

W. S. B. I.

Memorandum Date: 10/10/2006

Order Date: 11/1/2006

TO: Board of County Commissioners

DEPARTMENT: Public Works

PRESENTED BY: Mike Russell, Assistant Maintenance Planner

AGENDA ITEM TITLE: ORDER/IN THE MATTER OF AUTHORIZING THE COUNTY ADMINISTRATOR TO SIGN AN INTERGOVERNMENTAL AGREEMENT WITH EUGENE WATER & ELECTRIC BOARD FOR ROAD AND BRIDGE MAINTENANCE SERVICES.

I. MOTION

MOVE APPROVAL OF ATTACHED BOARD ORDER AUTHORIZING THE COUNTY ADMINISTRATOR TO SIGN AND EXECUTE THE AGREEMENT.

II. AGENDA ITEM SUMMARY

In an effort to better serve its customers, Eugene Water & Electric Board (EWEB) approached Lane County to perform road and bridge maintenance services as requested and subject to County personnel and equipment availability. Since the contract amount is over \$50,000, the Board is being asked to delegate contract signature authority to the County Administrator.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

The Department is currently under similar agreements where it makes sense for Lane County to provide road and bridge maintenance services for the benefit of the public and partner agencies.

City of Eugene Maintenance Agreement – All operational maintenance activities for specified roads in River Road/Santa Clara.

City of Coburg Maintenance Agreement - All operational maintenance activities for specified roads and bio-swale grass mowing.

City of Cottage Grove Maintenance Agreement – Specified street maintenance activities on specified roads.

City of Lowell Maintenance Agreement - Specified street maintenance activities on specified roads.

B. Policy Issues

In accordance with *Lane Manual 21.124* and under the authority of *Chapter ii, Section 8 of the Lane County Home Rule Charter* and *ORS 190.010*, it is Lane County policy to offer services to other public agencies where feasible.

C. Board Goals

The following is excerpted from the Lane County Strategic Plan as it relates to this agenda item.

“Lane County Strategic Plan 2001-2005 Core Strategies

D. Revenue Development

D3: Pursue entrepreneurial opportunities

a. Lane County Government will identify services it can offer that would potentially generate additional revenue. To this end we will encourage public-private partnerships where otherwise consistent with the County’s overall policies and goals.

b. We will apply the following principles to identify entrepreneurial opportunities: (1) the service involves an area where the County has a unique capacity to provide the service; (2) or there is a need for a broad public good or service that is currently under-served and private business has not stepped in, or is not likely to, to address the need; (3) or the activity would otherwise support a public purpose; (4) the risks are acceptable.

c. We will further evaluate opportunities meeting the criteria outlined above to take into account: (1) the net revenue potential in relation to the risk; and (2) the degree of public and private business support or opposition to County involvement in the proposed enterprise. Initially we will explore opportunities in the following areas:

- Parks and recreation facilities (including campgrounds, conference centers, golf courses, and other sports facilities)*
- Road maintenance and engineering services for both government and private entities*
- Fleet services for other government agencies*
- Secure custody housing (adult and juvenile) for other jurisdictions or programs*
- Information technology services for government agencies*
- Marketing of geographic information system (GIS), property records, and other enhanced data developed by the County (including selling through intermediaries such as LCOG)*

- *Rural technology infrastructure and business support development.* “

D. Financial and/or Resource Considerations

Estimated costs are \$25,000 per year for three years, however actual costs may be more or less than this, depending on maintenance requested each year. All actual costs are to be reimbursed to the County.

The intent of the agreement is that the requested tasks would not receive higher priority than tasks needed to complete routine or emergency maintenance on Lane County roads and would be accomplished as personnel and equipment are available.

E. Analysis

In evaluating this opportunity in light of the strategic planning goals outlined above, the following conclusions are made:

D3(b)(1) the service involves an area where the County has a unique capacity to provide the service – In this case, Lane County does have the equipment and expertise to provide the service in the areas EWEB has specified.

D3(b)(2) or there is a need for a broad public good or service that is currently under-served and private business has not stepped in, or is not likely to, to address the need – At this point, EWEB’s roads and bridges are in need of maintenance and Lane County is qualified to provide the service. As public agencies, the broad public good is served by this interagency cooperation.

D3(b)(3) or the activity would otherwise support a public purpose – Safe and efficient access to EWEB facilities is the ultimate goal of this cooperation and is inherently in support of a public purpose.

D3(b)(4) the risks are acceptable – Estimated costs indicate a mild additional workload for Road Maintenance resources that would not require Lane County road priorities to be neglected in order to satisfy the agreement. Legally, the agreement contains liability and indemnity language sufficient to mutually cover Lane County and EWEB.

f. Alternatives/Options

The Board may choose to do any of the following:

1. Approve the motion stated above
2. Deny the motion
3. Take some other course of action

V. TIMING/IMPLEMENTATION

The term of the agreement will commence upon the date of execution and will terminate three years later unless the parties agree to mutually extend the termination date.

VI. RECOMMENDATION

Staff is recommending alternative/option #1, that the Board authorize the County Administrator to sign the agreement as stated in the Board Order. Given the scope of the requested activities, the Public Works Department feels this will not represent a significant additional burden on the Road Maintenance Section and will help foster positive interagency cooperative efforts.

VII. FOLLOW-UP

Upon approval, staff will process the agreement for signature and execution.

VII. ATTACHMENTS

**Draft Intergovernmental Agreement
Board Order**

IN THE BOARD OF COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

ORDER NO.

) IN THE MATTER OF AUTHORIZING THE COUNTY
) ADMINISTRATOR TO SIGN AN
) INTERGOVERNMENTAL AGREEMENT WITH
) EUGENE WATER & ELECTRIC BOARD FOR ROAD
) AND BRIDGE MAINTENANCE SERVICES.

WHEREAS, In accordance with *Lane Manual 21.124* and under the authority of *Chapter II, Section 8 of the Lane County Home Rule Charter* and *ORS 190.010*, it is Lane County policy to offer services to other public agencies where feasible; and

WHEREAS, The COUNTY and Eugene Water & Electric Board (EWEB) recognize a need to meet requirements to safeguard public welfare and to increase efficiencies in public facility maintenance; and

WHEREAS, The COUNTY and EWEB agree to cooperate with one another for the protection of the public entities and the public good as that "interest or good" has been entrusted or chartered to the individual public entity; and

WHEREAS, Intergovernmental agreements are exempt from competitive selection; and

WHEREAS, under *Lane Manual 21.124 Intergovernmental Agreements* Lane County must be compensated for the complete cost of providing all intergovernmental services; and

WHEREAS, *Home Rule Charter Chapter II Section 8. Intergovernmental Cooperation And Transfer Of Functions* states, in part:

The Board of County Commissioners may, on such terms as it deems to be in the best interests of the county, arrange by contract

- (1) for one or more functions of the county to be performed in cooperation with one or more units of local government in the county or one or more other counties or both; and
- (2) for one or more functions of the county to be transferred to and performed by one or more units of local government in the county and,
- (3) for the county to assume one or more functions of one or more units of local government in the county, provided any function thus assumed is a matter of county concern; and

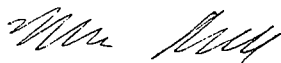
WHEREAS, the agreement is to provide fully reimbursed road & bridge maintenance services not to exceed \$75,000 over three years consistent with EWEB's request; and

WHEREAS, the Board has determined it is in the public's interest to enter into an agreement with EWEB for road & bridge maintenance tasks; **NOW THEREFORE, BE IT**

ORDERED, that the Board delegates authority to the County Administrator to sign and execute an intergovernmental agreement with EWEB consistent with this Order.

DATED this _____ day of _____ 2006.

10-23-06



Bill Dwyer, Chair
Lane County Board of Commissioners

**Intergovernmental Agreement Between
Eugene Water & Electric Board and Lane County
Bridge Maintenance Agreement
2007 - 2010**

This AGREEMENT entered into by Lane County, a political subdivision of the State of Oregon, hereinafter referred to as the COUNTY, and the Eugene Water & Electric Board, hereinafter referred to as EWEB. Though the CONTRACT is executed in 2006, no work shall start prior to 2007 or approval by the Contract Administrator (ENGINEER).

Recitals

1. In accordance with Lane Manual 21.124 and under the authority of Chapter ii, Section 8 of the Lane County Home Rule Charter and ORS 190.010, it is Lane County policy to offer services to other public agencies where feasible.
2. The COUNTY and EWEB recognize a need to meet requirements to safeguard public welfare and to increase efficiencies in public facility maintenance.
3. The COUNTY and EWEB agree to cooperate with one another for the protection of the public entities and the public good as that "interest or good" has been entrusted or chartered to the individual public entity.
4. **Lane Manual 21.124 Intergovernmental Agreements.**
 - (1) Intergovernmental agreements are exempt from competitive selection.
 - (2) Under the authority of Chapter II, Section 8 of the Lane County Home Rule Charter and ORS Chapter 190, it is the policy of Lane County to offer services to other public agencies where feasible. Lane County must be compensated for the complete cost of providing all intergovernmental services. An intergovernmental agreement should be utilized whenever possible as the implementing document. The Board in its discretion may approve waivers to the policy of complete compensation. (Revised by Order No. 98-12-2-4, Effective 12.2.98)
5. **Chapter II Section 8. INTERGOVERNMENTAL COOPERATION AND TRANSFER OF FUNCTIONS.**

The Board of County Commissioners may, on such terms as it deems to be in the best interests of the county, arrange by contract

- (1) for one or more functions of the county to be performed in cooperation with one or more units of local government in the county or one or more other counties or both,
- (2) for one or more functions of the county to be transferred to and performed by one or more units of local government in the county and
- (3) for the county to assume one or more functions of one or more units of local government in the county, provided any function thus assumed is a matter of county concern.

Agreements

For the purpose of this AGREEMENT, maintenance includes:

1. road shoulder and surface maintenance,
2. drainage maintenance, including culverts and catch basins,
3. roadside vegetation control,
4. structural maintenance of bridges,
5. snow and ice removal,
6. maintenance of road and bridge markings, signing and guardrails, including painting,
7. materials testing,
8. in-water debris removal,
9. in-water maintenance and repair,
10. right-of-way surveying,
11. right-of-way appraisals and purchasing.

For the purpose of this AGREEMENT, a task refers to a discrete job that may be part of a larger repair or project.

For the purpose of this AGREEMENT, EWEB's main contact and project coordinator is the ENGINEER.

The COUNTY agrees to:

1. Insofar as the COUNTY personnel and equipment are available, perform maintenance services for EWEB as specified, described and scheduled.
2. Within one (1) month of receiving the task list from EWEB, submit to the ENGINEER cost estimates and a schedule for each maintenance task.
3. Submit all requests for change orders to the ENGINEER.
4. Submit billings to ENGINEER for all actual costs associated with maintenance tasks or projects as described in EWEB maintenance request submittal.
5. Accept responsibility for traffic control and safety while performing maintenance tasks or projects.
6. Insofar as the COUNTY personnel and equipment are available, perform emergency maintenance services for EWEB as specified and described.

EWEB agrees to:

1. Provide the COUNTY with a list of maintenance tasks, with specifications. Typically immediately following receipt of the National Bridge Inventory System inspection reports (October or November).
2. Approve cost and schedule submissions from the COUNTY within one (1) month of receipt.

3. Reimburse COUNTY for all costs pre-approved and associated with the maintenance services performed within 30 days of billing by the COUNTY.
4. Provide the COUNTY with a list of maintenance tasks with specifications under emergency conditions.

Both parties agree to:

1. The term of this agreement commences upon the date of the final execution and terminates three years from the execution date, unless mutually agreed by both parties to extend the termination date.
2. This agreement may be terminated by either party with ninety (90) days written notice. The parties may jointly agree to terminate this agreement and upon terms of such termination. Either party may terminate this agreement at any time for any reason or for no reason with no liability.
 - A) EWEB shall pay COUNTY for work performed prior to the termination date if such work was performed in accordance with the Contract.
3. For purposes of day-to-day coordination under this agreement and mailing of notice in regard to any matter:
 - A) The COUNTY hereby designates the Lane County Bridge Supervisor, Lane County Public Works, 3040 N. Delta Highway, Eugene, OR, 97408, (541-682-6978) as its coordinator.
 - B) EWEB designates Generation Engineering's Operations and Maintenance Civil Engineer, P.O. Box 10148, Eugene, OR 97440; 541-341-8531, as its coordinator, referred to as the ENGINEER in this agreement.
4. Estimated costs are \$25,000 per year; however, actual costs may be more or less than that depending on maintenance required each year.
5. The parties shall exert every effort to cooperatively resolve any disagreements they may have under this Agreement. In the event that the parties alone are unable to resolve any conflict under this Agreement, they agree to present their disagreements to a mutually selected mediator. Each party shall bear its own costs for mediation and the parties shall share the cost of the mediator. This procedure shall be followed to its conclusion prior to either party seeking relief from a court, except in the case of an emergency.

If the dispute remains unresolved through mediation, the parties may agree in writing to another form of alternative dispute resolutions.

Liability

Each of the parties hereto agrees to indemnify and save other harmless from any claim, liability or damage from any error, omission or act of negligence on the part of the indemnifying party, its officers or employees in the performance of its responsibilities

under this agreement. The parties' indemnity and hold harmless obligations are subject to the limitations of the Oregon Tort Claims Act and the Oregon Constitution.

Lane County, Oregon

By: _____
William A. Van Vactor

Title: County Administrator

Date: _____

Eugene Water & Electric Board

By: _____
Catrin van Donkelaar, P.E.

Title: Engineer

Date _____

By: _____
J. A. Wilson, P.E.

Title: Generation Engineering Supervisor

Date _____

By: _____
James P. Wiley

Title: Electric Division Director

Date _____

APPROVED AS TO FORM

Date _____ Lane County

LANE COUNTY OFFICE OF LEGAL COUNSEL