
BENTON COUNTY, CITY OF CORVALLIS, EUGENE SCHOOL DISTRICT 4J, LANE COMMUNITY COLLEGE, LANE COUNCIL OF GOVERNMENTS, LANE COUNTY, LANE EDUCATION SERVICE DISTRICT, LANE TRANSIT DISTRICT

**LANE COUNCIL OF GOVERNMENTS
Lead Agency
PROPOSAL AND SPECIFICATIONS**

FOR

TELECOMMUNICATIONS MAINTENANCE, SUPPORT, AND REQUIREMENTS

LANE COUNCIL OF GOVERNMENTS

859 Willamette Street, Suite 500

EUGENE, OR 97401

(541) 682-4283

Dan Mulholland, Telecommunications Manager

CLOSING DATE: March 5, 2013

REQUEST FOR PROPOSAL LANE COUNCIL OF GOVERNMENTS - OREGON

Notice is hereby given that sealed responses for telecommunications system maintenance, support and requirements for: LANE COUNCIL OF GOVERNMENTS, on behalf of the cities of Corvallis and Springfield, Eugene School District 4J, Lane Community College, Benton County and Lane County, Lane Education Service District and Lane Transit District shall be received by

*Dan Mulholland, Telecommunications Manager
859 Willamette Street, Suite 500
Eugene, OR 97401
541 682 4422*

until 2:00 P.M. PST, March 5, 2013, at which time all proposals received in proper form shall be publicly reviewed and recorded.

The submittals shall be transmitted by email or mail. If mailed, the outside of the sealed envelope or parcel shall be clearly marked with the Vendor's Name, Address, and "TELECOMMUNICATIONS MAINTENANCE, SUPPORT, AND REQUIREMENTS"

After February 6, 2013 the Request for Proposal Documents may be obtained electronically by download from the LANE COUNCIL OF GOVERNMENTS Internet web site at www.lcog.org/telecomm.cfm. The secured electronic copy of the RFP and its addenda maintained by LANE COUNCIL OF GOVERNMENTS shall be the master and controlling document.

Each proposal must be submitted in the requested format. All Vendors shall be required to comply with the provisions of ORS 656.017 regarding Workers' Compensation or be exempt under ORS 656.126. Each RFP must contain a statement as to whether the Vendor is a resident vendor, as defined in ORS 279.029. All Vendors must be Equal Opportunity Employers.

LANE COUNCIL OF GOVERNMENTS may reject any proposal not in compliance with all prescribed public procedures and requirements, and may reject for good cause any or all proposals upon a finding by LANE COUNCIL OF GOVERNMENTS that it is in the public interest to do so.

PART I

BACKGROUND INFORMATION AND PROCESS

BACKGROUND INFORMATION

The purpose of this RFP is to acquire services and products necessary to support the telephone systems of the agencies, and to provide a method of procurement for additional systems, hardware, and software. The RFP does not concern carrier services, long distance services, or cellular services.

The Lane Council of Governments (LCOG) is a voluntary association of local governments in Lane County, Oregon. Dedicated to solving area-wide problems, LCOG helps area cities, Lane County, educational districts, and special-purpose districts reach their common goals. In addition, the agency serves as a regional planning, coordination, program-development, and service-delivery organization.

Since LCOG's creation in 1945, the agency has participated in a wide variety of projects and programs for local governments. Today, LCOG serves Lane County, the 12 cities within the county, and education, public utilities, and other special districts. LCOG's Technology Services Division also serves Corvallis and Benton County.

Over the years, LCOG has dealt with many important issues, programs, and projects that affect local government. Typically, LCOG has conducted or facilitated the multi-jurisdictional planning and program development necessary to solve problems or provide services.

LCOG services include system administration, maintenance contract administration, voice mail applications, and procurement of carrier services.

The Telephone Consortium began in the early 1980s, when the participating governments worked together to purchase new telephone systems off a common RFP and contract. Since that time, Lane Council of Governments (LCOG) has coordinated acquisition of maintenance services and purchase of new systems and upgrades. From 1987 through 1992, USWEST was the principal vendor; USWEST also won the contract from 1992 to 1997. In 1997, GTE won the contract, which expired June 30, 2002. Verizon Select Services, Inc, is the current service provider, having won the contract in 2002. From 2007 through today, NuVision Technologies, DBA Black Box Network services, is the contract holder. This agreement provides for 2.5 FTE of technician time. Due to reduction in system size as the City of Eugene leaves the NEC system, we are proposing 2.0 FTE.

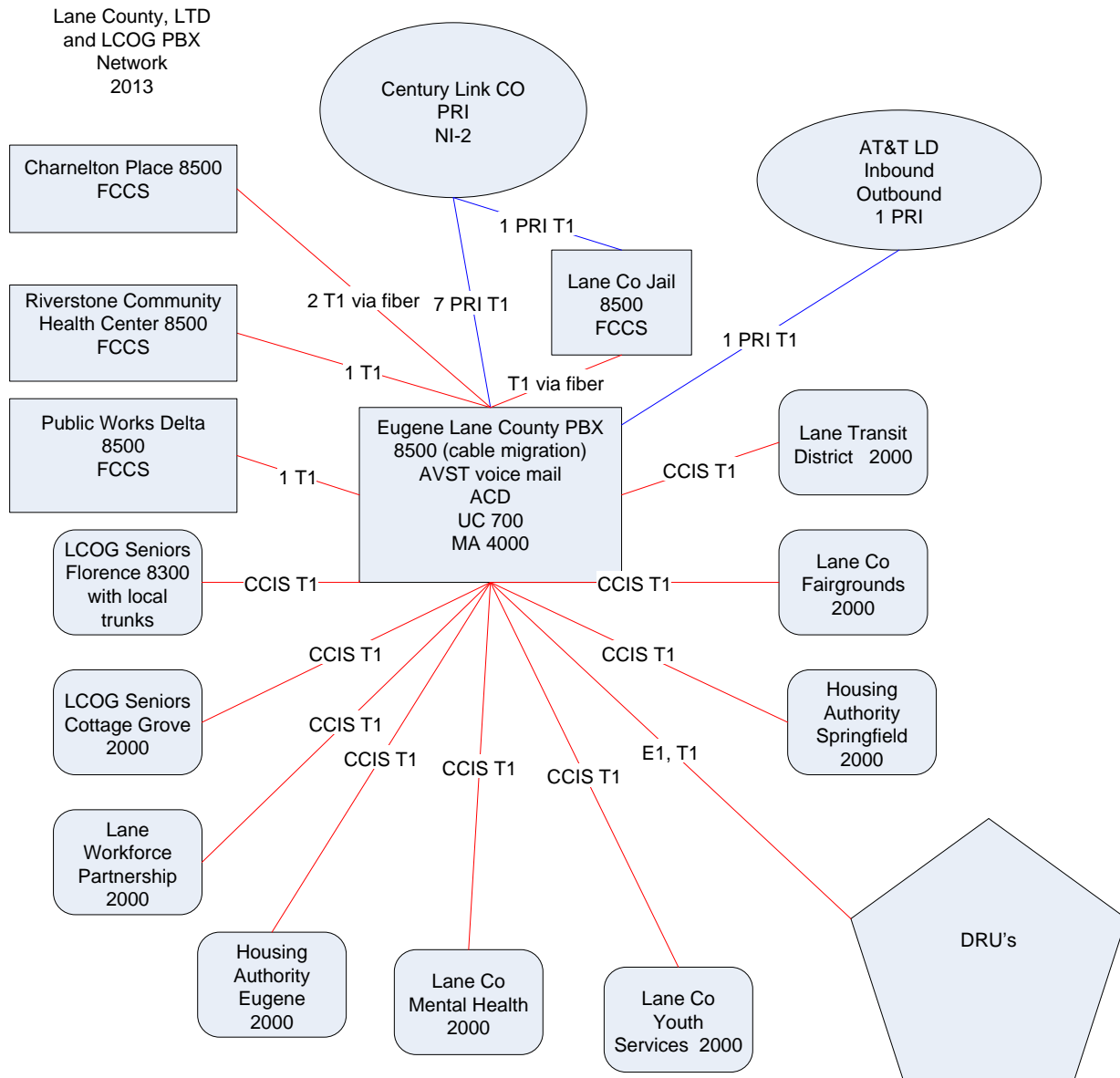
The agencies desire maintenance and support for both the PBX's and some of the key systems. A dispatch system that can be integrated with agency ticketing system is desired.

The labor used varies, of course, depending particularly on system replacement schedules or upgrades. The City of Corvallis and Lane Community College have other technicians performing simple move and change work while the other agencies use the dedicated technician work force.

The agencies participating in this process are served by NEC NEAX 2400/8500 and 8300/2000 private branch exchanges and NEC and Nortel key systems. They utilize off-premises extensions, centrex lines, agency-owned fiber optic and copper, and leased DS-1 circuits to connect off-site locations. There are some VOIP stations and CCIS over VOIP sites.

Lane County, LCOG, Land Transit District

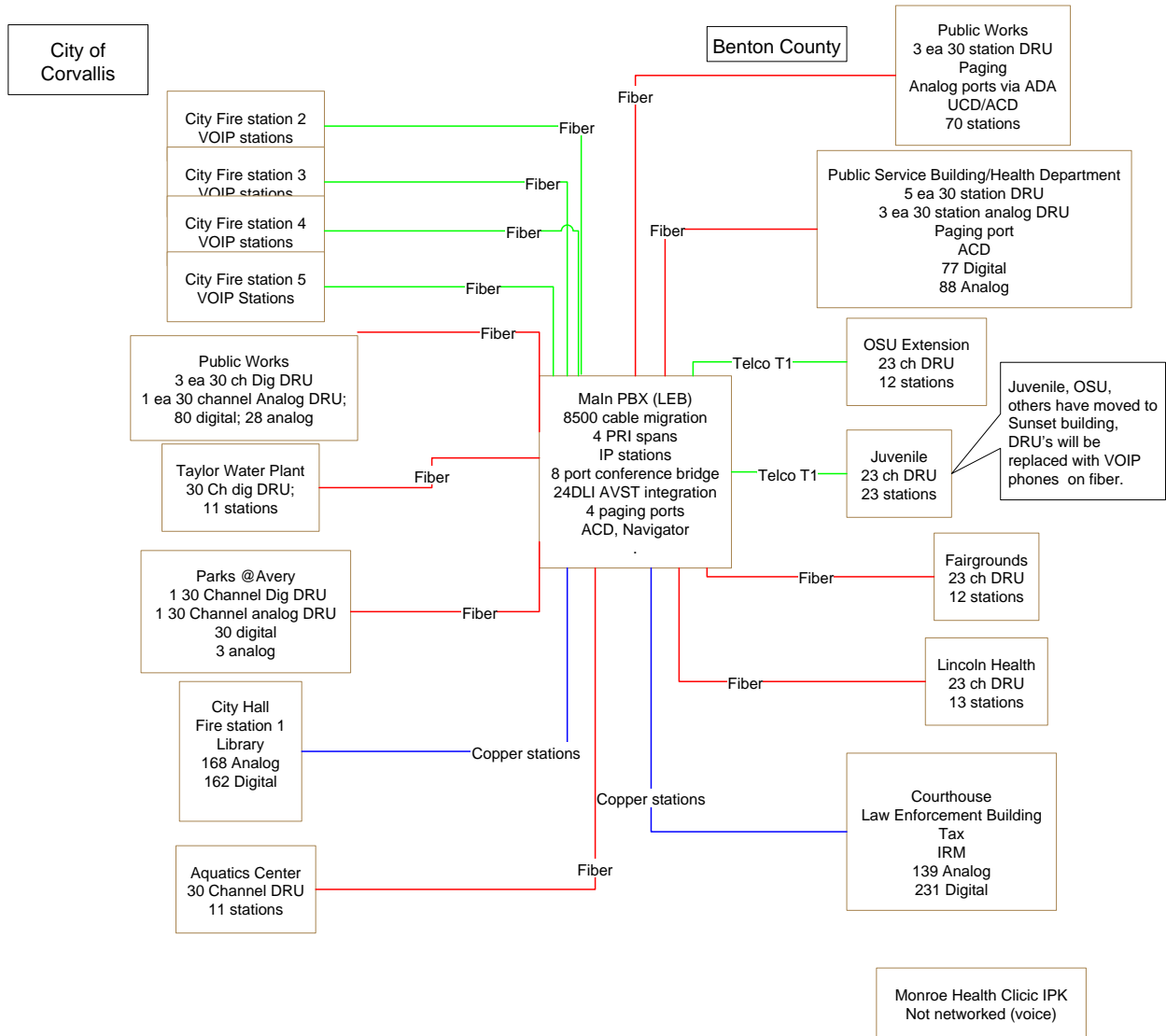
The City of Eugene/Lane County system consists of a hub and 14 remote PBX's connected via CCIS and FCCS on T1 circuits. The hub has an AVST voice mail system including UC, ACD, TFB ACD software, UC 700, and MA 4000. (TFB ACD support is not part of this RFP.) The City of Eugene is converting from NEC to Cisco, and support for the City of Eugene NEC equipment will be limited to the first six to nine months of this agreement. Two of the systems, owned by HACSA, the local housing authority, have not participated in the maintenance relationship in the past. This diagram does not include City of Eugene PBX's.



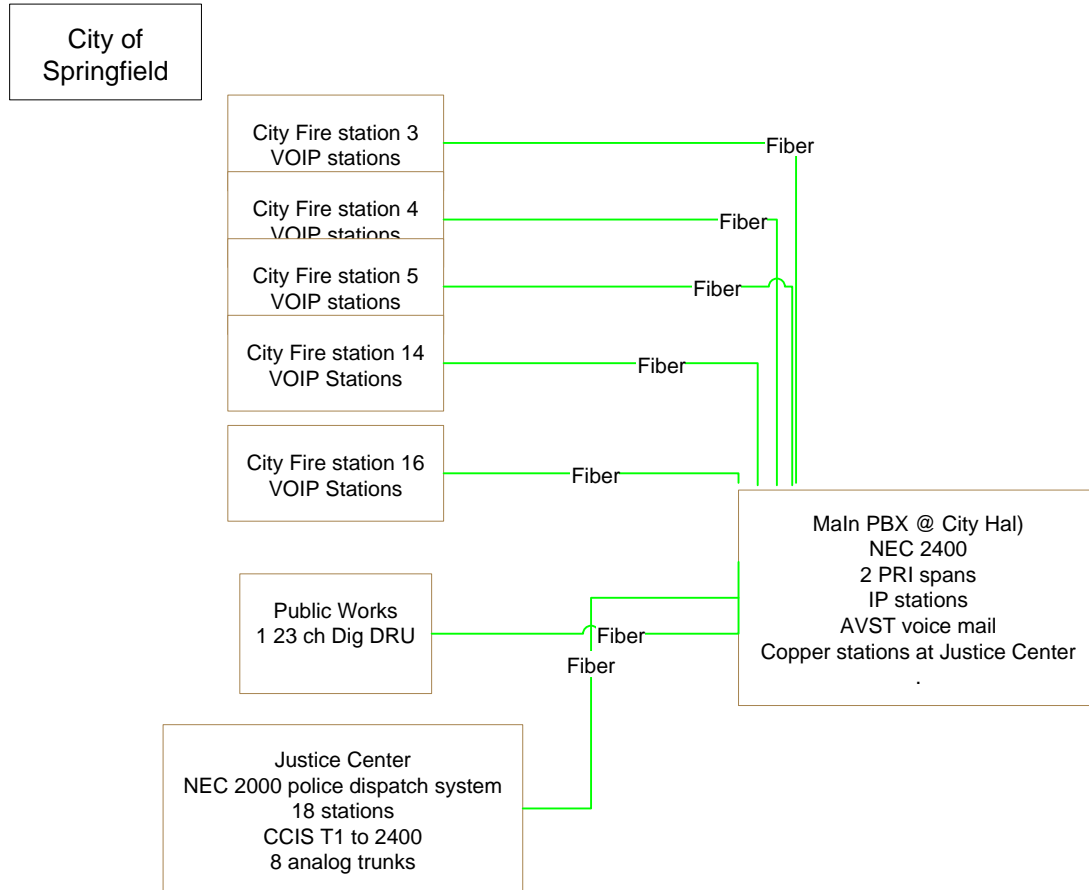
In the future, it is expected that the NEC 2000 systems will be replaced by VOIP stations off the main 8500, with the exception of Lane Transit District. Lane Transit District is expected to issue an RFP for a replacement voice system in the coming months.

Benton County/City of Corvallis

The City of Corvallis/Benton County system is a shared SV 8500. The County is in transition to VOIP for the sites shown as Extension and Juvenile. Replacement of DRU's with VOIP, and addition of the MA 4000 are priorities in Corvallis.



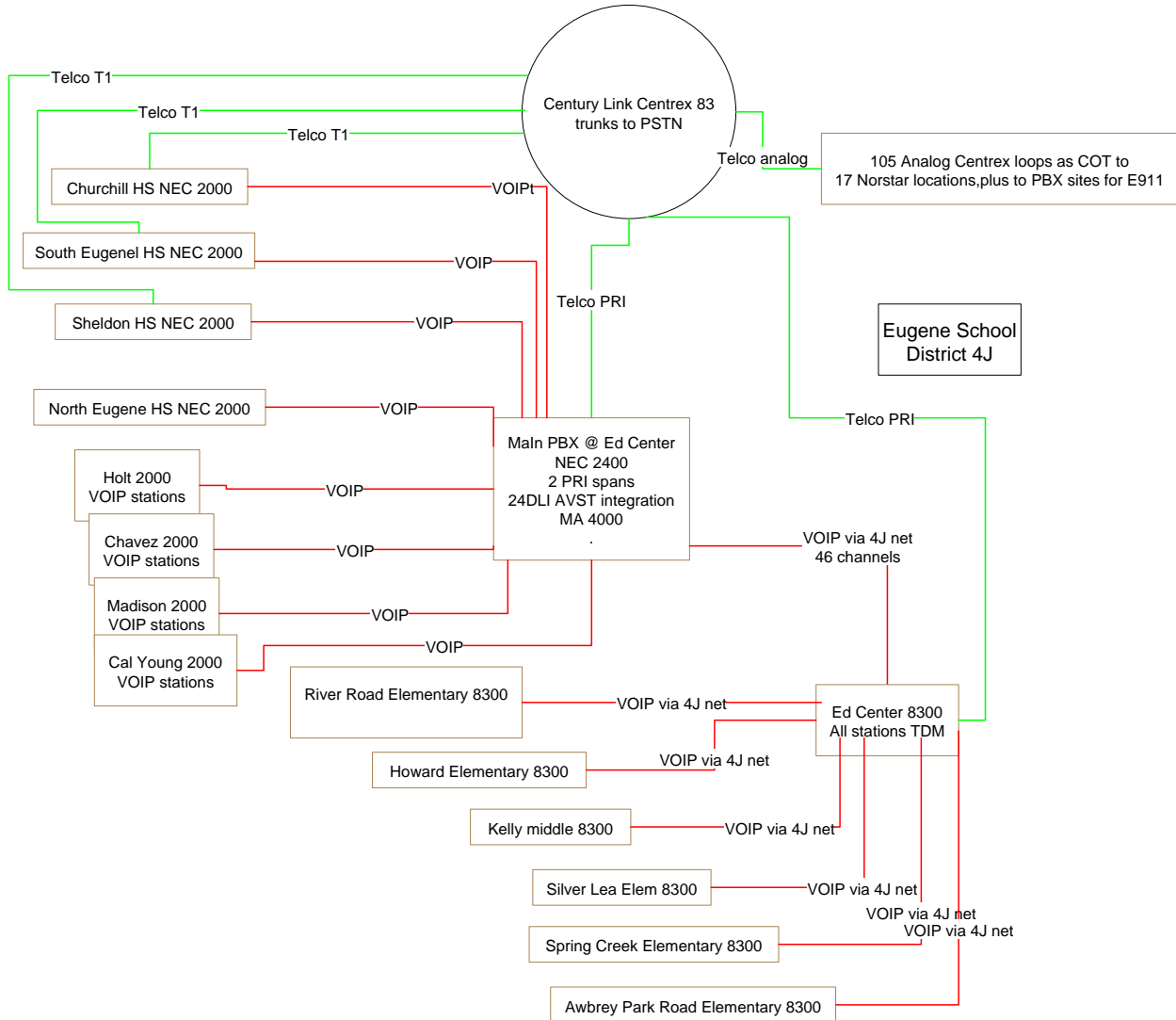
City of Springfield



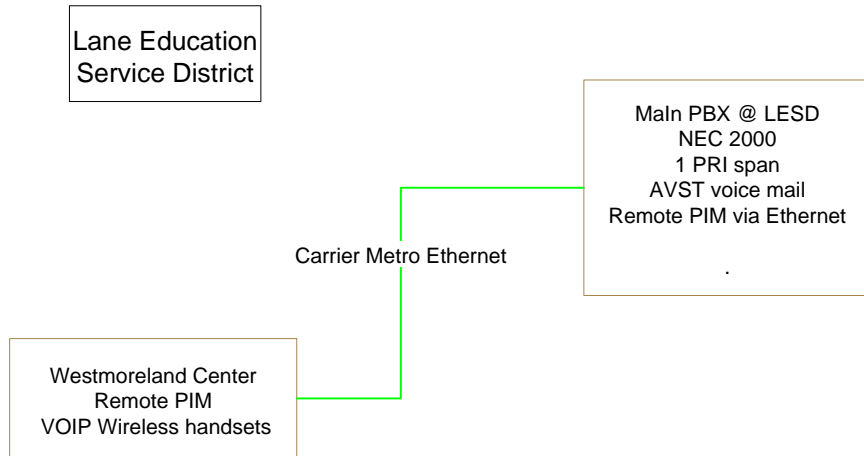
The City is considering replacement of the NEC 2000 with an 8100 for police. The DRU at Public Works is also a target for replacement.

Eugene School District 4J

The Eugene School District 4J system differs in that it utilizes Centrex for network services. The District's IPX (with AVST voice mail and two DRU's) serves as a hub for centralized voice mail for CCIS connected NEC 2000's and 8300's. All of the PBX locations are served by Centrex T1's. Lines at the hub are ISDN PRI; there are Norstar key systems by analog Centrex loops. The District has resources from a bond measure to replace the older systems, though they may elect to wait for additional resources in a future bond to implement a complete new system.

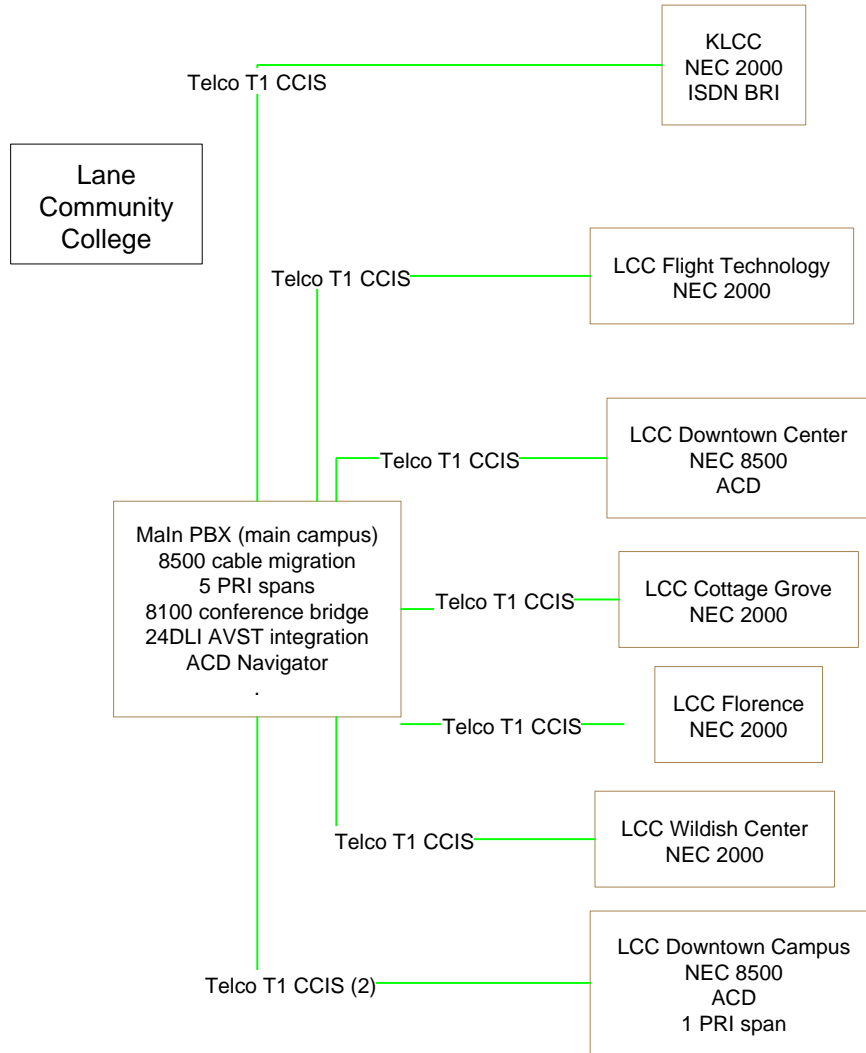


Lane Education Service District



Lane Community College

Lane Community College has an 8500 created through cable migration from a 2400, with ACD, Navigator, and AVST voice mail:



The College wishes to address operating costs by transitioning to VOIP for Florence and Cottage Grove locations.

PROCESS

LANE COUNCIL OF GOVERNMENTS, by and through its Telecommunications department (hereinafter called LCOG), reserves the right, for good and just cause, to reject any and all proposals received as a result of this Request for Proposals (RFP) when it is in the public interest to do so.

1-0 Calendar of Events

Subject to changes based in part on Vendor's actions, it is intended that the following dates will govern this procurement.

The anticipated schedule shown below expresses the present intent of LANE COUNCIL OF GOVERNMENTS. It is not a representation, agreement or promise that, in fact, any projected date will be met.

ACTION	DATE	TIME
RFP ISSUE DATE	February 5, 2013	1:00 P.M.
PRE-PROPOSAL CONFERENCE (LCOG 5 th Floor Buford Conference Room, 859 Willamette Street, Suite 500, Eugene, OR. Vendors may also participate by telephone by calling 541 682 4087.	February 14, 2013	10:30 A.M.
DEADLINE, PROTEST OF REQUIREMENTS	February 20, 2013	5:00 P.M.
PROPOSALS DUE AND PUBLIC PROPOSAL OPENING (LCOG, 859 Willamette Street, Suite 500, Eugene OR)	March 5, 2013	2:00 P.M.
VENDOR PRESENTATIONS (LCOG 5 th Floor Buford Conference Room, 859 Willamette Street, Suite 500, Eugene OR	March 14, 2013	To Be Scheduled
AWARD ANNOUNCED	March 24, 2013	

I-1 Modification or Withdrawal of Proposal: Any proposal may be modified or withdrawn at any time prior to the scheduled opening of proposals, provided that a telegraphic, electronic, facsimile or written request is received by the party receiving RFPs prior to the scheduled opening. The request shall not reveal any proposal details, but shall state only the modification, so that the proposal shall not be known until the proposal is opened. The withdrawal of a proposal shall not prejudice the right of a Vendor to submit a new proposal prior to the scheduled opening.

A proposal may not be modified, withdrawn, or canceled by the Vendor for one hundred twenty (120) days following the time and date designated for the opening of proposals and the Vendor so agrees in submitting the proposal. Should there be any reason why the contract cannot be awarded within the specified period, the time may be extended by mutual agreement between LCOG and the Vendor.

I-2 Interpretation of Contract Documents: If the Vendor has any procedural or technical questions regarding this Request for Proposal, please contact the following:

*Dan Mulholland
Telecommunications Manager
859 Willamette Street, Suite 500
Eugene, OR 97405
541 682 4422
dmulholland@lcog.org*

If a Vendor finds discrepancies in or omissions from the RFP documents, or is in doubt as to their meaning, the Vendor shall notify LCOG as described in *this PART, Section I-3, Protest of Requirements*.

Any changes to or interpretations of RFP documents shall be accomplished by Addenda which, if issued, will be posted to the Internet and may be read or downloaded from the LANE COUNCIL OF GOVERNMENTS web site, <http://www.lcog.org/rts/tele.html>. Vendors are encouraged to provide indications of interest and email addresses so they may be informed when there is an addenda. Addenda so issued are to be covered in the proposal and are part of the proposal documents. Failure to address matters contained in addenda could lead to rejection of entire proposal as non-responsive. Vendor or any third party interpretations, corrections or changes made in any other manner will not be binding, and Vendors shall not rely upon such interpretations, corrections, or changes. In case of doubt or differences of opinion as to the interpretation of provisions of the RFP, the decision of LCOG shall be final and binding upon all parties.

I-3 Protest of Requirements:

A bidder (or proposer) may protest the competitive selection process or a provision in the solicitation document if they believe the process is contrary to law or that a solicitation document is unnecessarily restrictive, is legally flawed, or improperly specifies a brand name. The protest must be timely filed within 10 calendar days before bid (RFP opening), unless specified otherwise. It needs to include: sufficient information to identify the solicitation subject to the protest, the grounds that demonstrate how one or more of the criteria were not met, evidence or supporting documentation that supports the grounds, and relief sought. If LCOG upholds a protest, it may issue an addendum or cancel the solicitation process. It should provide notice to the protestor if it rejects the protest.

The purpose of this requirement is to permit LCOG to correct, prior to the opening of proposals, requirements that may be unlawful, or from LCOG'S perspective may be improvident or which may unjustifiably restrict competition. This requirement, by permitting corrections prior to the opening of proposals, should eliminate the waste inherent in protests and in the possible rejection of all proposals. In order to have their complaints considered, Vendors must submit them within the time established in Section 1.0, Calendar of Events. LCOG may not at any subsequent time consider Vendors' objections to technical requirements or specifications. Vendors will have an opportunity to submit with their proposals certain proposed modifications to contract terms which may apply specifically to them, but are not modifications necessary to ensure lawfulness or open and fair competition overall.

I-4 Proposal Preparation and Submission: An authorized representative of the company shall sign the proposal and include the scanned signature in the proposal. The submitted electronic copy will be shared with the evaluation committee. An electronic copy shall be supplied for distribution within the agencies.

When submitting a proposal via electronic mail, please ask for confirmation of receipt; LCOG is not responsible for delays in email delivery.

Proposals must be complete and include responses to all items/information requested. Proposals must be prepared in the format stated in *PART II, PROPOSAL FORMAT AND CONTENTS*, of this RFP. Proposals which are incomplete, fail to respond to all items requested, have unauthorized changes/modifications to the RFP solicitation document or Addenda terms, or are prepared in another format, may not be considered minor informalities. Such errors may be deemed by LCOG, in its sole discretion, as rendering the proposal non-responsive and subject to rejection.

Alternatively, paper proposals along with an electronic copy may be submitted. If so, proposals must be submitted in sealed package(s) or envelope(s). To ensure proper identification and handling, all package(s) or envelope(s) must be clearly marked with "RFP: TELECOMMUNICATIONS MAINTENANCE, SUPPORT, AND REQUIREMENTS"

LANE COUNCIL OF GOVERNMENTS must receive proposals and pricing information prior to the scheduled RFP closing date and time. Late proposals and/or modifications will not be considered. Facsimile proposals or signatures shall not be accepted.

Proposals received in response to this RFP shall be opened or printed out and reviewed at LANE COUNCIL OF GOVERNMENTS, 859 Willamette Street, Suite 500, Eugene, OR 97401 (unless otherwise specified) at the scheduled closing time. Vendors who attend the opening will be informed only of the names of Vendors submitting proposals.

I-5 Alternate Responses: Vendors may submit more than one response. All such alternate responses must: 1) be submitted in the same envelope or email with the primary response, be clearly labeled as Alt 1, Alt 2, etc. and 2) comply with the requirements of the Request for Proposal except that additional responses may incorporate, by reference, repetitive information, which is provided in the primary response.

I-6 Budget: Total price for maintenance shall not exceed \$500,000 per year, excluding cost of features proposed as optional.

I-7 Price: All prices, delivery schedules, interest rates, and any other significant factors contained in the proposal (including any alternate proposals submitted) shall be valid for one hundred eighty (180) days from the proposal closing date, unless otherwise specified in the RFP. LCOG may request that Vendors extend this time in writing.

Deliveries shall be FOB destination with all transportation and handling charges included. Prices quoted shall include all costs for which LCOG shall be responsible, and unspecified costs shall be borne by the Vendor.

If quoted prices decrease prior to date of shipment, LCOG shall have the benefit of such lower price.

I-8 Evaluation of Proposals: A committee consisting of representatives of the participating agencies will evaluate the Proposals.

The Evaluation Committee participants and process are explained in *PART VI, EVALUATION METHODOLOGY*.

In evaluating the proposals and selecting a Vendor, LCOG 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 products and services;
- d. To waive any minor irregularities or informalities in any proposal;
- e. To accept that proposal which LCOG deems to be the most beneficial to the public and LCOG;
- f. To negotiate with any Vendor to further amend, modify, refine or delineate its proposal, the contract price as it is affected by negotiating the scope of the purchase, and specific contract terms;
- g. To award a contract for all or part of the products, equipment and services proposed;
- h. To negotiate and accept, without re-advertising the Request for Proposal, the proposal of the next highest scoring Vendor in the event that a contract cannot be successfully negotiated with the selected Vendor. This process may continue with any other Vendor submitting proposals before the Evaluation Committee's final recommendation is forwarded for executive approval.

I-9 Right Of Appeal: Anyone responding to this Request for Proposal who is not recommended for award by the Evaluation Committee may appeal the recommendation to the Executive Director of Lane Council of Governments.

- a. Any appeal must
 - Be made in writing,
 - Be received before the contract is awarded by the decision maker, and
 - Clearly state the grounds for the appeal and indicate what condition(s) resulted in the proposal not being recommended for award.

- Any appeal that does not comply with the applicable procedures may be rejected.
- b. Unless otherwise stated in the Request for Proposal, the appeal must be received by the LANE COUNCIL OF GOVERNMENTS not later than seven (7) calendar days after notice of the Evaluation Committee's decision was emailed. Upon receipt of the appeal, the department shall notify the Vendor recommended for award, of the appeal. That Vendor shall have three (3) calendar days from the date the appeal was filed to respond to the appeal in writing.
 - c. When an appeal is filed, the telecommunications department shall prepare a written analysis of the appeal and make a recommendation to the Executive Director.
 - d. The appellant must demonstrate their proposal was not recommended for award due to the occurrence of one or more of the following:
 1. Differing 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 responder to the Request for Proposal that represented a conflict of interest;
 4. The criteria used to evaluate the 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. Members of the Evaluation Committee shall present the issues. The appellant shall then have ten (10) minutes to specifically address the appeal criteria and the Evaluation Committee's recommendation, and the recommended Vendor shall have ten (10) minutes to respond.
 - f. The decision maker will consider the Evaluation Committee's recommendations and the allegations of the appeal before rendering a final decision. It 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 listed above occurred to the substantial prejudice of the appellant.
 - g. The appeal procedures and limits set forth herein to be followed by LCOG are discretionary and not mandatory, and failure to follow or complete the action in the manner provided shall not invalidate the decision.
 - h. An unsuccessful Vendor may also protest LCOG's decision to award the contract. All protests of award must be filed within fourteen (14) days of the notice of award, and meet the requirements of OAR 137-030-0104.

I-10 Travel: All travel expenses incurred by LCOG employees related to this acquisition shall be the responsibility of LCOG.

I-11 Acceptance of Contractual Requirements: Failure of the selected Vendor to execute a contract within one hundred eighty (180) days after notification of award may result in cancellation of the award. This time period may be extended at the option of LCOG. LCOG may then offer/award contract to the next highest Vendor and continue the process to other Vendors as necessary.

I-12 News Release: News releases pertaining to this acquisition will be made only with the prior written consent of LCOG, and then only in coordination with LCOG.

I-13 Public Records: This RFP and one copy of each original proposal received in response to it, together with copies of all documents pertaining to the award of a contract, shall be kept by LANE COUNCIL OF GOVERNMENTS and made a part of a file or record, which shall be open to public inspection. If a proposal contains any information which a Proposer reasonably believes is a trade secret under ORS 192.501(2), each sheet of such information must be marked with the following legend:

"This data constitutes a trade secret under ORS 192.501(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192."

If Proposer reasonably believes there are any other grounds for exempting information from disclosure under Oregon Public Records law, they shall mark the information accordingly. Many exemptions are conditioned upon "unless the public interest requires disclosure in a particular interest" which may depend upon official or judicial determinations made pursuant to the Public Records Law. It shall be the Proposer's obligation to establish that the information is exempt from disclosure. Proposer shall defend,

indemnify, and hold LCOG harmless from any claim or administrative appeal, including costs, expenses, and any attorney fees, related to a request to disclose information which Proposer has labeled as confidential. LCOG shall be entitled to use information marked confidential, in whole or in part, for proposal evaluation, and may make copies for this purpose. If applicable, LCOG may, in its discretion, include contract language covering procedures separating confidential information, if it is to be part of a resulting contract. Any restrictions related to information marked confidential do not apply, if LCOG has the right to or has obtained the information from another source.

The above restriction may not include manufacturer part numbers, cost, price, or other information that must be open to public inspection.

I-14 Vendor Disqualification: LCOG has and reserves the right to refuse to enter into a contract if LCOG, based upon reasonable grounds, determines that the legitimate ends of government would not be served, or for reasons set forth in ORS 279.037. After receiving notice of disqualification, the Vendor may appeal in accordance with ORS 279.043 and 279.045.

I-15 Investigation of References: LCOG reserves the right to investigate the references and the past performance of any Vendor with respect to its successful performance of similar projects, compliance with specifications and contractual obligations, its completion or delivery of a project on schedule, and its lawful payment of suppliers, sub-contractors, and workers. This investigation may occur throughout the evaluation process including up to final execution of any contract. LCOG may postpone the award or execution of the contract after the announcement of the apparent successful Vendor in order to complete its investigation. LCOG reserves its right to reject any proposal, any part of a proposal, to reject all proposals, and to cancel the award of any contract at any time prior to LCOG's execution of a contract.

I-16 Prior Acceptance of Defective Proposals: Due to the limited resources of LCOG, LCOG generally will not completely review or analyze proposals which on their faces fail to comply with the requirements of the RFP or which clearly are not the best proposals, nor will LCOG generally investigate the references or qualifications of those who submit such proposals. Therefore, neither the release of a Vendor's bid bond, the return of a proposal, nor acknowledgment that the selection is complete shall operate as a representation by LCOG that an unsuccessful proposal was complete, sufficient, or lawful in any respect.

PART II

PROPOSAL FORMAT AND CONTENTS

PROPOSAL FORMAT AND CONTENTS

Proposals must provide a concise description of the Vendor's ability to satisfy the requirements of the RFP with an emphasis on completeness and clarity of contents. A downloadable electronic file is available at www.lcog.org/ which contains this RFP in Microsoft Word format; this is intended to make it easier to respond to the RFP.

LCOG shall not be liable for any costs incurred in the preparation and presentation of proposals.

Proposals shall consist of the following items, in the order indicated:

- A. COVER LETTER AND PROPOSAL PAGES
- B. REQUIRED INFORMATION
- C. PROPOSED SOLUTION
- D. COST PROPOSAL
- E. FORMS & ADDENDA

A. COVER LETTER AND PROPOSAL PAGES

The cover letter should introduce the Vendor and contain the Vendor's location and contact information for technical, pricing and contract information. It should also specify location and hours of operation for the Vendor's office that will assume responsibility for delivery and support of the proposed system. The cover letter should summarize key points of the proposal.

Proposal pages found in *PART III, PROPOSAL PAGES*, of this RFP shall be prepared completely and shall follow the cover letter.

B. REQUIRED INFORMATION

1. A statement demonstrating the Vendor's thorough understanding of the requirements presented in this RFP.
2. List which of the products listed in this RFP are supported, and for which Vendor is an authorized dealer.
3. Any additional information the Vendor might wish to add which would allow the Evaluation Committee to more fully understand the contents of the proposal.
4. Identification of any services or capabilities not been specifically addressed in the RFP but which positively distinguish the proposal.
5. Client references for similar contracts held by the Vendor.
6. Discussion of the work that may be accomplished by Sub-Contractors, if applicable, and references for previous projects where the Vendor/Sub-Contractor was the same as that being proposed for this contract.
7. Financial information to describe the financial condition of the Vendor.
8. Company financial documents are NOT required as a part of the proposal, but LCOG reserves the right to require this information of finalists.
9. Finalists may be required to provide audited annual financial statements (including Balance Sheet Statement of Income and Changes in Retained Earnings, Statement of Changes in Financial Position, and Footnotes) dated within the last fifteen (15) months, or a certified true copy of federal income tax return for the last fiscal year.

Contractual Acceptance: Vendor must certify by affirmative statement that they accept all terms and conditions in *PART IV, CONTRACT & INSURANCE REQUIREMENTS*, in substantial conformity as stated.

C. PROPOSED SOLUTION

Describe:

- How the company provides the services. Include topics such as the trouble and MAC ticket process, from initiation to closure. Include escalation, Vendor monitoring, and customer reporting processes.
- How technician communication is handled- how trouble/MAC work is organized, communicated, and prioritized and reported.
- Project management resources and how they will be applied
- How sales and sales engineering responsibilities are covered
- Describe second level Vendor technical resources behind front line technicians.
- List qualifications of proposed technicians.
- List availability of other staff, such as project management and customer design specialists.
- Describe local (Eugene/Springfield and Corvallis) support
- Vendors may add Appendices, if desired, to present additional pertinent information.

D. COST PROPOSAL

The Vendor will provide all information necessary to fully explain its pricing policies. In particular, basis for maintenance specifics and all standard or specialized price schedules should be provided. Policies for discounting and price changes should be described fully.

For maintenance and support, price information shall be supplied in the *APPENDIX A, COST PROPOSAL* format. All supporting documentation must be prepared for any alternatives to the primary proposed solution.

For NEC and AVST products, please provide the following pricing information. As NEC and AVST adds products, the discount percentage applied to the category will be extended to the new products over the life of the agreement. Reminder-all prices are FOB agency destination, including all transportation and handling costs.

Price Detail Required

- 1) Pricing on NEC systems and parts. Please provide a complete list of all NEC part numbers, sorted by the category below. For each part number, provide the NEC list price and the proposed price to LCOG agencies.

SV8500
 SMB BUNDLES (8100 & 8300)
 NEAX2400 GROUP
 NEAX2000 GROUP
 TERMINALS 1
 APPLICATIONS 1
 APPLICATIONS 2
 APPLICATIONS 3
 NEC PROVIDED 1
 NEC PROVIDED 2
 NEC PROVIDED 3
 ASSOCIATE PROVIDED 1
 ASSOCIATE PROVIDED 2
 ASSOCIATED PROVIDED 3
 SERVERS - NECSAM

- 2) For AVST systems, (not the UM 8700), please provide discount schedule from AVST MSRP pricing for each of these three categories: Software, such as CX-E; training; and maintenance, such as Expresscare.

Prices quoted shall be deemed to include all costs for which LCOG shall be responsible. Unspecified costs will be borne by the Vendor.

All cost information shall be in U.S. dollars.

All Vendors shall assume and pay all applicable state, federal, and municipal taxes and contributions which are payable by virtue of development, delivery, and installation of the item(s) specified in their bid or changes. LCOG will provide certificates of tax exemption upon request. Vendor labor for installation and maintenance of systems is to be provided primarily by the dedicated maintenance technicians.

E. FORMS & ADDENDUM

1. Vendor Agreements - Maintenance: It is LCOG's intent to agree to contract terms which are substantially similar to those in *PART IV, CONTRACT & INSURANCE REQUIREMENTS*. Vendors must agree to execute LCOG's form of purchase agreement. Vendors must certify by affirmative statement that they accept all contract terms and conditions in *PART IV, CONTRACT & INSURANCE REQUIREMENTS*, in substantial conformity as stated. If vendors wish to propose limited modifications to these terms and conditions, they should submit any other form or document with their proposal, clearly marking only those provisions they believe should be considered and which do not materially differ from those in *PART IV, CONTRACT & INSURANCE REQUIREMENTS*. Some of the provisions LCOG specifically desires to remain as written include:

C-2	Order of Precedence
C-4	Contract Period
C-6	Vendor's Personnel
C-9	Patent & Copyright Infringement
C-24	Worker's Compensation
C-25	Free From Tax Law and Discrimination Violations
C-29	Safety Requirements
C-30	Governing Law
C-31	Lane Manual
C-32	Prime Vendor Responsibilities
C-34	Indemnity
C-46	Termination
C-49	Notices

Terms and conditions substantially inconsistent with the terms in this RFP or not acceptable to LCOG could result in rejection of the Vendor's proposal. Generally, LCOG also reserves the right to negotiate aspects of the proposed solution including but not limited to: the scope of work/performance price, to the extent it is affected by change in scope of work/performance, manner in which services are to be performed, personnel to be committed to the contract, proposed options, etc.

Vendors must indicate in their proposal that they agree to execute an agreement with LANE COUNCIL OF GOVERNMENTS. Terms of this agreement will be substantially similar to the sample *Purchase Contract* included in *PART IV, CONTRACT & INSURANCE REQUIREMENTS*. Vendors must submit any maintenance contracts and any other forms expected to be signed by LCOG in order to execute an agreement

PART III

PROPOSAL PAGES

PROPOSAL PAGES

Vendors shall use the attached PROPOSAL TO LANE COUNCIL OF GOVERNMENTS to prepare their proposals.

The proposal shall be completed, all required information provided, and the firm name and the signature of an authorized person shall be in the spaces provided. Proposal purchase price(s) shall be FOB Destination.

Other information provided by Vendors shall be organized to correspond in a linear fashion with the specifications and is to include at least sub-item numbers and titles from the specifications as identification.

1. The following forms MUST be returned in order to qualify the bid for consideration:
 - PROPOSAL TO LANE COUNCIL OF GOVERNMENTS must be signed
 - COMPANY PROFILE must be completed in its entirety.
2. The following MAY be required, as provided in this document. If required, they are to be submitted when the signed contract is returned to LCOG.

CERTIFICATE OF INSURANCE: The successful bidder shall be required to submit a standard insurance certificate as evidence of compliance with *PART IV, CONTRACT & INSURANCE REQUIREMENTS, Section C-27, Insurance*. This will be sent to LCOG with the agreement before execution by LCOG.

PROPOSAL TO LANE COUNCIL OF GOVERNMENTS

For furnishing and delivery of:
TELECOMMUNICATIONS MAINTENANCE, SUPPORT, AND REQUIREMENTS

The undersigned, as Vendor, declares that he/she has carefully examined the entire RFP Solicitation document, including all specifications, provisions, proposed instructions and all other conditions of the RFP and all addenda, and that Vendor proposes and agrees, if the proposal is accepted, that Vendor will contract with LCOG to furnish the item(s) in the manner and time herein prescribed and according to all the requirements set forth.

A Vendor may withdraw the proposal at any time prior to the day of the proposal opening. However, all proposals shall be irrevocable for a period of one hundred and eighty (180) days from the day of the proposal opening.

The Vendor hereby certifies that he/she is a resident Vendor, as defined in ORS 279.029, of the State of _____.

By initialing this space _____, Vendor hereby certifies that he/she has not discriminated against minority, women, or emerging small business enterprises in obtaining any required subcontracts.

By initialing this space _____, Vendor hereby certifies that it accepts, in substantial conformity, all contract terms and conditions in *PART IV, CONTRACT & INSURANCE REQUIREMENTS*.

By initialing this space _____, Vendor agree that in case of any discrepancies between the hard copy or the electronic copy of the RFP Solicitation document and Addenda, supplied as a part of the Vendor's proposal, the secured electronic copy of these documents maintained by LCOG shall control and take precedence.

By initialing this space _____, Vendor specifically acknowledges receipt of and agrees to be bound by Addenda numbered _____ through _____, inclusive.

By initialing this space _____, Vendor represents that it has not modified or changed terms of the RFP Solicitation document or Addenda, in either the hard copy or electronic version of its supplied proposal, except to provide proposal responses.

By initialing this space _____, Vendor acknowledges and agrees that in the event there is any discrepancy between the notarized hard copy and electronic versions, the hard copy controls and supercedes.

The Vendor represents that the proposal is made without connection to any person, firm, or corporation making a proposal for the same materials, and is in all respects fair and without collusion.

The undersigned attests that he/she has the authority to represent the firm in executing this proposal, that the information provided is true and accurate to the best of his/her knowledge, and understands that any false or substantially incorrect statement may disqualify this proposal or be cause for termination of any resulting contract.

Firm's Name (Print or type name)

Signature

Address Print or type name

Title

Telephone: _____

Email _____

COMPANY PROFILE

Vendors must provide the following information on this form or on a vendor document that includes these items:

1. Company Name: _____

2. Headquarters Location: _____

3. Location of Local Office/Supplier:
Name: _____
Phone: _____
Address: _____

4. Company Primary Business: _____

Years experience with the proposed application or similar systems: _____

Describe: _____

Total number of employees assigned to proposed application or similar systems and/or integrated environments: _____

Total number of employees assigned to proposed technology: _____

5. Number of maintenance customers: _____

6. Company Ownership: _____

7. Company's lawsuits/judgments for the last thirty-six (36) months: None ()

List: _____

8. References (add more entries as needed) (See Part II, Section B. REQUIRED INFORMATION, Item 2, Qualifications and References):

Agency	Contact Name & Telephone Number	Dates of Service

PART IV

CONTRACT & INSURANCE REQUIREMENTS

PROPOSED CONTRACT LANE COUNCIL OF GOVERNMENTS

In consideration of the covenants set forth below, _____, hereinafter referred to as Vendor, and LANE COUNCIL OF GOVERNMENTS, an association of local governments in the State of Oregon, hereinafter referred to as LCOG, mutually contract as follows:

- C-1. **Agreement:** Vendor agrees and covenants with LCOG to furnish maintenance services, in accordance with the attached specifications identified as TELECOMMUNICATIONS MAINTENANCE SUPPORT, AND REQUIREMENTS as modified by addenda and/or supporting Exhibits, and the Vendor's Proposal. All of the attached specifications together with this contract, *PART IV, INSURANCE COVERAGES REQUIRED*, constitute the contract documents.
- C-2. **Order of Precedence:** In the event of conflict or discrepancies among the contract documents, interpretations will be based on the following order of priority:
- a. This contract;
 - b. *PART IV, CONTRACT & INSURANCE REQUIREMENTS, INSURANCE COVERAGES REQUIRED*;
 - c. LCOG'S Request for Proposal;
 - d. The VENDOR'S Proposal in response to the Request for Proposal.
- C-3. **General:** LCOG certifies that it is purchasing these services and products for public agency use. LCOG certifies that the acquisition is not for remarketing. LCOG reserves the right to sign any agreement that is deemed to be beneficial to LCOG.
- C-4. **Contract Period:** The contract period is for five years, beginning July 1, 2013.
- C-5. **Cost and Payments:** The Vendor's payment is based on a firm fixed price as reflected in the cost section of the proposal. The payment schedule will be monthly for maintenance services. For equipment, upgrades, etc, payment will be made by LCOG within 30 days of invoice date, invoices to be provided by vendor based upon delivery or delivery and installation. Should LCOG dispute an amount invoiced. LCOG shall pay the undisputed portion of that invoice and promptly notify Vendor in writing of the amount and nature of the dispute and the parties shall cooperate to resolve the dispute pursuant to Section 15 of this Agreement.

LCOG is exempt from all applicable taxes and will provide evidence of exception if requested by Vendor.

For systems purchases, a system being a separately licensed product with an expected installation interval of more than 30 days, LCOG grants Vendor a purchase money security interest in the system, agrees to execute all documents necessary to perfect that interest, and, to the extent permitted by law, grants Vendor a special power-of-attorney for the purpose of executing the security interest. LCOG will not grant or convey to any other person or entity and security interest in, or permit placement of a lien on, the System unless LCOG has paid Vendor in full or in part for such system.

- C-6. **Vendor's Personnel:** Vendor shall exercise due care to choose and manage its personnel so that only suitably responsible and professionally competent representatives shall be operating in LCOG areas. Vendor technicians assigned to LCOG and working on LCOG premises shall successfully complete a criminal records check including fingerprint-based identification, conducted by LCOG or its designee at LCOG's sole expense. Vendor must acquire badges from each agency as required, which entails criminal record background checks, initially and throughout the entire contract, warranty, and maintenance periods, whether such person is engaged by the Vendor, any sub-contractor, or any supplier under the contract. Any project delay that is a direct result of LCOG's criminal records check task, provided that biographical and other

information needed for the background check is delivered to LCOG in a timely manner, shall not be considered the Vendor's responsibility.

- C-7. **Right to Interface:** LCOG shall have the right to connect the products for which it has contracted under this Agreement to any product or software developed internally, manufactured or supplied from other sources, including, but not limited to, the public switched telephone network, Agency data networks, computer software, peripheral equipment, other computers, communications equipment, mobile devices, and like equipment. LCOG's internal staff or other source supplying the other equipment or software mentioned above shall make or supervise the interconnection and supply any interface devices required.
- C-8. **Patent And Copyright Infringement:** Vendor will defend at its expense any suit brought against LCOG to the extent that it is based on an Infringement Claim that the Vendor software infringes a United States patent or copyright. Vendor will indemnify LCOG for those costs and damages finally awarded against LCOG for an Infringement Claim. Vendor will not be responsible for any indirect, special, consequential or incidental damages arising out of any Claim. Vendor's duties to defend and indemnify are conditioned upon: (i) LCOG promptly notifying Vendor in writing of such Infringement Claim; (ii) Vendor having sole control of the defense of such suit and all negotiations for its settlement or compromise; (iii) LCOG providing to Vendor cooperation and, if requested by Vendor, reasonable assistance in the defense of the Infringement Claim. Vendor shall have no obligation for any costs, fees, or expenses incurred by LCOG without Vendor's prior written consent. If LCOG reasonably concludes that its interests are not being properly protected or principles of governmental or public law are involved, it may enter any action, at its own expense. Any settlement by LCOG with the party alleging such infringement shall not be binding on the Vendor and the Vendor shall be under no obligation to pay or indemnify LCOG.

If the Vendor software becomes, or in Vendor's opinion is likely to become, the subject of an Infringement Claim, Vendor may at its option and expense procure for LCOG the right to continue using such Software, replace or modify it so that it becomes non-infringing while providing functionally equivalent performance, or grant LCOG a credit for returned software equal to the reasonable replacement costs of the software, such software as depreciated and accept its return. In addition, Vendor shall refund any license fees paid by LCOG, on a pro rata basis, and refund any prepaid amounts for service or software not yet provided. The depreciation amount will be calculated on a straight line basis, assuming a useful life of five years. LCOG may also invoke additional remedy steps as specified in *PART IV, CONTRACT & INSURANCE REQUIREMENTS, Section C-41, Termination*.

Vendor will have no duty to defend or indemnify for any Infringement Claim that is based upon (i) the combination of the equipment or software with any software, apparatus or device not furnished by Vendor; (ii) the use of ancillary equipment or software not furnished by Vendor and that is attached to or used in connection with the equipment or software; (iii) any Equipment that is not Vendor's design or formula; (iv) a modification of the Vendor Software by another party without Vendor's approval; (v) the failure by LCOG to install an enhancement release to the Vendor Software that is intended to correct the claimed infringement; (vi) any equipment, system, product or service of LCOG which otherwise infringed the U.S. patent or copyright asserted against LCOG prior to the supply of the equipment by Vendor under the agreement, (vii) automated call processing, automated voice service, automated customer service or combined live/automated systems processing used in processing or completing calls; (viii) automated bridging of more than two callers utilizing some form of "listen only" (unilateral) communication combined with some form of interactive communication; (ix) prepaid calling card products and services; (x) wireless telecommunications services and support; or (xi) "music on hold" service. The foregoing states the entire liability of Vendor with respect to infringement of patents and copyrights by the Equipment and Vendor Software or any parts thereof.

- C-9. **Title and Risk of Loss:** Title to Software will not pass to LCOG at any time. Risk of loss will pass to LCOG upon delivery of the Software and Equipment to LCOG.
- C-10. **Preservation of Vendor's Proprietary Rights and LCOG Rights to Media and Data:** Vendor owns and retains all of its Proprietary Rights. The third party manufacturer of any Equipment and

the copyright owner of any Non-Vendor Software own and retain all of their Proprietary Rights. LCOG owns title to the physical media for the software as well as all data entered into software. All intellectual property that is created or produced by Vendor under this Agreement is and shall remain the property of Vendor. Nothing in this Agreement is intended to restrict the Proprietary Rights of Vendor, any copyright owner of Non-Vendor Software, or any third party manufacturer of Equipment. This Agreement does not involve shared development rights of intellectual property or any Software that is a “work made for hire.”

Except as explicitly provided in *PART IV, CONTRACT & INSURANCE REQUIREMENTS, Section C-13, License of Software*, nothing in this Agreement will be deemed to grant, either directly or by implication, estoppels, or otherwise, any of Vendor’s Proprietary Rights. Concerning both the Vendor Software and the Non-Vendor Software, LCOG agrees not to modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, reproduce (except as provided in *PART IV, CONTRACT & INSURANCE REQUIREMENTS, Section C-14, Warranties* and the Agreement for Maintenance Services), or export the Software, or permit or encourage any third party to do so.

- C-11 **License of Software:** Software provided in conjunction with the System is licensed to LCOG under the license provided by the software publisher or by the equipment manufacturer with which the software is provided. LCOG shall, if required, execute a separate software license agreement in a form satisfactory to the software publisher or equipment manufacturer.
- C-12 **Warranties:** Vendor warrants that the products and equipment that are defined as Vendor’s responsibilities, when installed will be in good working order and will conform to the Vendor’s official published specifications.

The start of the warranty period is upon completion of installation. Vendor is not responsible for product or equipment performance deficiencies that occur during unauthorized use or are caused by ancillary equipment not furnished by Vendor attached to or used in connection with the Vendor software or equipment; or for reasons beyond Vendor’s control, such as (i) an earthquake, or other natural causes; (ii) LCOG changes to load usage or configuration outside the Specifications; or (iii) any acts of parties, excluding subcontractors, who are beyond Vendor’s control.

Vendor software and equipment is warranted at no charge to LCOG for one year following completion of the performance period for production use in accordance with the terms of this section, C-14, Warranties; Vendor labor required to support the systems is provided primarily through the dedicated technicians provided by Vendor.

These warranties do not apply to: (i) defects or damage resulting from use of the Vendor software or equipment in other than its normal and customary manner; (ii) defects or damage occurring from misuse, accident, liquids, neglect, or acts of God; (iii) defects or damage occurring from testing, maintenance, disassembly, repair, installation, alteration, modification, or adjustment not provided or authorized in writing by Vendor; (iv) defects or damage caused by LCOG’s failure to comply with all applicable industry and OSHA standards.

The warranties set forth in this agreement are in lieu of all other warranties from Vendor, unless otherwise stated in an exhibit. Otherwise, Vendor disclaims all warranties, express or implied, including, but not limited to implied warranties of merchantability and fitness for a particular purpose, or any warranty of non-infringement and any warranties arising from a course of dealing, usage, or trade practice. Vendor shall not be liable for unauthorized access to Vendor’s or LCOG’s transmission facilities or premises equipment or for unauthorized access to or alteration, theft or destruction of LCOG’s data files, programs, procedures or information through accident, fraudulent means or devices, or any other method. Vendor makes no warranty for use of the system as a component in life support systems or devices, public safety systems, or with respect to the performance of any software or firmware.

- C-13 **Annual Inventory:** Annually, performed in May and effective July 1 of each year, an equipment inventory will be performed. LCOG will perform this inventory through extraction of port

information from the PBX's, and agency records of other systems; Vendor may be asked to assist via dedicated technicians, and may audit the method used to arrive at the inventory. The purpose of the inventory is to count active hardware ports. Active hardware ports are those with a line equipment number on a circuit card or an assigned IP address, both trunks and stations. Software lines, such as virtuals and phantoms, are not part of the calculation.. Adjustments to the maintenance pricing shall be made at that time; Agencies may remove systems; LCOG may change the number of technicians. Rates shall be those determined in *Attachment C* with increases as allowed in Section C-14.

After completion of annual inventory of systems, an updated *Attachment C* shall be compiled, reflecting changes in the system from prior year detail. (In the first year, the update to Attachment C will be done in May, 2013.) LCOG will indicate acceptance through issuance of a purchase order for the year, consisting of the monthly amount, annualized.

LCOG may change coverage on station equipment and key systems, removing any and all systems at the end of any year. The number of full-time equivalent technicians can similarly be adjusted. LCOG shall notify Vendor of any such change in coverage in writing by June 1 for the next year. Contract price and subsequent invoicing will be adjusted accordingly.

Changes in port counts caused by system replacements will be captured at that time. For systems other than telephone systems, such as voice mail systems, the maintenance labor is to be covered by the dedicated technicians, or time and materials if the agency does not participate in the dedicated technician program.

C-14 **Rate Changes:** Each year, for the following year, Vendor may inform LCOG of increases in labor and related materials and services costs contained in Attachment C not to exceed three percent or the Portland Consumer Price Index, whichever is lower.

C-15 **Non Exclusive Agreement:** LCOG may purchase and install parts, equipment, and software from other Vendors, and perform moves and changes, or may contract with another person or business to provide and install equipment and parts and perform moves and changes, without affecting the terms and conditions of this agreement, provided that all work done within the PBX and CPU cabinets shall be performed by Vendor.

Such hardware and software will be maintained by Vendor (if it is a product supported by Vendor) if requested by LCOG. LCOG will obtain certifications concerning origins, revision levels, and quantities. If, in the opinion of the Vendor, the software is incomplete or in some other way will adversely impact the system, the Vendor may refuse to install the software until the deficiencies are resolved.

C-16 **Flexibility of Maintenance Coverage:** Size of Agency's phone system constantly expands and contracts with changes in services and programs. This agreement allows for additions and deletions from the systems detailed in *Attachment C*, with no change in the contract price until commencement of following year of agreement.

C-17 **Increasing Maintenance:** LCOG may elect to increase the number of locations covered at any point during the year at the rates on *Attachment C*. Agency shall give Vendor thirty (30) days prior written notice and coverage shall commence the first of the subsequent month. Agency shall bear any costs for materials incurred in returning previously uncovered equipment to manufacturer's specifications. Such costs shall be at the rates of the current Requirements Contract.

C-18 **Failure to Perform:** If Vendor fails to respond to a trouble call or fails to correct a trouble situation within the stipulated timeframe. Agency may take or require the following action:

- a. Vendor's Operations Supervisor shall deliver a NEC telephone to Agency telephone manager within 24 hours after notification of failure to perform.

- b. Have repair work, including acquisition of any necessary repair parts or equipment, performed by Agency staff or Agency contractor. If malfunction involves PBX or CPU cabinet or contents, Agency may purchase parts from another source and have Vendor technicians install them. Costs of parts and any non-Vendor labor shall be deducted from the maintenance charges due Vendor for the subsequent period.

C-19 **Account Support:** Vendor technicians, sales engineers, sales staff, or operations management staff will meet with agency telephone managers as requested by LCOG.

C-20 **Pricing:** Because manufacturer parts and models change often, along with manufacturer prices and discount levels provided to dealers, establishing fixed prices for all needs for the contract period is not possible. Vendor may increase prices based upon manufacturer list prices changes, provided discount percentages are equal or better than those proposed in the RFP response. All prices include shipping and handling. Vendor may provide pricing on new items and related products provided the same discounts or mark ups are applied. Upon request by LCOG, Vendor will reveal calculations for pricing to verify compliance with formulas used in RFP response pricing. Vendor is expected to maintain discount percentages provided and reflected in Attachment C over the life of the agreement. Complete systems may be offered at total system prices less than the cost of the individual components on the price list combined into a system. Vendor shall identify mark ups or discounts for complete systems.

C-21 **Quantities Required:** Neither LCOG or participations agencies make no guarantee that any specific quantities of equipment or software will be purchased during the period.

C-22 **Independent Vendor:** The performance of this contract is at the Vendor's sole risk. The service or services to be rendered under this contract are those of an independent Vendor who is not an officer, employee or agent of LCOG as those terms are used in ORS 30.265. Notwithstanding the Oregon Tort Claims Act or provisions of any other contract, the Vendor is acting as and assumes liability of an independent contractor as to any claims between LCOG and the Vendor. The Vendor is solely liable for any workers' 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 Vendor shall be similarly responsible.

The parties will be acting in their individual capacities and not as agents, employees, partners, joint-ventures, or associates of one another. The employees or agents of one party shall not be deemed or construed to be employees or agents of the other party for any purpose whatsoever. Nothing in this Agreement shall be interpreted as granting either party the right or authority to make commitments of any kind for the other. This Agreement shall not constitute, create, or in any way be interpreted as a joint venture, partnership or formal business organization of any kind.

C-23 **Vendor not Federally Employed, Fair Charges:** Vendor is not currently employed by the Federal government, and the amounts charged will not exceed the normal charges for the type of services provided.

C-24 **Worker's Compensation:** The Vendor, its sub-contractors and agents, and all employers working under this contract are either subject employers under the Oregon Worker's Compensation law and shall cover all subject workers pursuant to ORS 656.017, or are exempt under ORS 656.126. As a covered employer, Vendor shall provide Worker's Compensation benefits to workers performing work under this contract in accordance with Oregon law. Vendor shall require its sub-contractors and agents to comply with this law.

C-25 **Free From Tax Law And Discrimination Violations:** By execution of this contract, Vendor certifies under penalty of perjury that:

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

b. Vendor has not discriminated against minority, women, or small business enterprises in obtaining any required subcontract.

- C-26 **Employment Taxes and Workers' Compensation Payments:** Vendor is an independent Vendor and shall be responsible for any and all taxes or Workers' Compensation payments due as a result of this contract. Any sub-contractor or agent hired by Vendor shall be similarly responsible.
- C-27 **Taxes - Federal and Local:** LCOG will not be responsible for any taxes coming due as a result of this agreement, whether federal, state, or local. It is agreed that the Vendor has anticipated these taxes and included them in the proposal.
- C-28 **Safety Requirements:** Equipment, software and services shall comply with all Federal Occupational Safety and Health Administration (OSHA) and State of Oregon Electrical Safety Code requirements. Vendor shall also comply with all other applicable state and local code requirements.
- C-29 **Governing Law:** The laws of the State of Oregon shall govern the validity, construction and enforcement of this Contract, as well as the interpretation of the parties' rights and duties without reference to conflicts of laws. The parties expressly agree that any action or proceeding involving the terms and conditions of this contract must be brought in the appropriate court of the State of Oregon for Lane County.

Each party will comply with all applicable federal, state, and local laws, regulations and rules concerning the performance of this Agreement.

The Vendor agrees that, during the performance of work under this contract, it will comply with all applicable provisions of the administrative rules, laws and constitution of the State of Oregon, and all applicable local rules, regulations, and ordinances of cities, counties, municipalities, and local taxing districts.

Vendor further agrees to comply with the Civil Rights Act of 1964 (78 Stat. 252), the Regulations of the Department of Health and Human Services issued according to that Act, and provisions of Executive Order 11246, Equal Employment Opportunity, dated September 24, 1965, as amended. Vendor shall certify the existence of the Vendor's own equal employment opportunity programs in all non-exempt contracts between the Vendor and LCOG as provided in Title I, Part 60 of the Code of Federal Regulations.

- C-30 **Lane Manual:** The applicable provisions of the *Lane Manual* setting forth standard provisions for public contracts (*Lane Manual, Chapter 21.130, Standard Provisions*) are hereby incorporated by this reference and as set forth *Lane Manual, Chapter 21.130, Standard Provisions*.
- C-31 **Prime Vendor Responsibilities:** Unless otherwise stated in the RFP, Vendor shall assume responsibility for delivery, installation and configuration, (unless the item is usually customer installed), and warranty and maintenance service of all systems, and support services offered in the proposal, regardless of whether Vendor is the Vendor or the manufacturer, producer, or supplier of the equipment, software, or support services. A contract will be awarded to the prime Vendor or Vendors. If the prime Vendor is not capable of providing all goods or services, it is the prime Vendor's sole responsibility to form alliances with other firms to meet the requirements of this RFP. The prime Vendor will be responsible for performance of all involved parties. LCOG reserves the right to approve subcontractors and any changes after the award of the contract, which approval shall not be unreasonably withheld.

- C-32 **Insurance:**

- a. Insurance and Bonding: Vendor shall provide all insurance as stipulated in *this PART, INSURANCE COVERAGES REQUIRED*.
- b. Certificate of Insurance: As evidence of the insurance coverage required by this contract, the Vendor shall furnish a certificate of insurance to:

LANE COUNCIL OF GOVERNMENTS
859 Willamette Street, Suite 500
Eugene, OR 97401

The comprehensive Commercial General and Automobile liability certificate must specify as Additional Insured: State of Oregon, LANE COUNCIL OF GOVERNMENTS, its Board of Directors, agents, officers and employees with respect to the activities performed under this contract and must include a notice provision regarding cancellation. Insurance coverage required under this contract shall be obtained from insurance companies authorized to do business in the State of Oregon. If Vendor is self-insured under the laws of the State of Oregon, Vendor shall provide appropriate declarations of coverage.

- c. Continuation of Coverage: There shall be no cancellation, material change, reduction or exhaustion of aggregate limits, or intent not to renew insurance coverage without Vendor providing ten (10) days written notice to LCOG. Should any policy be canceled before final payment by LANE COUNCIL OF GOVERNMENTS to Vendor and should Vendor fail to immediately procure other insurance as specified, LANE COUNCIL OF GOVERNMENTS reserves the right to procure such insurance and to deduct the cost thereof from any sum due Vendor under this contract.
- d. Responsibility for Payment of Damages: Nothing contained in these insurance requirements is to be construed as limiting the extent of the Vendor's responsibility for payment of damages resulting from Vendor's operation under this contract.

C-33 **Indemnity**: Each party ("indemnitor") Vendor agrees to indemnify, defend, and hold the other party, LCOG, its Board of Directors, agents, officers, and employees ("indemnitee") 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 or resulting from the negligence or wrongful misconduct of Vendor, its subcontractors, employees or agents in performing or failing to perform obligations covered by this agreement. Indemnitee shall give Indemnitor prompt, written notice of any such claim, proceeding or suit and shall reasonably cooperate with Indemnitor in its defense or settlement of such claim or suit. Indemnitor shall not be required to indemnify indemnitee to the extent the damage, loss or expense is caused by indemnitee's negligent or wrongful misconduct.

C-34 **Force Majeure**: Neither party will be liable for its non-performance or delayed performance if caused by a Force Majeure, meaning an event, third-party, or circumstance that is beyond a party's reasonable control, such as an act of God, an act of the public enemy, an act of the government, strikes or other labor disturbances, hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, riots, quarantine restrictions, unusually severe weather or any other similar cause. In every case of Force Majeure, the delay must be beyond the control and without the fault or negligence of the Vendor or LCOG. If the delays are caused by the default of a sub-contractor, and if such default rises out of causes beyond the control of both the Vendor and its sub-contractor, and without the fault or negligence of any of them, the Vendor will not be liable for non-performance or delays, unless the supplies or services to be furnished by their sub-contractors were obtainable from other sources in sufficient time to permit the Vendor to meet the required schedule.

Each party will notify the other if it becomes aware of any Force Majeure that will significantly delay performance. The notifying party will give such notice promptly after it discovers the Force Majeure. If a Force Majeure occurs, the parties will execute a change order to extend the Performance Schedule for a time period that is reasonable under the circumstances.

Notwithstanding the foregoing, LCOG shall not be relieved of its obligation to make any payments, including any late payment charges that are due to Vendor hereunder.

- C-35 **Limitation of Liability:** Except for indemnification amounts for patent and copyright infringement, for personal injury, death, or property damage to the extent caused by Vendor, Vendor's total monetary liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the contract amount. Any liability of LCOG shall be limited to the lesser of the following amounts: this contract amount, Oregon Tort Claims Act, or Oregon Constitution, Article XI, Section 10, Limitations. **ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT NEITHER PARTY WILL BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF SOFTWARE, OR THE PERFORMANCE OF OBLIGATIONS BY EITHER PARTY PURSUANT TO THIS AGREEMENT.** This Limitation of Liability will survive the expiration or termination of this Agreement. No action for breach of this Agreement or otherwise relating to the transactions contemplated by this Agreement may be brought more than two years after the accrual of such cause of action.

Except with respect to indemnification obligations set out in sections C-10 and C-28, Vendor's entire liability for any other damage which may arise hereunder, for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, including vendor's negligence, or otherwise, shall be limited to the purchase price of the equipment or services giving rise to the claim. Vendor shall bear no liability for use of equipment or services provided under this agreement in connection with life support systems or devices or public safety systems. In addition, vendor shall have no liability or responsibility for interoperability or compatibility of the system with third party products or systems that LCOG may utilize in conjunction with the system or to which LCOG may connect the system.

Vendor is not an officer, employee, or agent of LCOG as those terms are used in ORS 30.265. Public liability and property damage insurance will be required if so specified in *PART IV, CONTRACT & INSURANCE COVERAGES REQUIRED*, and in accordance with the requirements set forth therein.

- C-36 **Waiver:** Failure or delay by either party to exercise any right or power under this Agreement will not operate as a waiver of such right or power. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either (i) a future or continuing waiver of that same right or power, or (ii) the waiver of any other right or power.
- C-37 **Non-Assign:** This Contract shall not be sub-contracted or assigned without the prior written consent of all parties hereto. This does not prevent the Vendor from reassigning the agreement to a successor entity or a wholly owned vendor affiliate without prior notice.
- C-38 **Successors in Interest:** The provision of this contract shall be binding upon and shall inure to the benefit of the parties to the contract and their respective successors and assigns.
- C-39 **Award to Foreign Vendor:** If the amount of this contract exceeds \$10,000, and if Vendor is not domiciled in or registered to do business in the State of Oregon, Vendor shall promptly provide all information relative to this contract required by the Oregon Department of Revenue to that Department. LCOG shall withhold final payment under this contract until Vendor has met this requirement.
- C-40 **Maintenance Services:** During the term of this Agreement, Vendor shall provide maintenance services for equipment and software as outlined in Part V, Scope of Work.

- C-41 **Use of Contract by Other Agencies; Conditions, Benefits:** Other political subdivisions and public agencies may use this competitive selection process and contract terms, with any modifications to reflect their own liability standards and limitations, as a basis for executing a separate agreement in their own name with the contractor. For agencies located in Benton and Lane Counties, permission from LCOG is required. As a condition to this use, other political subdivisions and public agencies shall be fully liable for the appropriateness of the decision to use this process or contract provisions. Any software, materials, equipment or services sold by Vendor to such agencies shall be ordered by, delivered to, and paid by the other political subdivision or public agency. By acting to contract with another political subdivision or public agency, Contractor agrees that LANE COUNCIL OF GOVERNMENTS, its Board of Directors, agents, employees and officers are expressly indemnified and held harmless by Contractor from any claim arising out of the use of LCOG's competitive process or out of the performance or failure to perform contractual obligations of the contractor, political subdivision, and public agency.
- C-42 **Authority To Execute Agreement:** Each party represents to the other that (i) it has obtained all necessary approvals, consents and authorizations to enter into this Agreement and to perform its duties under this Agreement; (ii) the person executing this Agreement on its behalf has the authority to do so; (iii) upon execution and delivery of this Agreement by the parties, it is a valid and binding contract, enforceable in accordance with its terms; and (iv) the execution, delivery, and performance of this Agreement does not violate any bylaw, charter, regulation, law or any other governing authority of the party.
- C-43 **Survivability:** Termination shall not affect the rights and obligations each party owed to the other prior to the termination date. In addition, the following provisions shall survive the termination or expiration of this agreement: Limitation of Liability, Disputes, Preservation of Vendor's proprietary rights, license of software as provided in *PART IV, CONTRACT & INSURANCE REQUIREMENTS, Section C-16, Source Code*; confidentiality and non-disclosure; patent, copyright, infringement; indemnity, hold harmless, and defense; legal remedies and damage limitations; and maintenance as provided in *PART IV, CONTRACT & INSURANCE REQUIREMENTS, Section C-36, Maintenance Services*.
- C-44 **Severability:** If any provision of this contract or any portion of a provision, is declared by a court of competent jurisdiction to be illegal, in conflict with any law, invalid or otherwise unenforceable, 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.
- C-45 **Termination:** This Agreement shall continue through the contract term until terminated as provided below. The parties may terminate this agreement, or any part of it, by mutual agreement or as provided in a. through d. below.
- a. Termination by LCOG for Convenience. LCOG may terminate this agreement, in whole or in part, for any or no reason on sixty (60) days written notice to Vendor. The parties shall comply with Section C-45.d.i. & d. ii.
 - b. Termination by LCOG for Cause. If Vendor fails to perform in accordance with this Agreement or otherwise breaches a material obligation under this Agreement, LCOG may consider Vendor to be in default, unless LCOG or a Force Majeure causes such failure. If LCOG asserts a default, LCOG will give Vendor written and detailed notice of the default and Vendor will have thirty (30) days thereafter to cure the default. If after following these default procedures, the Vendor has not cured the default, LCOG may terminate this Agreement, in whole or in part. It may also choose to extend the period to cure if the vendor, within the thirty (30) day cure period, both provides LCOG with a plan of action acceptable to LCOG and commences execution of the plan. LCOG may withhold all monies due and payable to Vendor, under this agreement, until LCOG accepts such a plan. These remedies shall be in addition to, and cumulative of, any other remedy available to LCOG, and the exercise of this remedy by LCOG shall not prejudice or impair the availability to LCOG of any other remedy at

law or in equity for breach of this Contract, subject to any contractual limitation of liability.

- c. Termination by Vendor. If LCOG fails to pay any amount when due under this Agreement or otherwise breaches a material obligation under this Agreement, Vendor may consider LCOG to be in default, unless Vendor, a subcontractor, or a Force Majeure causes such failure. If Vendor asserts a default, it will give LCOG written and detailed notice of the default and LCOG will have thirty (30) days thereafter to cure any monetary default (including interest). If after following these procedures, LCOG has not cured the default, the Vendor may terminate this Agreement. Vendor may also choose to extend the period to cure if LCOG, within the thirty (30)-day cure period, both provides the Vendor with a plan of action acceptable to the Vendor and commences execution of the plan. Vendor may stop work until it accepts the plan of action to cure a non-monetary default by LCOG. This remedy shall be in addition to, and cumulative of, any other remedy available to Vendor, and the exercise of this remedy by Vendor shall not prejudice or impair the availability to Vendor of any other remedy at law or in equity for breach of this Contract, subject to any contractual limitations of liability.
- d. Obligations on Termination. Upon termination pursuant to a. through c. above, LCOG expressly acknowledges and agrees that within thirty (30) calendar days following such termination, LCOG shall certify and warrant to Vendor, that: (i) it has destroyed or returned to Vendor all and every part of the software and documentation and all copies thereof. Upon termination, Vendor expressly acknowledges and agrees that within thirty calendar days following such termination, Vendor shall certify and warrant to LCOG, that it has destroyed or returned to LCOG all and every part of the confidential materials and all copies thereof.

Nothing in this Agreement shall prohibit LCOG from continuing to possess and use software, documentation or other equipment which are not subject of the partial termination.

- e. Payment/Financial Obligations upon Termination. Upon termination, LCOG shall pay to Vendor all amounts that have actually accrued or which are owing to Vendor as of the date of such termination in accordance with the schedules in this agreement and reasonable business judgment. In addition, Vendor shall reimburse LCOG for any advance payments for services not rendered. The parties shall agree on a mutual settlement regarding any other payments owed either LCOG or Vendor.

When the Agreement is terminated as in paragraphs C-45. a., b., or c. above, the parties are responsible for performing their obligations up to the date of termination. Vendor shall deliver all software, products, equipment, and services that it is required to provide up to the date of termination. LCOG shall pay Vendor all amounts actually owed to Vendor as of the date of the termination, in accordance with the schedules in the Agreement.

Where multiple statements of work or purchase orders are associated with this agreement, the termination of one or fewer than all of the Statements of Work shall only affect the terminated Statement (s) of Work. The remaining Statements of Work, Purchase Orders, etc, shall remain in effect.

Vendor reserves the right to suspend performance under this agreement, Purchase Order, or Statement of Work, if required, in Vendor's sole discretion, by regulation, statute, judicial action or other applicable legal requirement.

C-46 Good Faith Attempt to Resolve: The parties agree to make good faith effort to resolve any dispute prior to or during the default process.

C-47 Disputes: Vendor and LCOG will attempt to settle any claim or controversy between them arising from this Agreement through consultation and negotiation in good faith and a spirit of mutual cooperation. The respective Managers will confer and attempt to settle the dispute. The dispute will be escalated to appropriate higher-level managers of the parties, if necessary. If cooperative efforts fail, the dispute will be mediated by a mediator chosen jointly by Vendor and LCOG within thirty days after notice by one of the parties demanding mediation on the conditions

that: (i) The location shall be in Eugene, Oregon, (ii) Each party shall bear their own costs, witness fees, and attorneys fees, and (iii) Joint costs for the process (e.g. filing and mediation costs) shall be borne equally. Vendor and LCOG will not unreasonably withhold consent to the selection of a mediator. The parties may postpone mediation until they have completed any mutually agreed upon, specified, and limited discovery about the dispute.

Any claim relating to intellectual property and any dispute that cannot be resolved between the parties through negotiation or mediation within two months after the date of the initial demand for mediation may then be submitted by either party to a court of competent jurisdiction in Lane County, Oregon unless otherwise agreed. Each party consents to jurisdiction over it by such a court. The use of mediation will not be considered under the doctrine of laches, waiver, or estoppel to affect adversely the rights of either party. Either party may resort to the judicial proceedings described in this section before the expiration of the two-month, or other agreed, period if (i) good faith efforts to resolve the dispute under these procedures have been unsuccessful, or (ii) interim relief from the court is necessary to prevent serious and irreparable injury to such party or any of its affiliates, agents, employees, officers, suppliers, or sub-contractors.

- C-48 **Notices:** Whenever under this Contract one party is required or permitted to give notice to the other, such notice shall be deemed given when received by personal delivery, courier or facsimile; or up to three (3) business days after the date mailed by United States mail, certified mail, return receipt requested, postage prepaid, and addressed as follows:

In the case of Vendor:

In the case of LCOG:

Dan Mulholland	541 682 4422
Telecommunications Manager	
859 Willamette Street, Suite 500	dmulholland@lcog.org
Eugene, OR 97401	

- C-49 **Headings and Section References, Construction:** The section headings in this Agreement are inserted only for convenience and are not to be construed as part of this Agreement or as a limitation of the scope of the particular section to which the heading refers. This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either party.
- C-50 **Entire Agreement:** This Contract, including LCOG's RFP, as modified by the Vendor's Proposal, and the Appendices attached hereto constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous representations, understandings or agreements, whether oral or written, relating to the subject matter hereof. All prior or contemporaneous representations, understandings or agreements, whether oral or written, that are not expressly set forth within the four corners of this Contract are hereby deemed waived, superseded and abandoned.
- C-51 **Modifications and Amendments:** This Agreement may be altered, amended, or modified only by a written instrument signed by an authorized representative of each party.
- C-52 **LCOG Responsibilities**

LCOG will:

1. Allow Vendor access for installation, inspection, testing, maintenance and repair of the System and performance of any required activity.
2. Provide suitable building facilities for the systems in accordance with local codes, including but not limited to ducting, conduit, structural borings, etc. for cable and conductors in floors, ceilings and walls; electrical service with suitable terminals and power surge protection devices; and metallic grounds with sufficient slack in the equipment room, installed in conformity with the National Electrical Code and local codes.
3. Provide necessary heating, cooling, humidity and dust control as required by manufacturer specifications.
4. Remove existing equipment or cable that interferes with System installation.
5. Identify and disclose to Vendor concealed equipment, wiring or conditions that might be affected by or might affect the installation of the System. LCOG shall defend and hold Vendor harmless from any claim, damage or liability resulting from a failure to disclose this information.
6. Designate trash deposit points on each floor on which the System is to be installed where Vendor will place waste for removal by LCOG.
7. Cooperate with Vendor's requests for assistance in testing or installation.
8. If the System is to be connected to the public network, be solely responsible for selection, implementation and maintenance of security features for defense against unauthorized long distance calling, and for payment of long distance, toll and other telecommunications charges incurred through use of the System.
9. Immediately notify Vendor of any anticipated delay in building availability or inability to meet any of the above listed requirements.

C-53 Purchase Order: The parties acknowledge that a LCOG purchase order or similar document is intended solely to evidence LCOG's intention to purchase equipment and/or services set forth therein. Except with respect to a provision in a LCOG purchase order or similar document evidencing an intent to be bound by the terms and conditions of an Agreement between LCOG and Vendor, the terms and conditions of such LCOG purchase order or similar document shall be disregarded and of no force or effect, it being agreed that the terms and conditions of the Agreement between LCOG and Vendor shall govern.

C-54 Changes in/Additions to System:

LCOG may order additional equipment, installation and/or maintenance services pursuant to a written Amendment, LCOG purchase order or similar document, and such order shall be governed by this Agreement, and shall reference this Agreement.

The primarily labor force for system installation and maintenance are the dedicated technicians provided through this agreement. If this resource, in the judgment of Vendor and LCOG, is inadequate for the work at hand, Vendor will provide additional resources that are billable on a time and materials basis, or will arrange for OEM labor and pass through the costs to LCOG.

No Purchase Order or Change Order shall become effective as a part of this Agreement and the applicable Statement of Work, and no changes in the System shall be initiated, until the Change Order is mutually agreed upon in writing. LCOG or Vendor may also propose changes in or additions to the System, and may proceed with such changes upon execution by LCOG and Vendor of a written Change Order.

C-55 Hazardous Substances: Except as disclosed to and acknowledged in writing by Vendor, LCOG Certifies that it is not aware of the presence of any asbestos or other hazardous substance (as defined by any applicable state, federal or local hazardous waste or environmental law or regulation) at any location where Vendor is to perform services under this Agreement. If during such performance Vendor employees or agents encounter any such substance, LCOG agrees to take all necessary steps, at its own expense, to remove or contain the asbestos or other hazardous substance and to test the premises to ensure that exposure does not exceed the lowest exposure limit for the protection of workers. Vendor may suspend performance under this Agreement until the removal or containment has been completed and approved by the

appropriate governmental agency and Vendor. Performance obligations under this Agreement shall be extended for the period of delay caused by said cleanup or removal. LCOG's failure to remove or contain hazardous substances shall entitle Vendor to terminate this Agreement without further liability, in which event LCOG shall permit Vendor to remove any equipment that has not been accepted, shall reimburse Vendor for expenses incurred in performing this Agreement until termination (including but not limited to expenses associated with such termination, such as removing equipment, terminating leases, demobilization, etc.), and shall complete payment for any portion of the System that has been accepted.

IN WITNESS WHEREOF, the parties have executed this contract on this _____ day of _____, 20 ____.

Company Name.

Lane Council of Governments

By: _____
Signature

By: _____
Signature

Print or Type Name

Print or Type Name

Title

LCOG Executive Director
Title

Business ID Number

Date

Date

LANE MANUAL

CHAPTER 21.130 STANDARD PROVISIONS

STANDARD PROVISIONS

The following standard public contract clauses shall be included expressly or by reference. All References to County shall apply to Lane Council of Governments..

21.130 Standard Contract Provisions.

The following standard public contract clauses must be included expressly or by reference 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 the 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) 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 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.

(6) 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 Contractor shall pay the person 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, Contractor shall pay a laborer 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 (6) does not apply to contracts for purchase of goods or personal property.

Contractor shall give written notice to employees who work on a public contract of the number of hours per day and days per week that the employees may be required to work. This notice must be given in writing either at the time of hire or before commencement of work on the contract, or must be posted as a notice in a location frequented by employees.

(7) Contractor, any subcontractors, and all employers working under the contract are subject employers under the Oregon Workers' Compensation Law and must comply with ORS 656.017, unless exempt under ORS 656.027.

(8) Unless otherwise provided by the contract or law, the County has a right to exercise the following remedies for Contractor's failure to perform the scope of work or failure to meet established performance standards:

(a) Reduce or withhold payment;

(b) Require Contractor to perform, at Contractor's expense, additional work necessary to perform the identified scope of work or meet the established performance standards; or

(c) Declare a default, terminating the public contract and seeking damages and other relief available under the terms of the public contract or other applicable law.

(9) The contract may be canceled at the election of the 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 Contractor, if the work cannot be completed for reasons beyond the control of either 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.

(10) 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 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 will have no further obligation to 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.

(11) Unless otherwise provided by the contract or law, Contractor agrees that the County and its duly authorized representatives may have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts, copies and transcripts. Contractor shall retain and keep accessible such books, documents, papers, and records for a minimum period of (6) six years after the County makes final payment on this Agreement. Copies of applicable records must be made available upon request, and payment of copy costs is reimbursable by the County.

(12) 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 or one that is owned or controlled by or that employs a disabled veteran as defined in ORS 408.225.

(13) Contractor shall meet the highest standards prevalent in the industry or business most closely involved in providing the goods or services or personal services covered by this Agreement, except if the County has good cause and the contract provides otherwise.

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

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

(16) 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.

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

(18) Contractor certifies that Contractor has all necessary licenses, permits, or certificates of registration necessary to perform the contract and further certifies that all subcontractors will 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.

(19) Unless otherwise provided, data which originates from this contract constitutes "works for hire" as defined by the U.S. Copyright Act of 1976 and is owned by the County. Data includes, but is not 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 does not originate from this contract, but which is delivered under the contract, is 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 will be limited to the extent which Contractor has a right to grant such a license. 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. Contractor shall give the County prompt written notice of any notice or claim of copyright infringement received by Contractor with respect to any data delivered under this contract. The County will have the right to modify or remove any restrictive markings placed upon the data by Contractor.

(20) If as a result of this contract, 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, 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.

(21) 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, are applicable to all road construction projects except as modified by the bid documents.

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

(23) When a public contract is awarded to a nonresident bidder and the contract price exceeds \$10,000, 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.

INSURANCE COVERAGES REQUIRED

Vendor shall not commence any work until Vendor obtains, at Vendor's own expense, all required insurance as specified below. Such insurance must have the approval of LANE COUNCIL OF GOVERNMENTS as to limits, form and amount. The types of insurance Vendor 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:

<u>COVERAGES</u>	<u>LIMITS</u>
<input type="checkbox"/> Explosion & Collapse	<input checked="" type="checkbox"/> \$1 million per occurrence
<input type="checkbox"/> Underground Hazard	<input type="checkbox"/> Limits of the Oregon Tort Claims Act (ORS 30.370), limits presently at \$500,000 per occurrence
<input checked="" type="checkbox"/> Products/Completed Operations	
<input checked="" type="checkbox"/> Contractual Liability	
<input type="checkbox"/> Broad Form Property Damage	<input type="checkbox"/> Other
<input type="checkbox"/> Owners' & Vendors' Protective	

FORM

All policies must be of the occurrence form with combined single limit for bodily injury and property damage. The Associate Director must review any deviation from this. All claims-made forms must have the prior approval of the Associate Director. Submit a complete copy of claims-made policies and endorsements with the certificate of insurance.

X **AUTOMOBILE LIABILITY** insurance comprehensive form with limits as specified below. The coverage shall include owned, hired, and non-owned automobiles.

LIMITS

- \$1 million per occurrence
- Not less than the limits of the Oregon Tort Claims Act (ORS 30.270) presently at \$500,000 per occurrence Other

PROFESSIONAL LIABILITY insurance with limits not less than \$1,000,000.00.

X **ADDITIONAL INSURED CLAUSE** The liability insurance coverages required for the performance of this contract shall be endorsed to name LANE COUNCIL OF GOVERNMENTS, its Board of Directors, officers, agents, and employees, as additional insured with respect to the activities performed under this contract.

X **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY** as statutorily required for persons performing work under this contract. Any sub-contractor hired by Vendor 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 LCOG Associate Director at (541) 682-4435

PART V

SCOPE OF WORK

SCOPE OF WORK

Service Plan Description

1. Overview of Service

Service covers switches and key systems on an 8 to 5 basis, and includes coverage for proprietary phones, including VOIP telephones, served by a PBX or key system. Because some portions of the PBX's support 24 X 7 operations, which are on the same systems as 8X5 operations, 24 X 7 coverage is expected for these sites for emergencies.

2. Dedicated Technician Program

- Vendor provides dedicated technicians to the contract. The technician work force can be a combination of local and remote employees.
- System installations or modifications or moves and changes that occur outside of normal business hours will either be handled as employee flex time or be billable by Vendor at Vendor's current labor rates.
- Vendor's dedicated technician staff may participate in staff training, coordination, supervision, and other activities necessary to provide required support.
- Vendor is expected to cover, with a work force outside the dedicated one, technician time spent on vacation, training or other leave that cannot be covered by the remaining dedicated technicians.
- Vendor provides supervision and management of the technicians. At times, there may not be enough work for the dedicated technicians; at other times the number of hours may be higher than estimated. Vendor is expected to work with LCOG to plan activities to use Vendor resources efficiently.
- Vendor may have to bring in extra resources, or re direct local resources, at times to meet Agency needs.

2. Time and Materials Support

Time and materials support may be provided to agencies not participating in the dedicated technician program.

3. Service Deliverables

Vendor will provide the following deliverables:

a. Hours of Coverage:

Provide labor and material repair or replacement coverage for minor and major system failures from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday, excluding Vendor observed holidays. Provide 24 hour coverage for major system failures, 7 days a week, 24 hours a day, including holidays.

b. Response Time

Vendor shall comply with the following response times:

Emergency:	Within 2 hours
Non-Emergency:	Within 24 hours

Time shall begin when trouble call is placed with Vendor. Response shall be within standard service hours except emergencies. Vendor dispatcher shall inform Agency representative within 30 minutes, if not possible during the reporting call, of the expected response time.

While 24 hours is the required response time, two hours is preferred.

For example, if Agency reported a non-emergency trouble call at 4:30 p.m., Vendor would respond to that call by 4:30 p.m. the following working day. Vendor would arrive between 4:30 p.m. and 5:00 p.m. the day reported or between 8:00 a.m. and 4:30 p.m. the following working day. If the call were an emergency, Vendor would be required to respond by 8:30 a.m. the following working day, arriving on site between 4:30 p.m. and 5:00 p.m. the day reported or between 8:00 a.m. and 9:30 a.m. the following working day. Vendor shall not respond during hours in which an office is normally closed unless specifically requested by Agency.

Some maintenance work must be done after hours. This is included in this Agreement with no additional costs. The number of persons who can declare an emergency condition will be limited to the Agency's telephone manager and designated backup staff.

Vendor technicians are expected to work until 6:00 p.m. to resolve problems if they begin the repair after 4:00 p.m. assuming access is available and the repair can be made in this amount of time.

c. Trouble Correction

Vendor shall correct cause of trouble within 24 hours after arriving on site. If Vendor is unable to resolve the problem within that time, Vendor technician shall notify Agency telephone manager of the situation, the action being taken, and the expected time for correcting the trouble.

d. Communication

For all service calls, the Vendor will inform the agency telephone manager as to the results of the completed service ticket. A monthly summary report of service calls by agency is to be provided to LCOG and the Agency. Additionally, Vendor shall notify Agency of any alarm condition that cannot be readily corrected.

e. Service Tickets

Agency will be given a ticket number for each trouble incident when it is reported. Agency will need to present this ticket number to establish proof of failure to perform.

4. Moves and Changes

Move, Add and Change services, (both remote and on site) are to be performed by the dedicated technicians at no additional charge to the agencies. To the extent possible, as constrained by time availability and skills, the dedicated technicians may be used for any reasonable purpose, including training, support, installations, moves, adds, and changes, and work on other telecommunications systems, including on equipment and systems not covered under this agreement.

5. Routine Maintenance

Routine Maintenance items are also to be performed:

Semi-Annually

- Battery voltage check (all systems so equipped). Includes cleaning of terminals and connectors to assure corrosion free connections.
- Rectifier check (all systems so equipped)

Quarterly

- Back up PBX data to media maintained on Vendor premises.
- Verify internal backup on systems so equipped.

Weekly

- Weekly trouble report review
- System fault message review

Remedial Software Maintenance. Provide software patches and revision upgrade installations that have been identified by vendor as necessary during trouble resolution, as provided from the manufacturer.

6. Included components

PBX Maintenance includes repair of PBX components and contents, power supplies and batteries, software and software features including internal ACD, inter switch network, dial tone to MDF and carrier demarcation point, including connecting cable, voice volume levels, data transmission, identification and resolution of dial tone problems, and interaction with carriers as requested by Agency. NEC Digital Remote Units, CCIS, FCCS, VOIP CCIS, VOIP Fusion and VOIP stations are considered part of the PBX.

7. Materials, troubleshooting

Vendor shall provide such trouble shooting, consulting, repair services, and replacement of parts as is necessary to keep equipment operating in accordance with the original equipment manufacturer's specifications and to maintain the quality and integrity of system network and communications. This shall include carrier interaction through resolution of carrier-originated problems. All parts and materials shall be at least equal quality to the original, and may be new or used with equivalent-to-new performance characteristics. Vendor shall furnish all labor, tools, and materials necessary to comply with the terms of this agreement.

8. Major system failure.

A major system failure consists of the following:

- a. Any station that is a primary answering point for a listed directory number is incapable of answering and passing calls.
- b. More than eight station lines in any work group in a system are inoperative.
- c. Four or more trunks in any group of trunks are inoperative.
- d. Failure of SMDR output.
- e. Failure of voice mail integration.
- f. Any other occurrence which Agency telephone manager declares as an emergency, which right shall not be unreasonably used. Agency telephone manager may not declare all items on this list to be major system failures depending on the circumstance, and will advise vendor by reporting the problem as minor or reporting during the next business day. The Telephone Manager is that individual within each Agency who is responsible for management of that Agency's telephone system, whether or not that individual's actual title is "Telephone Manager."
- g. Total inability to originate voice communication
- h. Total inability to receive and process incoming voice communication

9. Minor System Failure

All other situations which are not emergencies, including, but not limited to, isolated malfunctions and malfunctions that do not seriously impair the use of the system.

10. Exclusions

Maintenance service under this Agreement does NOT include these items, however, the dedicated technician resource may be used to address these concerns at no additional cost:

- a. Materials for Services necessitated by accident, casualty, neglect, misuse, intentional acts or any cause other than normal use of the system
- b. Repairs or replacements necessitated by lightening, radio frequency interference, power disturbances, fire, flood, earthquake, excessive moisture, Harmful Code or any event occurring external to the System that directly or indirectly causes a malfunction in the System, a private network to which the system is connected, or in telephone lines, cable or other equipment connecting the system to the public telephone network. Harmful Code means any virus or machine-readable instructions and data designed to intentionally disrupt the operation of the software or hardware or intentionally destroy or damage software or hardware or data contained therein.
- c. Services necessitated by use of the system with any other device or system not approved by the OEM of the system.
- d. Repair or maintenance resulting from agency's failure to provide a suitable environment for the System or any other failure of the agency to perform its responsibilities.
- e. Materials or parts for equipment not listed in this Agreement or annual updates.
- f. Wire and cable, including all station jacks, station cable, riser cable, cross connects and jumpers, mounting cords, and inter building cable.
- g. Miscellaneous Equipment, including headsets, bells, horns, lights, buzzers, announcing units, paging systems, and other ancillary equipment.

11. Other Requirements

Vendor shall maintain a local office of the size sufficient to house staff, vehicles and inventory needed to comply with the terms of this agreement.

12. Staffing

a. Effort

Vendor shall maintain sufficient staff to meet the response times required under the terms of this agreement, which at a minimum shall include the dedicated technician FTE selected.

An Operations Supervisor, whether or not titled as such, shall be assigned to this agreement. If the supervisory function is achieved from a remote office, an assigned technician shall be designated as having the authority to make decisions in the event the supervisor is not available when needed.

Vendor staff shall receive maintenance calls from Agency during working hours and shall be reasonably available for those calls. If calls are received outside of Eugene or Corvallis, Vendor shall provide toll free calling for Agency. Vendor may use an answering service for after-hours calls, relaying the call to the on-call technician. Agency telephone managers will be provided email addresses and cell numbers of assigned technicians.

b. Staff Knowledge and Experience

All Vendor employees used under this agreement shall be knowledgeable and experienced in NEC equipment and system features. Technicians shall be manufacturer certified for the size of system on which they will be working. Technicians shall be kept current on system changes and shall be re-certified as required by manufacturer. A minimum of two technicians shall have five years experience on NEC systems. Technicians shall have available in the office, all current technical bulletins and documentation relevant to an Agency system. Documentation for covered key systems is also a requirement. AVST certification and training, as well as familiarity and competence with packet voice technology (VOIP) are also requirements.

c. Equipment

Vendor shall have available to technicians, in the local office, all tools and equipment necessary to comply with the terms and conditions of this agreement, to maintain Agency's systems according to manufacturer's recommendations, and to provide network diagnostics. Equipment and tools shall be in good repair and shall be of a type and condition to meet or exceed industry standards.

d. Inventory

Vendor shall maintain a local parts inventory of critical, unique, or frequently used parts. Critical parts include the contents of the manufacturer-recommended crash kit for each type of system covered. In addition, Vendor shall maintain in inventory trunk, station and transmission components commonly used in the systems. This equipment shall remain the property of Vendor until used and/or installed within system covered by this agreement. Parts inventory shall be on hand or restocked on a regular basis.

Vendor shall deliver any parts not stocked locally within 24 hours of equipment/part failure. Agency retains the right to inspect Vendor's inventory upon reasonable notice.

e. Documentation

Vendor shall maintain system documentation, and all current technical bulletins for all equipment, systems, and software maintained under this agreement. Further, Vendor shall provide one set of all such documentation and subsequent updates to the LCOG office if requested to do so. If Vendor must purchase such documentation from manufacturer, LCOG will bear the cost of that purchase as stipulated in the requirements contract.

Technicians will maintain paper records and computerized records of system programming, commonly known as a job specification, at the agency location.

Required Communication Processes

f. Vendor staff

The Vendor Operations Supervisor is that individual whom Vendor designates as having day-to-day responsibility for service provision, whether or not that individual has the actual title of "Operations Supervisor."

Vendor Operations Supervisor either will be in communication with the dispatch center regularly so that they have personal involvement and interaction with technical staff; or will have access to an adequate computer system that tracks the technical staff and work assigned.

Vendor operations supervisor will review unresolved trouble tickets and work assignments with technical staff on a regular basis; and will escalate problems that are not resolved on a routine basis.

Vendor shall be capable of dispatch based upon one of the following:

- i. Call originated by designated agency contact
- ii. Address of location
- iii. Identification that Agency is covered by Agreement
- iv. Location code

g. Dispatch Service

Dispatch staff shall be the single point of contact for service and moves, adds and changes. In addition to the telephone, Vendor shall provide the capability to enter tickets into Vendor's system electronically.

While performing work on Agency premises, Vendor technicians will follow agency procedures; document any changes as appropriate with on-site documentation or as required by the agency, and clean up after the work is completed.

h. Reporting

Vendor will provide monthly reports in an electronic format to LCOG that document use of time by Agency.

PART VI

EVALUATION OF PROPOSALS

All proposals received will be evaluated by a committee composed of up to one staff member per participating agency. The proposals will be rated and assigned points per category according to the criteria below:

- a. Judgment of prospective performance of services offered (60 points). Indicators may consist of:
 - 1. Number of NEC 8500/2400 and 2000/8300 station lines under maintenance in the northwest,
 - 2. Number of NEC-certified technicians in the northwest,
 - 3. Judgment of capability to adhere to response standards,
 - 4. Judgment of ability to resolve complex communications problems,
 - 5. Vendor technical resources available to support field technicians,
 - 6. Qualifications of Vendor staff,
 - 7. Organization of maintenance program, and
 - 8. Local support.
- b. Response to proposed contract provisions; desirability of options (20 Points)
- c. Cost, including maintenance and requirements purchases (20 Points)

The total possible maximum score is 100 points.

Appendix A							
LCOG Agencies		<i>Proposed Rates Per Month</i>					
<i>SITE</i>		<i>2013 Ports</i>			Materials Per Port \$	2.0 FTE Labor Per Port \$	
	System Type	Trunk Ports	Station Ports	Total Ports	Subtotal	Subtotal	Total
Eugene Lane County Main	SV 8500 cable migration	625	1387	2012			
Lane County Public Works	SV 8500	28	183	211			
Lane County Youth Svcs	2000	27	182	209			
Lane County Jail (Corrections)	SV 8500	47	230	277			
Lane County Workforce Partnership	2000	10	33	43			
Lane County Mental Health	2000	23	142	165			
Lane County Fair	2000	23	75	98			
Lane County Public Works-Delta	SV 8500	23	145	168			
Lane County Pub Works/Florence IPK	IPK	4	6	10			
Lane County Charnelton Place	SV 8500	46	201	247			
Lane County Riverstone Clinic	SV 8500	23	89	112			
Oakridge HRC IPK	IPK	4	11	15			
LCOG Cottage Grove	2000	5	19	24			
LCOG Florence	2000	8	14	22			
19 4J Schools Norstar Key System Sites	Norstar	111	713	824			
North Eugene High School	2000	47	120	167			
Churchill High School	2000	47	131	178			
South Eugene High School	2000	47	179	226			
Sheldon High School	2000	47	179	226			
Cal Young Middle School	2000	23	65	88			
James Madison Middle School	2000	23	66	89			
Chavez Elementary	2000	25	61	86			
Holt Elementary	2000	25	60	85			
4J Schools Education Center	IPX	155	348	503			
4J transportation	8300	23	36	59			
Education Center 8300 hub serving:		46		46			
Kelly	8300		57	57			
Howard Elementary	8300		41	41			
YG/Corridor	8300		51	51			
Awbrey Park	8300		50	50			
Spring Creek	8300		39	39			
River Road	8300		47	47			
City of Corvallis (shared	SV 8500 cable	43	637	680			

Benton Co)	migration						
Benton County (shared Corvallis)	SV 8500 cable migration	50	529	579			
Benton County IPK Monroe	IPK	4	11	15			
Lane ESD	2000	23	150	173			
Lane ESD Westmorland	2000 remote	6	17	23			
Lane Community College	SV 8500 cable migration	279	1287	1566			
Lane C.C. Downtown Center	2400	23	71	94			
Lanc C.C. Flight Technology	2000	10	29	39			
Lane C.C. Florence	2000	23	4	27			
Lane C. C. Wildish	2000	23	35	58			
Lane C. C. Cottage Grove	2000	23	26	49			
Lane C.C. Downtown Campus	SV 8500						
Lanc C.C. KLCC radio	8300	23	20	43			
Lane Transit District	2000	27	128	155			
City of Springfield	IPX	77	280	357			
City Of Springfield Police	2000	31	20	51			
Total				1038 4			
Time and Materials Rates for locations not shown above							
Normal business hour rate:							
Overtime rate:							
Travel charge:							