

REQUEST FOR PROPOSAL DOCUMENT

FOR

FIRE ENGINE

YAMHILL FIRE PROTECTION DISTRICT REQUEST FOR PROPOSAL OPENING

DATE: August 28, 2019

**PLACE: Yamhill Fire Protection District
PO Box 249
275 S. Olive Street,
Yamhill, Oregon 97148**

SCHEDULE

REQUEST FOR PROPOSAL ADVERTISEDJuly 26, 2019
LAST DATE FOR SOLICITATION PROTEST.....August 17, 2019
PROPOSALS RECEIVEDAugust 28, 2019 at 1:00 p.m.
RFP OPENINGAugust 28, 2019 at 2:00 p.m.
NOTICE OF INTENT TO AWARDSeptember 9, 2019
LAST DATE TO PROTEST AWARDSeptember 15, 2019
PROPOSAL AWARDSeptember 16, 2019

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SECTION 1
REQUEST FOR PROPOSAL

Pursuant to ORS 279B.060 and District Rule 137-047-0260, governing competitive sealed proposals, Yamhill Fire Protection District (District) will receive sealed proposals no later than 1:00 p.m. on August 28, 2019, at PO Box 249 / 275 S. Olive Street, Yamhill, OR 97148, to provide one (1) 4-door, 1,500 gallon Fire Engine with a 1,500 gpm pump, foam unit and light tower. No proposals will be received or considered after this time. Contract terms, conditions and specifications shall be available for review at District Administrative Office, at the above address from July 26, 2019 to August 28, 2019.

Sealed proposals shall be sent to Brian Jensen, Fire Chief at District Administrative Office, at the above address. Proposal opening is scheduled for 2:00 p.m., on August 28, 2019, at the District's Administrative Office, address above. The District's Board of Directors may cancel this RFP or reject any proposal not in compliance with all prescribed public solicitation procedures and requirements, and may reject any or all proposals, in whole or in part, upon a finding that it is in the best interest of the District to do so, per ORS 279B.100. The District may waive any and all informalities in the public interest. No prequalification for proposers is required.

To request an RFP packet or for more information, contact Brian Jensen, Fire Chief for the District, @ brian@yamhillfire.org.

DATED this 26 day of July 2019

SECTION 2

INSTRUCTIONS TO PROPOSERS

2.1. GENERAL

Proposers shall study carefully and conform to these "Instructions to Proposers" so that their proposals will be regular, complete and acceptable.

2.2. PROPOSALS

All proposals shall be legibly written in ink or typed and comply in all regards with the requirements of this solicitation.

Proposals carrying orders or qualifications may be rejected as irregular.

All proposals shall be signed in ink in the blank spaces provided herein (Section 4). If the proposal is made by a firm or partnership, the name and address of the firm or partnership shall be shown, together with the names and addresses of the members. If the proposal is made by a corporation, it shall be signed in the name of such corporation by an official who is authorized to bind the vendor.

2.3. SUBMISSION OF PROPOSALS

Proposals must be submitted in sealed envelopes marked "CONFIDENTIAL" bearing on the outside the name and address of the bidder, the name of the project for which the proposal is submitted and the time and date of the proposal opening. If the proposal is forwarded by mail, the sealed envelope containing the proposal and marked as directed above, must be enclosed in another envelope addressed to Brian Jensen, Fire Chief, Administrative Office, Yamhill Fire Protection District, PO Box 249 / 275 S. Olive Street, Yamhill, OR 97148.

Faxed or electronically delivered proposals shall be rejected as non-responsive.

2.4. RECEIPT AND OPENING OF PROPOSALS

Proposals shall be submitted prior to the time fixed in the advertisement for proposals. Proposals received after the time so designated will be considered late proposals and will be returned unopened.

No responsibility will be attached to any official of the District for the premature opening of, or the failure to open, a proposal not properly addressed and identified.

2.5. WITHDRAWAL OF PROPOSALS

Any proposals may be withdrawn prior to opening, pursuant to District Public Contracting Rules (District Rule) 137-047-0440.

a. Vendors' proposals shall be valid for at least 30 days from RFP opening.

2.6. MODIFICATION

Any vendor may modify its proposal by registered communication at any time prior to the scheduled closing time for receipt of proposals, provided such communication is received prior to the closing time. The communication should not reveal the proposal price but should provide that the final price or terms will not be known until the sealed proposal is opened.

2.7. ACCEPTANCE OR REJECTION OF PROPOSALS

Any evidence of collusion between proposers may constitute a cause for rejection of any proposals so affected. In the award of the Contract, the Board of Directors will award the Contract to the vendor whose proposal is deemed best for the public good. The Board of Directors reserves the right to accept or reject any or all proposals. Only one proposal will be accepted from any one firm or association.

2.8. ADDENDA AND INTERPRETATIONS

Statements by District staff or its representatives are not binding on District, unless confirmed by written addendum. Addenda will issue and proposers shall receive addenda per District Rule 137-047-0430, and as follows: District will not mail notice of addenda, but will publish notice of any addenda on District's website. Addenda may be downloaded off District's website. Proposers should frequently check the District's website until closing (i.e., at least once weekly until the week of closing, and at least once daily the week of the closing period).

Requests for interpretations shall be submitted in the same manner as solicitation protests per District Rule 137-047-0730, but must be received at least **TEN (10) DAYS** prior to the date set for the opening of proposals. Any and all responsive interpretations will be provided via addenda, as set forth above. Failure of any proposer to receive any such addenda shall not relieve such proposer from any obligation under this RFP. All addenda so issued shall become as much a part of the solicitation documents, as if bound herein.

2.9. NONDISCRIMINATION

Submittal of a proposal in response to this RFP evidences proposer's agreement that, in performing the work called for by this proposal and in securing and supplying materials, proposer has not and will not discriminate against: 1) any person on the basis of race, color, religious creed, political ideas, sex, age, marital status, physical or mental handicap, national origin or ancestry unless the reasonable demands of employment are such that they cannot be met by a person with a particular physical or mental handicap; and 2) a subcontractor in the awarding of a subcontract because the subcontractor is a minority, woman, or emerging small business enterprise certified under ORS 200.055, or a business enterprise that is owned or controlled by, or that employs a disable veteran as defined in ORS 408.225.

2.10. FAILURE TO SUBMIT OFFER

If no offer is to be submitted, do not return the RFP. Failure of the recipient to offer, or to notify the issuing office that future solicitations are desired, will not result in removal of the name of such recipient from the mailing list for the type of supplies or services covered by the solicitation.

2.11. PREPARATION OF OFFERS

Proposers are expected to examine the specifications, schedules and all instructions. The District is not liable for costs associated with preparation of proposals in response to this RFP.

2.12. SOLICITATION PROTESTS

Proposers may protest the procurement process or provisions of this RFP pursuant to District Rule 137-047-0730. Protests shall include all information required by ORS 279B.405, including a statement of desired changes to the procurement process for this RFP. Such protests shall be in writing and addressed to:

Brian Jensen, Fire Chief
Yamhill Fire Protection District Solicitation Protest, Fire Engine
PO Box 249
275 S. Olive Street
Yamhill, OR 97148

Such comments shall be submitted to Yamhill Fire Protection District no later than **TEN (10)** days prior to the opening date. No comments will be accepted after that time.

2.13. EMPLOYEES NOT TO BENEFIT

No employee or elected official of District shall be permitted to receive any share or part of this Contract or any benefit that may arise therefrom.

2.14. FIRE DISTRICT FURNISHED PROPERTY

No material, labor or facilities will be furnished by the District unless otherwise provided for in this Request for Proposal.

2.15. PROTEST OF AWARD

The award by the District's Board of Directors of the Contract shall constitute a final decision of the District to award the Contract, if no written protest of the award is filed pursuant to District Rule 137-047-0740 with the District within **SEVEN (7)** calendar days from the notice of intent to award. If a timely protest is filed, the award is a final decision of the District only upon issuance of a written decision denying the protest and affirming the award. The award and any written decision denying a protest shall be sent to every proposer who provided an address. The District will not entertain a protest submitted after the time period established in this RFP.

2.16. INTERGOVERNMENTAL COOPERATIVE PURCHASING STATEMENT

The District grants to any Oregon public governmental agencies authorization to establish contracts or price agreements under the terms, conditions and prices of any contract between the awardee and the District resulting from this RFP.

2.17. PERFORMANCE BOND

The successful proposer shall provide, within thirty (30) days after receiving the bid award, a performance bond in an amount equal to 100% of the Order amount and shall be dated concurrent to, or subsequent to, the date of the Order.

2.18. PROPOSAL BOND

Each proposal shall be accompanied by a proposal bond in the amount of five percent (5%) of the proposal price. The bond is to be furnished by the company who will build the apparatus proposed. Proposal bonds by salespersons, agents of the manufacturer, or persons or entities other than the manufacturer, are not acceptable.

2.19. RESERVED RIGHTS

The District reserves the right:

- A. To reject any proposal not in compliance with all prescribed public bidding procedures and requirements.
- B. To reject for good cause any or all proposals upon the District's written finding that it is in the public interest to do so.
- C. To reject any and all proposals not meeting or differing from the specifications set forth herein.
- D. To waive any or all informalities in the proposals submitted.
- E. To consider the competency and responsibility of proposers in making any awards.
- F. In the event that two or more proposals are identical in price, fitness, availability and quality, award shall be made in accordance with District Rule 137-046-0300.
- G. In the event any proposer or proposers to whom a Contract is awarded shall default in executing said formal Contract or in furnishing a satisfactory performance bond within the time and manner herein after specified, to re-award the Contract to another proposer or proposers.
- H. To hold the three most responsive proposals and accompanying checks or bonds under consideration until the final award is made, provided that the District shall award the Contract within 30 days after the proposal opening date.
- I. To extend the deadline for submitting proposals, in according with District Rule 137-047-0430(3).
- J. To negotiate additions or deletions to apparatus.
- K. To include liquidated damages of \$150 per day for each day the apparatus is not delivered as set forth in the Contract, barring circumstances beyond Contractor's control.

2.20. RECYCLABLE PRODUCTS

Proposers shall use recyclable products to the maximum extent economically feasible in the performance of the Contract work set forth in this document, provided said recycled materials meet all applicable standards. Preference for such recycled materials shall be given pursuant to District Rule 137-046-0320.

2.21. ASBESTOS ABATEMENT LICENSE

No asbestos abatement license is required of proposers for this work under ORS 468A.710.

2.22. PRODUCT LIABILITY

Proposer shall provide a product liability coverage minimum of \$5,000,000.

2.23. CERTIFICATE OF ORIGIN

Prior to payment, proposer shall deliver to District a manufacturer's Certificate of Origin or title to the apparatus, showing them to be free and clear of any and all encumbrances.

2.24. NO WAIVER OF LEGAL RIGHTS

The District shall not be precluded or stopped by any measurement, completion and acceptance of the work and payment therefore from showing that any such measurement, estimate or certificate is untrue or incorrectly made, or that the work or materials do not conform in fact to the Contract. The District shall not be precluded or stopped, notwithstanding any measurement, estimate, or certificate, and payment in accordance therewith, from recovering from contractor and his/her surety such damages as it may sustain by reason of his/her failure to comply with the terms of the Contract. Neither the acceptance by the District, nor any representative of the District, nor any payment for acceptance of the whole or any party of the work, on any extension of time, nor any possession taken by the District, shall operate as a waiver of any portion of the Contract or of any power herein reserved, or any right to damages herein provided. A waiver of any breach of the Contract shall not be held as a waiver of any other subsequent breach of the Contract.

2.25. NEGOTIATION

The District may negotiate specification modifications and the Contract price as permitted by the District's public contracting rules.

SECTION 3
SCOPE OF WORK

3.1. SCOPE OF WORK

- The District is seeking a qualified vendor to supply, 4-door, 1,500-gallon Fire Engine with a 1,500 gpm pump, foam unit and light tower built to the specifications, below:

3.1.1. The minimum specifications of the Fire Engine are:

[Minimum Specs]

- Kenworth T-370 Tandem axle 4-door Chassis
- 1,500-gallon Water Tank
- 1,500 gpm Water Pump
- Foam Unit
- Light Tower
- Generator
- These specifications represent minimum specifications.
- Failure to meet minimum required specification(s) will result in the consideration of the total bid package with weight given to the deficiencies.
- Any exception or deviations from these minimum specifications need to be addressed in a written addendum.
- Include, as addendum, additional options / features that might be appropriate for this Fire Engine so that they can be considered prior to awarding the Contract.
- Proposers must meet the highest standards prevalent in the fire apparatus industry in proposing, and awardee in providing, the solicited Fire Engine.

[For a detail of items, see the attached Fire Engine Specifications.]

3.2 WARRANTY

The successful proposer shall warrant the apparatus to be free from defects in material and workmanship for a period of one year. Component parts, if found to be defective, shall be repaired or replaced without costs other than transportation charges. This warranty shall be exclusive of the chassis, and other trade accessories which are normally warranted by their respective manufacturers. Each proposer shall submit a copy of proposed warranties as part of each proposal complying with this provision.

3.3 BRAND NAMES

This RFP profiles a piece of equipment that fits District needs and matches others we have. The District will accept "equal or better than" materials or equipment, instead of particular identified brand names. THIS APPLIES THROUGH THE ENTIRE RFP. The District will determine acceptability in its sole discretion.

3.4. INSPECTIONS

Prior to award of Contract, the apparent successful proposer must make the finished proposed apparatus available for District inspection, at no cost to District.

A pre-construction conference will be held between the District and the successful proposer's representative prior to the signing of the Contract. District representatives will make the following inspection visits: (1) a pre-paint inspection upon completion of the body and plumbing; and (2) a final inspection upon completion of the final assembly at time of delivery. After the successful proposer is chosen, a maximum of 14 calendar days shall be allowed for the completion of the pre-construction conference, approval drawings, final specifications, and Contract.

The cost of travel, meals, and lodging of District personnel required to perform additional inspections deemed necessary by the District due to lack of adherence to the specifications or level of completion at the time of initial inspection shall be borne by the awardee.

3.5. DELIVERY

Delivery shall be _____ date certain, at vendor's location by District personnel.

3.6. ACCEPTANCE

Acceptance Requirements: Once the apparatus is delivered to the District, the Fire District shall have 168 clock hours to drive, operate and inspect the apparatus. If there are problems and/or discrepancies, the Fire District shall notify the vendor, in writing, of the problems and/or discrepancies, and the vendor shall address the issues. Once the vendor has corrected the problems/discrepancies noted in writing, the Fire District shall have 24 hours to drive, operate and inspect the apparatus to ensure there are no further problems and/or discrepancies.

3.7. TRAINING

A qualified delivery engineer, in the full employ of the manufacturer, or a factory-trained employee of the dealer, shall instruct District personnel in the operation, care, and maintenance of the apparatus upon delivery at vendor's location.

3.8. TERMS OF PAYMENT

The apparatus shall be paid for upon completion, delivery and acceptance by the District at vendor's location.

The proposal shall specify the maximum number of calendar days to deliver the completed and accepted apparatus to the District. **A liquidated damage fee of \$150 per day** will be deducted from the final payment for late delivery and acceptance. This fee is necessary, as it would be difficult to predict and determine the District's exact damages in the event of late delivery. The parties agree that this is a reasonable amount. The completion date shall be calculated from the date of Contract signing by the District. The District shall complete initial acceptance tests/inspections within two (2) weeks of delivery.

The liquidated damages provision may be partially or completely waived in circumstances beyond the control of awardee, as determined in the District's sole discretion.

Any changes to the specifications made at the District's request shall be negotiated between the District and the awardee as to the cost and delivery date of the apparatus. Said changes and negotiation shall be recorded on a "change order" and signed by both parties.

SECTION 4

PROPOSER'S RESPONSE FORM

Submitted by:

Address:

Date:

Phone number:

Fax:

E-Mail:

The undersigned, through the formal submittal of this proposal response, declares that he/she has examined all related proposal documents and read the instruction and conditions, and hereby proposes to furnish one (1) FIRE ENGINE FOR YAMHILL FIRE PROTECTON DISTRICT specified, in accordance with the proposal documents herein, for the price set forth in the proposal submittal attached hereto, and forming a part of this proposal.

All proposals are prepared for delivery at Proposer's location _____
by District personnel.

The Proposer, by his signature below, hereby represents as follows:

(a) That no Director, officer, agent or employee of Yamhill Fire Protection District is personally interested directly or indirectly in this Contract or the compensation to be paid hereunder, and that no representation, statement or statements, oral or in writing, of the District, its Directors, officers, agents, or employees had induced him to enter into this Contract and the papers made a part hereof by its terms;

(b) The Proposer and each person signing on behalf of any proposer certifies, in the case of a joint proposal, each party thereto, certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:

1. The prices in the proposal have been arrived at independently, without collusion, consultation, communication, or agreement for the purpose of restraining competition as to any matter relating to such prices with any other proposer or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in the proposal have not been knowingly disclosed by the proposer prior to the proposal deadline, either directly or indirectly, to any other proposer or competitor;
3. No attempt has been made nor will be made by the proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restraining trade;

(c) The proposer agrees to accept as full payment for the services specified herein, the amount as shown in its proposal.

(d) Proposer has not and will not discriminate against a subcontractor in the awarding of a subcontract because a subcontractor is a minority, woman, or emerging small business enterprise certified under ORS 200.055, or against a business enterprise that is owned or controlled by or that employs a disabled veteran as defined in ORS 408.225.

The names of the principal officers of the corporation submitting this proposal, or of the partnership, or of all persons interested in this proposal as principals are as follows:

Name, Title
Name, Title
Name, Title

Proposer [is / is not (circle one)] a resident proposer, as defined in ORS 279A.120. If not a resident proposer, proposer's resident state is _____.

Proposer hereby agrees to comply with all applicable Oregon public contracting code provisions, as more specifically described in the attached Contract and associated Exhibit D.

(If Sole Proprietor or Partnership)

In witness hereto, the undersigned has set his (its) hand this day ____ of _____, 2019.

Name of Firm: _____

Signature of Bidder: _____

(If Corporation)

In witness whereof the undersigned corporation has caused this instrument to be executed by its duly authorized officers this _____ day of _____, 2019

Name of Corporation: _____

By: _____

Title: _____

CONTRACT MANAGER: _____

Name Title: _____

Telephone number: _____

PROPOSAL CONTENTS AND FORMAT

4.1. INSTRUCTIONS

Proposers must observe submission instructions and be advised as follows:

- 4.1.1. Proposals must be submitted in a sealed envelope bearing on the outside the name and address of the vendor, the name of the project for which the proposal is submitted and the time and date of the scheduled opening.
- 4.1.2. If the proposal is forwarded by mail, the sealed envelope containing the proposal and marked as directed above, must be enclosed in another envelope addressed to Brian Jensen, Fire Chief, Yamhill Fire Protection District, PO Box 249 / 275 S. Olive Street, Yamhill, OR 97148.
- 4.1.3. **FIVE (5)** copies of the proposal are to be supplied. One set of Signed Originals shall be included and clearly identified as such.
- 4.1.4. District reserves the right to solicit additional information or proposal clarification from the vendors, or any one vendor, should the District deem such information necessary.
- 4.1.5. All questions regarding the request for proposal process shall be directed, during regular business hours, to:

Brian Jensen, Fire Chief

Email: brian@yamhillfire.org

Ph. # (503) 662-4653

Cell: (503) 680-8022

- 4.1.6. If a vendor is unable or unwilling to meet any District RFP requirement, an explicit statement to that effect must be made in the proposal as an exception. An alternative must be submitted.
- 4.1.7. This Request for Proposals and all supplemental information in response to this RFP will be a binding part of the final Contract entered into by the selected vendor and District.
- 4.1.8. If a proposal is accepted and the Contract awarded, but the proposer fails or neglects to execute the Contract or give the required bond within 10 days after award, the proceeds of the proposal bond may be retained by the District as liquidated damages for such failure or neglect. As the damages involved herein would be difficult to ascertain, the parties are setting the damages in this manner, both agreeing that the bond proceeds would represent the District's actual damages and would not be assessed as a form of penalty.

SECTION 5

EVALUATION PROCEDURES

5.1. PROPOSAL EVALUATION PROCESS

Only those proposals providing sufficient information for the District to evaluate the criteria set forth in Section 5.2 will be deemed responsive. Award will be made to the proposer whose proposal will serve the interest of the District, as determined by the highest scoring proposal.

5.2. CRITERIA FOR EVALUATION

The Fire Chief shall apply the following criteria in making a recommendation to the Board for the award of the Contract. The criteria are listed from the most to least desirable, and the proposal will be evaluated accordingly.

The first item that will be looked at is the delivery date. Proposals that meet these criteria will then be graded on the points system listed below. If no proposal meets the delivery date, the District may, in its sole discretion, eliminate delivery date as a criteria and rank proposals on the remaining weighted criteria.

- | | | |
|--|-------|----|
| A. Does proposal meet 275 to 320 - day delivery | Yes | No |
| B. Does proposal meet specification (0-100 pts.) | _____ | |
| C. Apparatus Quality (0-100 pts.) | _____ | |
| D. Service Capabilities (0-100 pts.) | _____ | |
| E. Cost (0-100 pts.) | _____ | |
| F. Warranty Provisions (0-50 pts.) | _____ | |
| G. References (0-50 pts.) | _____ | |

5.3. CONTRACT AWARD

Submittal of a proposal evidences Proposer's intent to execute and be bound by the terms of the attached Contract. The District will enter into Contract negotiations regarding any open terms with the highest ranked proposer. During negotiations the District may require any additional information it deems necessary to clarify the approach and understanding of the requested services. Any changes agreed upon during Contract negotiations will become part of the final Contract. The negotiations will identify a level of work and associated fee that best represents the efforts required. If the District is unable to come to terms with the highest rated proposer, discussions shall be terminated and negotiations will begin with the next highest rated proposer. The District may reject any and all proposals.

5.4. ANNOUNCED AWARDEE

It is anticipated that a tentative Contract awardee will be announced in writing to each proposer within 30 days from the date of opening. The announcement is for procedural purposes only and does not create any contractual rights in the tentative Contract award. The District will not be bound to the tentative Contract awardee until a Contract has been executed by the District, following the close of the period for submitting protests of this selection.

YAMHILL FIRE PROTECTION DISTRICT

FIRE ENGINE CONTRACT

Based upon the proposal submitted, Yamhill Fire Protection District (District) and _____ (Vendor) hereby enter into a Contract for the purchase of a Fire Engine in accordance with the specifications and proposals provided. The date proposed delivery is the ____ day of _____, 20___. All terms of the following exhibits are hereby incorporated into this Contract by reference, and Vendor agrees to comply with each:

- (1) Exhibit A – Request for Proposals
- (2) Exhibit B – Vendor’s Proposal, including information supplied by manufacturer
- (3) Exhibit C – Performance Bond
- (4) Exhibit D – ORS 279B requirements

In the event of a conflict, the terms of this Contract will control, followed by Exhibits A, D, B, then C, in that order. (Collectively referred to herein as “Contract Documents”.)

1. **Payments.** The Vendor shall be paid by District, upon the submission and acceptance of the Fire Engine, in the manner stipulated in the Contract Documents.
2. **Public Contracting Requirements.** Vendor shall comply with all federal, state and local laws and ordinances applicable to the work under this Contract, including, without limitation, applicable provisions of the Oregon Public Contracting Code including ORS 279B.020, 279B.220, 279B.230, and 279B.235, as more particularly set forth in Exhibit D, attached hereto and incorporated herein by this reference.
3. **Indemnification.** To the extent permitted by law, Vendor shall protect, defend, indemnify and hold the District harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, fines, penalties, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, trademark or trade secret, arising out of the work performed or goods provided under this Contract or Vendor’s violation of any law, ordinance or regulation, Contract provision or term, or condition of regulatory authorization or permit, except for damages resulting from the sole negligence of District.
4. **Arbitration.** If any disputes, disagreements, or controversies arise between the parties pertaining to the interpretation, validity, or enforcement of this Contract, the parties shall, upon the request of District, submit such dispute to binding arbitration under the Oregon Uniform Arbitration Act, ORS 36.600 *et seq.* Arbitration shall be requested by delivering to the other party a written request for arbitration. Within five (5) days of receipt of such request, the parties shall select a mutually agreeable arbitrator and designate mutually agreeable rules of arbitration. If the parties cannot agree upon an arbitrator within five (5) days, an arbitrator may be appointed by the presiding judge of the Yamhill County Circuit Court, upon the request of either party submitted in accordance with ORS 36.645. If the parties have not designated mutually agreeable rules of arbitration at such time as the arbitrator is appointed, the arbitrator shall adopt rules for the arbitration. The arbitrator’s decision shall be binding upon the parties.

5. **Litigation Expenses.** If suit, action or arbitration is brought either directly or indirectly to rescind, reform, interpret or enforce the terms of this Contract, the prevailing party shall recover and the losing party hereby agrees to pay reasonable attorney's fees incurred in such proceeding, in both the trial and appellate courts, as well as the costs and disbursements. Further, if it becomes necessary for District to incur the services of an attorney to enforce any provision of this Contract without initiating litigation, Vendor agrees to pay District's attorney fees so incurred. Such costs and fees shall bear interest at the maximum legal rate from the date incurred until the date paid by losing party.
6. **Applicable Law.** This Contract shall be construed in accordance with Oregon law.
7. **Consent to Jurisdiction.** The parties hereby consent to jurisdiction of the Yamhill County Circuit Court, Yamhill County, Oregon, over all legal matters pertaining to this Contract including, but not limited to, its enforcement or interpretation.
8. **Assignment.** No assignment, delegation or subcontracting of any right, obligation or duty under this Contract is allowed without the prior written consent of the other party.
9. **Entire Agreement.** This Contract constitutes the entire agreement of the parties. This Contract is not effective unless and until it is approved, signed and dated by an authorized representative of each party. No modification of this Contract shall be binding unless reduced to writing and signed by both parties. The delivery of signatures to this Contract or any amendment by facsimile transmission shall be binding as original signatures.
10. **Severability.** If any part, term or clause of this Contract is held by a court or arbitrator to be unenforceable, of no effect or in conflict with any law, the validity of the remaining provisions and clauses shall not be affected and the rights and obligations of the parties shall be construed and in force as if the Contract did not contain the particular part, term or clause held to be unenforceable.
11. **Read and Understood.** Each party indicates that it has completely read all such documents and agrees that they are to be incorporated herein and to be followed by all parties. Payment is to be made upon receipt and acceptance of a fire apparatus that complies with all specifications, unless otherwise specifically detailed in Contract documents.

DATED this ____ day of _____, 2019.

YAMHILL FIRE PROTECTION DISTRICT

VENDOR

By: _____
 Brian Jensen, Fire Chief

By: _____
 Vendor

EXHIBIT D

ORS CHAPTER 279B PUBLIC CONTRACTING REQUIREMENTS FOR THE PURCHASE OF GOODS AND SERVICES

- (1) Contractor shall pay promptly, as due, all persons supplying labor or materials for the prosecution of the work provided for in the Contract, and shall be responsible for such payment of all persons supplying such labor or material to any Subcontractor. ORS 279B.220(1).
- (2) Contractor shall promptly pay all contributions or amounts due the Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the Contract. ORS 279B.220(2).
- (3) Contractor shall not permit any lien or claim to be filed or prosecuted against the Contracting Agency on account of any labor or material furnished and agrees to assume responsibility for satisfaction of any such lien so filed or prosecuted. ORS 279B.220(3).
- (4) Contractor and any Subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.617. ORS 279B.220(4).
- (5) Contractor agrees that if Contractor fails, neglects or refuses to make prompt payment of any claim for labor or materials furnished to the Contractor or a Subcontractor by any person in connection with the Contract as such claim becomes due, the District may pay such claim to the persons furnishing the labor or material and charge the amount of payment against funds due or to become due Contractor by reason of the Contract. The payment of a claim in the manner authorized hereby shall not relieve the Contractor or his surety from his or its obligation with respect to any unpaid claim. If the District is unable to determine the validity of any claim for labor or material furnished, the District may withhold from any current payment due Contractor an amount equal to said claim until its validity is determined and the claim, if valid, is paid.
- (6) Contractor shall promptly, as due, make payment to any person, copartnership, association, or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service. ORS 279B.230(1).
- (7) All subject employers working under the contractor are either employers that will comply with ORS 656.017, or employers that are exempt under ORS 656.126. ORS 279B.230(2).
- (8) Contractor shall pay employees for overtime work performed under the Contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 USC 201, *et seq*). ORS 279B.235(3).

- (9) The Contractor must give notice to employees who work on this Contract in writing, either at the time of hire or before commencement of work on the Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and the days per week that the employees may be required to work. ORS 279B.235(2).
- (10) All sums due the State Unemployment Compensation Fund from the Contractor or any Subcontractor in connection with the performance of the Contract shall be promptly so paid. ORS 701.430.
- (11) The Contract may be canceled at the election of District for any willful failure on the part of Contractor to faithfully perform the Contract according to its terms.
- (12) Contractor certifies its compliance with all applicable state and local tax laws, including but not limited to ORS 305.385, ORS 305.620, ORS Chapters 316, 317 and 318 and Chapter 539 Oregon Laws 2015 (SB 675). Contractor certifies it will continue to comply with all such tax laws during the term of this Contract. Contractor's failure to comply with such state and local tax laws prior to executing this Contract or during the term of this Contract constitutes a default for which District may terminate this Contract and seek damages and other relief available under the terms of this Contract or applicable law.
- (13) Contractor certifies that it has not discriminated and will not discriminate against minorities, women, emerging small business enterprises or a business enterprise that is controlled by or that employs a disabled veteran as defined in ORS 408.225 in obtaining any required subcontractors. ORS 279A.110.
- (14) As used in this section, "nonresident contractor" means a contractor that has not paid unemployment taxes or income taxes in the state of Oregon during the 12 calendar months immediately preceding submission of the bid for the Contract, does not have a business address in this state, and stated in the bid for the Contract that it was not a "resident bidder" under ORS 279A.120. When a public Contract is awarded to a nonresident contractor and the Contract price exceeds \$10,000, the 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 bidder may receive final payment on the public Contract. ORS 279A.120.