



Karen Brisbin
Justice Of The Peace

CLACKAMAS COUNTY JUSTICE COURT

11750 SE 82ND AVE SUITE D | HAPPY VALLEY, OR 97086

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Contract with Tyler Technologies to provide a Court Management and Financial Application Software System

Purpose/Outcomes	Upgrade Justice Court software to meet operational needs
Dollar Amount and Fiscal Impact	Contract not to exceed \$292,827 plus annual \$52,265 recurring fees for software licenses and support
Funding Source	Justice Court Budget/General Fund
Duration	1 year with recurring annual fees for software maintenance as long as the system is used by the County
Previous Board Action/Review	Approved in 2015-16 budget
Strategic Plan Alignment	This aligns with Performance Clackamas Goals of building public trust through accountability and transparency.
Contact Person	Karen Brisbin, Justice of the Peace
Contract No.	N/A

BACKGROUND: There have been challenges meeting the court's operational needs using the current court software management program. A new software program will be compatible with the County's use of Windows 10, be able to maintain accurate violator contact information, produce accurate conviction records, produce reliable image records and financial reports improving transparency and reliability.

A Request for Proposals was advertised on July 29, 2015. Three (3) responsive and responsible proposals were received at the time of closing on August 27, 2015: Tyler Technologies, Courtview Justice Solutions and Journal Technologies.

An evaluation committee composed of representatives from Justice Court, Technology Services and the Treasurer evaluated each response based on the criteria listed in the Request for Proposals. Based on those criteria, the proposal from Tyler Technologies was the one best meeting the needs of the County for this project.

The total not to exceed amount of the contract is \$292,827 with annual recurring fees for software licenses and support of \$52,265. The annual fees will continue as long as the Tyler system is used by the County.

RECOMMENDATION: County staff respectfully recommends that the Board approve the contract with Tyler Technologies to provide a Court Management and Financial Application Software System for Justice Court and delegate authority to sign recurring software maintenance agreements as long as the system is used by the County.

This contract has been reviewed as to form by County Counsel
Respectfully submitted,

Karen Brisbin
Justice of the Peace

Placed on the Agenda of June 29, 2016 by the Procurement Division

**CONTRACT TO FURNISH AND INSTALL A
COURT MANAGEMENT AND FINANCIAL APPLICATION SOFTWARE SYSTEM**

TYLER TECHNOLOGIES INC.

BOARD OF COUNTY COMMISSIONERS

JOHN LUDLOW, Chair

JIM BERNARD, Commissioner

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TOOTIE SMITH, Commissioner

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County Administrator**

**George Marlton
Director, Purchasing Division**

**Tom Averett
Buyer**

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SECTION 1
CONTRACT FORM

PERSONAL SERVICES CONTRACT TO PROVIDE AND INSTALL A COURT MANAGEMENT AND FINANCIAL APPLICATIONS SOFTWARE SYSTEM

This contract is entered into by and between Clackamas County, hereinafter referred to as the COUNTY, and **TYLER TECHNOLOGIES INC.**, hereinafter called the CONTRACTOR, to provide the services described in Section II below. The following provisions shall comprise this contract:

I. COMPENSATION:

A. The COUNTY agrees to compensate the CONTRACTOR on a fee-for-service basis at the rates outlined in the Proposal Response. This agreement covers the period from contract execution through **March 31, 2017**. Total maximum contract compensation not to exceed **\$374,844(\$345,092 for products, services and equipment, \$29,762 for estimated Travel expenses)**. Ongoing annual software licensing fees will continue as long as the system remains in use by the County. Licensing fees for the first year are \$52,265 and included in the contract total. Invoices presented in connection with this Agreement are due and payable upon presentation. All charges will be billed monthly where appropriate.

B. The CONTRACTOR is engaged hereby as an independent contractor and will be so deemed for purposes of the following:

- 1.** The CONTRACTOR will be solely responsible for payment of any Federal or State taxes required as a result of this agreement.
- 2.** This contract is not intended to entitle the CONTRACTOR to any benefits generally granted to COUNTY employees. Without limitation, but by way of illustration, the benefits which are not intended to be extended by this contract to the CONTRACTOR are vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if the CONTRACTOR is presently a member of the Public Employees Retirement System).
- 3.** The CONTRACTOR shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which are incorporated herein by this reference.

All subject employers working under this contract are either employers that comply with ORS 656.017 or employers that are exempt under ORS 656.126.

C. The CONTRACTOR certifies that, at present, he is not a program, County or Federal employee.

D. The CONTRACTOR certifies that he is not a member of the Public Employees Retirement System.

II. SERVICES TO BE PROVIDED:

The contractor shall do, perform, and carry out in a satisfactory manner, the work as described in the Request for Proposals issued **July 29, 2015**, the Proposal Response received at the time of closing on **August 27, 2015**, **Provide and Install a Court Management and Financial Applications Software System** for the rates established therein. The CONTRACTOR shall meet the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services.

III. CONSTRAINTS:

The CONTRACTOR agrees:

A. If the services to be provided pursuant to Section II are professional and/or consultative, the CONTRACTOR shall not delegate the responsibility for providing those services to any other individual or agency.

B. This contract is expressly subject to all applicable State contracting laws and further, it is expressly subject to the debt limitation of Oregon counties set forth in Article XI, section 1 of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with laws are deemed inoperative to that extent.

C. The CONTRACTOR shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to the Work under this Contract. CONTRACTOR must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of CONTRACTOR'S warranty, in Section 32 of this Contract that CONTRACTOR has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle COUNTY to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

- a.** Termination of this Contract, in whole or in part;
- b.** Exercise of the right of setoff, and withholding of amounts otherwise due and owing to CONTRACTOR, in an amount equal to COUNTY'S setoff right, without penalty; and
- c.** Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. COUNTY shall be entitled to recover any and all damages suffered as the result of CONTRACTOR'S breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and COUNTY may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

D. The CONTRACTOR represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:

- a.** All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- b.** Any tax provisions imposed by a political subdivision of this state that applied to CONTRACTOR, to CONTRACTOR'S property, operations, receipts, or income, or to CONTRACTOR'S performance of or compensation for any work performed by CONTRACTOR;
- c.** Any tax provisions imposed by a political subdivision of this state that applied to CONTRACTOR, or to goods, services, or property, whether tangible or intangible, provided by CONTRACTOR; and
- d.** Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

E. Pursuant to the requirements of ORS 279B.220 through 279B.230 and Article XI, Section 10 of the Oregon Constitution, the following terms and conditions are made a part of this agreement:

- 1.** CONTRACTOR shall:

- a. Make payments promptly, as due, to all persons supplying to CONTRACTOR labor or materials for the prosecution of the work provided for in this agreement.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such CONTRACTOR incurred in the performance of this agreement.
- c. Not permit any lien or claim to be filed or prosecuted against Clackamas County on account of any labor or material furnished.
- d. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

2. If CONTRACTOR fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to CONTRACTOR or a subcontractor by any person in connection with agreement as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due CONTRACTOR by reason of this agreement.

CONTRACTOR shall promptly, as due, make payment to any person or partnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention incident to sickness and injury to the employees of CONTRACTOR, of all sums which CONTRACTOR agrees to pay for such services and all monies and sums which CONTRACTOR collected or deducted from the wages of CONTRACTOR'S employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

F. The CONTRACTOR shall indemnify, save harmless and defend the COUNTY, its officers, commissioners, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by negligence of the CONTRACTOR or the CONTRACTOR'S employees.

G. CONTRACTOR'S failure to perform the scope of work identified or failure to meet established performance standards shall be subject to consequences that include but are not limited to:

- 1. Reducing or withholding payment;
- 2. Requiring the CONTRACTOR to perform, at the CONTRACTORS expense, additional work necessary to perform the identified scope of work or meet the established performance standards; or
- 3. Declaring a default, terminating the contract and seeking damages and other relief under the terms of the contract or other applicable law.

IV. INSURANCE REQUIREMENTS

A. Commercial General Liability

Required by COUNTY Not required by COUNTY

The CONTRACTOR agrees to furnish the COUNTY evidence of commercial general liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence / \$2,000,000 general annual aggregate for personal injury and property damage for the protection of the COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to this contract. The COUNTY, at its option, may require a complete copy of the above policy.

B. Automobile Liability

Required by COUNTY Not required by COUNTY

The CONTRACTOR agrees to furnish the COUNTY evidence of personal automobile liability insurance in the amount of not less than \$500,000 combined single limit for bodily injury and property damage for the protection of the COUNTY, its officers, commissioners, and employees against liability for damages because of bodily injury, death or damage to property, including loss of use thereof in any way related to this contract. The COUNTY, at its option, may require a complete copy of the above policy.

C. Professional Liability

Required by COUNTY Not required by COUNTY

CONTRACTOR agrees to furnish COUNTY evidence of professional liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this Agreement. COUNTY, at its option, may require a complete copy of the above policy.

D. If the CONTRACTOR has the assistance of other persons in the performance of this contract, and the CONTRACTOR is a subject employer, the CONTRACTOR agrees to qualify and remain qualified for the term of this contract as an insured employer under ORS 656. The CONTRACTOR shall maintain employer's liability insurance with limits of \$100,000 each accident, \$100,000 disease each employee, and \$500,000 each policy limit.

E. If any other required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of thirty-six (36) months or the maximum time period the CONTRACTOR'S insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided it's retroactive date is on or before the effective date of this contract.

F. The insurance, other than the professional liability and workers compensation insurance, shall include the COUNTY as an expressly scheduled additional insured. Proof of insurance must include a copy of the endorsement showing the COUNTY as a scheduled insured. Such insurance shall provide sixty (60) days written notice to the COUNTY in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the COUNTY under this insurance. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by the COUNTY shall be excess and shall not contribute to it.

G. Contractor shall require that all of its subcontractors of any tier provide insurance coverage (including additional insured provisions) and limits identical to the insurance required of the Contractor under this Agreement, unless this requirement is expressly modified or waived by the County.

V. SUBCONTRACTS:

The CONTRACTOR shall be responsible to the COUNTY for the actions of persons and firms performing subcontract work. The CONTRACTOR certifies that the CONTRACTOR has not discriminated against minority, women, or emerging small business enterprises, or a business enterprise that is owned or controlled by or that employs a disabled veteran, in obtaining subcontracts.

VI. TERMINATION: AMENDMENT:

- A.** This contract may be terminated by either party upon at least TEN (10) days written notice to the other.
- B.** This contract and any amendments to this contract will not be effective until approved by the Board of County Commissioners of Clackamas County.

This contract supersedes and cancels any prior contracts between the parties hereto for similar services. This contract contains exhibits, Licensing Agreements, Proposals and other items as attached, all of which are hereby included as part of the total agreement between the parties. To the extent there is a conflict between this contract and any other document, the terms of this contract shall govern and apply.

By their signatures below, the parties to this contract agree to the terms, conditions, and content expressed herein. The Contractor agrees to perform the scope of work as described in the contract documents and meet the performance standards set forth therein.

TYLER TECHNOLOGIES INC.
One Tyler Drive
Yarmouth, ME 04096

CLACKAMAS COUNTY
BOARD OF COMMISSIONERS

Authorized Signature

Chair

Name, Title

Date

Date

Recording Secretary

Telephone/Fax Number

Reviewed as to form

County Counsel

*Entity Type/State of Formation

*Oregon Business Registry #

*required if using an assumed business name, or if the business is a LLC, a LLP, a Corporation or other business type required by statute to be registered with the Oregon Secretary of State's Office