirs, executors, administrators, successors, and assigns, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.

**7. Property Rights**

All records or papers of any sort relating to the County and to the project will at all times be the property of the County and shall be surrendered to the County upon demand. All information concerning the County and said project which is not otherwise a matter of public record or required by law to be made public, is confidential, and the Contractor will not, in whole or part, now or at any time disclose that information without the express written consent of the County.

## **8. Inspection and Production of Records**

The records relating to the Services shall, at all times, be subject to inspection by and with the approval of the County, but the making of (or failure or delay in making) such inspection or approval shall not relieve Contractor of responsibility for performance of the Services in accordance with this Contract, notwithstanding the County's knowledge of defective or non-complying performance, its substantiality or the ease of its discovery. Contractor shall provide the County sufficient, safe, and proper facilities, and/or send copies of the requested documents to the County. Contractor's records relating to the Services will be provided to the County upon the County's request.

Contractor shall promptly furnish the County with such information and records which are related to the Services of this Contract as may be requested by the County. Until the expiration of six (6) years after final payment of the compensation payable under this Contract, or for a longer period if required by law or by the Washington Secretary of State's record retention schedule, Contractor shall retain and provide the County access to (and the County shall have the right to examine, audit and copy) all of Contractor's books, documents, papers and records which are related to the Services performed by Contractor under this Contract.

All records relating to Contractor's services under this Contract must be made available to the County, and the records relating to the Services are City of Yakima /Yakima County records. They must be produced to third parties, if required pursuant to the Washington State Public Records Act, Chapter 42.56 RCW, or by law. All records relating to Contractor's services under this Contract must be retained by Contractor for the minimum period of time required pursuant to the Washington Secretary of State's records retention schedule.

The terms of this section shall survive any expiration or termination of this Contract.

## **9. Work Made for Hire**

All work the Contractor performs under this Contract shall be considered work made for hire, and shall be the property of the County. The County shall own any and all data, documents, plans, copyrights, specifications, working papers, and any other materials the Contractor produces in connection with this Contract. On completion or termination of the Contract, the Contractor shall deliver these materials to the County.

## **10. Guarantee**

Contractor warrants the Services will be free from defects in material and workmanship for a period of one year following the date of completion and acceptance of the Services.

## **11. Compliance with Law**

Contractor agrees to perform all Services under and pursuant to this Contract in full compliance with any and all applicable laws, rules, and regulations adopted or promulgated by any governmental agency or regulatory body, whether federal, state, local, or otherwise. Contractor shall procure and have all applicable and necessary permits, licenses and approvals of any federal, state, and local government or governmental authority or this project, pay all charges and fees, and give all notices necessary and incidental to the due and lawful execution of the work.

- a. Procurement of a City Business License. Contractor must procure a City of Yakima Business License and pay all charges, fees, and taxes associated with said license.
- b. Contractor must provide proof of a valid Washington department of Revenue state excise tax registration number, as required in Title 85 RCW.
- c. Contractor must provide proof of a valid Washington Unified Business Identification (UBI) number. Contractor must have a current UBI number and not be disqualified from bidding on any public works contract under RCW 39.06.101 or 36.12.065(3).
- d. Contractor must provide proof of a valid Washington Employment Security Department number as required by Title 50 RCW.
- e. Foreign (Non-Washington) Corporations: Although the County does not require foreign corporate proposers to qualify in the City, County or State prior to submitting a proposal, it is specifically understood and agreed that any such corporation

will promptly take all necessary measures to become authorized to conduct business in the City of Yakima at their own expense, without regard to whether such corporation is actually awarded the contract, and in the event that the award is made, prior to conducting any business in the City.

## **12. Nondiscrimination:**

During the performance of this Contract, the Contractor agrees as follows:

The Contractor shall not discriminate against any person on the grounds of race, creed, color, religion, national origin, sex, age, marital status, sexual orientation, pregnancy, veteran's status, political affiliation or belief, or the presence of any sensory, mental or physical handicap in violation of the Washington State Law Against Discrimination (RCW chapter 49.60) or the Americans with Disabilities Act (42 USC 12101 et seq.).

This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of Services under this Agreement.

In the event of the Contractor's noncompliance with the non-discrimination clause of this contract or with any such rules, regulations, or orders, this Contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for any future County contracts.

## **13. Indemnification and Hold Harmless**

- a. Contractor shall take all necessary precautions in performing the Services to prevent injury to persons or property. Contractor agrees to defend, indemnify and hold harmless the City/County, its elected and appointed officials, officers, employees, attorneys, agents, and volunteers from any and all claims, demands, losses, liens, liabilities, penalties, fines, lawsuits, and other proceedings and all judgments, awards, costs and expenses (including reasonable costs and attorney fees) which result or arise out of the sole negligent acts or omissions of Contractor, its officials, officers, employees or agents.
- b. If any suit, judgment, action, claim or demand arises out of, or occurs in conjunction with, the negligent acts and/or omissions of both the Contractor and the City/County, or their elected or appointed officials, officers, employees, agents, attorneys or volunteers, pursuant to this Contract, each party shall be liable for its proportionate share of negligence for any resulting suit, judgment, action, claim, demand, damages or costs and expenses, including reasonable attorneys' fees.
- c. Contractor's Waiver of Employer's Immunity under Title 51 RCW. If any design or engineering work is done pursuant to this Contract, Contractor intends that its indemnification, defense, and hold harmless obligations set forth above in Section A shall operate with full effect regardless of any provision to the contrary in Title 51 RCW, Washington's Industrial Insurance Act. Accordingly, to the extent necessary to fully satisfy the Contractor's indemnification, defense, and hold harmless obligations set forth above in Section A, Contractor specifically waives any immunity granted under Title 51 RCW, and specifically assumes all potential liability for actions brought by employees of the Contractor against the City/County and its elected and appointed officials, officers, employees, attorneys, agents, and volunteers. The parties have mutually negotiated this waiver. Contractor shall similarly require that its subcontractors, and anyone directly or indirectly employed or hired by Contractor, and anyone for whose acts Contractor may be liable in connection with its performance of this Agreement, shall comply with the terms of this paragraph, waive any immunity granted under Title 51 RCW, and assume all potential liability for actions brought by their respective employees. The provisions of this section shall survive the expiration or termination of this Agreement.
- d. Nothing contained in this Section or this Contract shall be construed to create a liability or a right of indemnification in any third party.
- e. The terms of this Section shall survive any expiration or termination of this Contract.

**14. Severability**

If any term or condition of this Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Contract are declared severable.

**15. Contract Documents**

This Contract, the Invitation to Bid J12001 Scope of Work, conditions, addenda, and modifications and Contractor's proposal (to the extent consistent with City of Yakima/Yakima County documents) constitute the Contract Documents and are complementary. Specific Federal and State laws and the terms of this Contract, in that order respectively, supersede other inconsistent provisions. These Contract Documents are on file in the Office of the Purchasing Manager, 129 No. 2<sup>nd</sup> St., Yakima, WA, 98901, and are hereby incorporated by reference into this Contract.

**16. Termination - Convenience**

This Contract may be terminated by either party by giving thirty (30) days written notice of such intent and will become effective thirty (30) days from the date such written notice is delivered to the applicable party to the Contract.

**17. Termination - Cause**

The County reserves the right to terminate this Contract at any time, upon written notice, in the event that the Services of Contractor are deemed by the County to be unsatisfactory, or upon failure to perform any of the terms and conditions contained in this Contract. The effective date for such termination shall be upon receipt of the notice, or three days after the notice is mailed first class mail, certified with return receipt requested.

**18. Force Majeure**

Contractor will not be responsible for delays in delivery due to acts of God, fire, strikes, epidemics, war, riot, delay in transportation or railcar transport shortages, provided Contractor notifies the County immediately in writing of such pending or actual delay. Normally, in the event or any such delays (acts of God, etc.) the date of delivery will be extended for a period equal to the time lost due to the reason for delay.

**19. Governing Law**

This Contract shall be governed by and construed in accordance with the laws of the State of Washington.

**20. Venue**

The venue for any judicial action to enforce or interpret this Contract shall lie in a court of competent jurisdiction in Yakima County, Washington.

**21. Authority**

The person executing this Contract, on behalf of Contractor, represents and warrants that he/she has been fully authorized by Contractor to execute this Contract on its behalf and to legally bind Contractor to all the terms, performances and provisions of this Contract.

**22. Notice**

Any notice required or permitted to be given under this Contract shall be in writing and deemed effective if either delivered in person or by overnight courier, facsimile or first class mail, certified with return receipt requested. Notices to the parties shall be delivered to:

TO COUNTY:  
Jason Alvord  
Equipment Rental & Revolving Fund Manager  
Yakima County  
1216 S 18<sup>th</sup> Street  
Yakima, WA 98901

AND ALSO TO:  
Christina Payer  
Buyer I  
City of Yakima  
129 N 2<sup>nd</sup> Street  
Yakima, WA 98901

TO CONTRACTOR:  
Scott Jensen  
N C Machinery  
2100 Terrace Heights Dr.  
Yakima, WA 98901

**23. Survival**

The foregoing sections of this Contract, 2-22 inclusive, shall survive the expiration or termination of this Contract in accordance with their terms.

IN WITNESS WHEREOF, the parties hereto execute this Contract as of the day and year first above written.

MAR 17 2020

DONE this \_\_\_\_\_ day of \_\_\_\_\_ 2020

TRAFFIC SAFETY SUPPLY

BOARD OF YAKIMA COUNTY COMMISSIONERS



Signature

Jeff Parson

Signer's Printed Name

President

Title

\_\_\_\_\_  
Norman Childress, Chairman

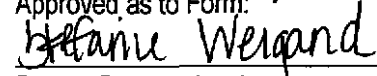
\_\_\_\_\_  
Ron Anderson, Commissioner

\_\_\_\_\_  
Vicki Baker, Commissioner  
*Constituting the Board of County commissioners for Yakima County, Washington*

Attest:

\_\_\_\_\_  
Melissa Paul, Clerk of the Board

\_\_\_\_\_  
Linda Kay O'Hara, Deputy Clerk

Approved, as to Form:  
  
\_\_\_\_\_  
Deputy Prosecuting Attorney

BOCC Agreement

071 - 2020

Yakima County, WA