

Contract Review Sheet

PW-5433-23

Price Agreement #: PW-5433-23 Amendment #: _____
 Contact: Jeniffer Scales Department: Public Works Department
 Phone #: (503) 588-5036 Date Sent: _____
 Title: John Deere - Parts and Service

Contractor's Name: _____

Term - Date From: April 5, 2023 Expires: April 14, 2027

Original Contract Amount: \$400,000.00 Previous Amendments Amount: _____

Current Amendment: _____ New Contract Total: _____ Amd% _____

Incoming Funds Federal Funds Reinstatement Retroactive Amendment greater than 25%

Source Selection Method: 10-0400 Cooperative Cooperative# 011723-JDC

Description of Services or Grant Award

Public Works purchases parts, supplies and repair services for our heavy equipment from Pape Machinery (John Deere Financial). Sourcewell Contract #011723-JDC. PO#912381 for \$400,000 for parts and repairs. In FY 2022-23, Public Works has had several large repairs to its equipment that accumulatively exceed \$100,000.

Desired BOC Session Date: 6/14/23 BOC Planning Date: 6/6/23

Files submitted in CMS: 5/10/2023 Printed packet & copies due in Finance: 5/16/2023

BOC Session Presenter(s) _____

FOR FINANCE USE

Date Finance Received: _____ Date Legal Received: _____

Comments: Y

REQUIRED APPROVALS

DocuSigned by:
Camber Schlag
CSB2F3DE257E444...

 Finance - Contracts 5/16/2023

 Date

DocuSigned by:
Jeniffer Scales
EC27CEB8C3DC4C3...

 Contract Specialist 5/17/2023

 Date

DocuSigned by:
Jane E Vetto
DCFC580480E483...

 Legal Counsel 5/17/2023

 Date

DocuSigned by:
Jan Fritz
DC16351248DE4EC...

 Chief Administrative Officer 5/17/2023

 Date



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: 6/14/23

Department: Public Works Agenda Planning Date: 6/6/23 Time required: 10

Audio/Visual aids

Contact: Dennis Mansfield Phone: ext. 3111

Department Head Signature: Brian Nicholas (DocuSigned by: 9793BA7ACD8D443)

TITLE: John Deere Financial - Pape Machinery

Issue, Description & Background: Public Works purchases parts, supplies and repair services from Pape Machinery for our heavy equipment fleet. We are using the Sourcewell contract #011723-JDC.

Financial Impacts: These are FY 2022-23 budget approved expenditures in the 130 Public Works Fund.

Impacts to Department & External Agencies: Public Works has several John Deere manufactured equipment that Pape Machinery is certified to maintain and provide replacement parts for. In FY 2022-23, Public Works has had several large repairs to its equipment that accumulatively exceed \$100,000.

Options for Consideration: 1. Approve the Contract Purchase Order#912381 in the amount of \$400,000 for terms through 4/14/27. 2. Not approve the purchase order.

Recommendation: Staff recommendation is approval of the purchase order.

List of attachments: 1. PO#912381 2. Signature page 3. Contract Review Sheet

Presenter: Dennis Mansfield

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to: Dennis Mansfield - dmansfield@co.marion.or.us Jeniffer Scales - jscales@co.marion.or.us



**MARION COUNTY
FINANCE DEPARTMENT**

PO Box 14500
555 Court St NE #4247
Salem, OR 97309-5036

JOHN DEERE FINANCIAL
PO BOX 4450
CAROL STREAM, IL 60197-4450

Purchase Order		
Purchase Order No	Revision	Page
		PO#912381
Ship To: MARION COUNTY PUBLIC WORKS 5155 SILVERTON RD NE SALEM OR 97305		
Bill To: MARION COUNTY PUBLIC WORKS 5155 SILVERTON RD NE SALEM OR 97305		

Customer Acct No	Supplier No 568151	Order Date / Buyer	Revised Date / Buyer
Payment Terms	Ship Via	F.O.B	
Freight Terms	Request Or Deliver To ERIC STEWART	Confirm To / Telephone ()	

Line #	Description	Delivery Date	Quantity	Unit	Unit Price	Total
1	PARTS, SUPPLIES AND REPAIRS FOR HEAVY EQUIPMENT IN FLEET. SOURCEWELL CONTRACT #011723-JDC RUNS 4/5/23 - 4/14/27		1			\$400,000
Total						\$400,000

INSTRUCTIONS TO VENDOR

1. Please direct any questions concerning this purchase order to invoiced department.
2. Purchase Order Number must appear on all invoices, packages and shipping documents relating to this order.
3. Separate invoices must be submitted for each Purchase Order.
4. Do not overship or substitute.
5. If you cannot supply the items requested, please notify issuing authority at once.

Note : Please notify department contact (above) for all inquiries regarding this Purchase Order

DocuSigned by:
Camber Schlag
Authorized By: _____
C5B2E3DE257E44A
MARION COUNTY PURCHASING
NOT VALID Unless Signed By Purchasing

MARION COUNTY TERMS AND CONDITIONS

1. INSPECTIONS: County may inspect and test the Goods and related Services (collectively, Goods). County may reject non-conforming Goods and require Contractor to correct them without charge or deliver them at a reduced price, as negotiated. If Contractor does not cure any defects within a reasonable time, County may reject the Goods and cancel the PO in whole or in part. This paragraph does not affect or limit County's rights, including its rights under the Uniform Commercial Code, ORS chapter 72 (UCC).

2. DELIVERY: Deliveries will be F.O.B destination. Contractor shall pay all transportation and handling charges. Contractor is responsible and liable for loss or damage until final inspection and acceptance of the Goods. Contractor remains liable for latent defects, fraud, and warranties.

3. PAYMENT: County shall pay Contractor within 30 days from (i) the date the Goods are delivered and accepted or (ii) the date the invoice is received, whichever is later

4. COUNTY PAYMENT OF CONTRACTOR CLAIMS: If Contractor does not pay promptly any claim that is due for Goods or Services furnished to the Contractor by any subcontractor in connection with this PO, the County may pay such claim and charge that payment against any payment due to the Contractor under this PO. The County's payment of a claim does not relieve the Contractor or its surety, if any, from their obligations for any unpaid claims.

5. WARRANTIES: Contractor agrees to perform its services with that highest standard of care, skill and diligence normally provided by a professional individual in the performance of similar services. Contractor represents and warrants that the Goods are new, current, and fully warranted by the manufacturer. Delivered Goods will comply with specifications and be free from defects in labor, material and manufacture. All UCC implied and expressed warranties are incorporated in this PO. Contractor shall transfer all warranties to the County.

6. TERMINATION OF PO: The PO may be terminated under the following conditions: a. By written mutual agreement of both parties. Termination under this provision may be immediate. b. Upon fifteen (15) calendar days written notice by either Party to the other of intent to terminate. c. The County may terminate all or part of this PO for the following reasons: (1) If the consultant fails to provide services, or fails to meet the performance standards as specified in this PO (or subsequent modifications of this PO), within the time specified herein or any extension thereof. Termination under this provision may be immediate; (2) If the consultant fails to start services on the date specified by Marion County in this PO or subsequent modifications to this contract. Termination under this provision may be immediate. (3) Failure of the consultant or Marion County to comply with the provisions of this PO and all applicable federal, state, and local laws and rules may be cause for termination of this contract. Such termination shall be without prejudice to any obligations or liabilities of either party accrued prior to such termination. If this PO is terminated by either party, for reasons other than breach of contract, the County agrees to pay to the consultant all costs and expenses associated with services satisfactorily provided to the effective date of termination.

7. INDEMNIFICATION. The Contractor shall save harmless, indemnify, and defend the County for any and all claims, damages, losses and expenses including but not limited to reasonable attorney's fees arising out of or resulting from Contractor's performance of or failure to perform the obligations of this PO to the extent same are caused by the negligence or misconduct of Contractor or its employees or agents.

8. GOVERNING LAW, VENUE: This PO shall be governed by the laws of the State of Oregon. Any action commenced in connection with this PO shall be in the Circuit Court of Marion County. All rights and remedies of the County shall be cumulative and may be exercised successively or concurrently. The foregoing

is without limitation to or waiver of any other rights or remedies of the County according to law.

9. FORCE MAJEURE: Neither party is responsible for delay or default caused by an event beyond its reasonable control. County may terminate this PO without liability to Contractor upon written notice after determining the delay or default reasonably prevents performance of this PO.

10. SUBCONTRACTING/NONASSIGNMENT. No portion of the PO may be contracted or assigned to any other individual, firm or entity without the express and prior approval of the County.

11. MAINTENANCE, RETENTION, AND CONFIDENTIALITY OF RECORD. The Contractor agrees to establish and maintain records and statistics as follows: Financial records, which indicate the number of hours of service provided under this contract and other appropriate records pertinent to this contract shall be retained for a minimum of three (3) years after the end of the contract period. If there are unresolved audit questions at the end of the three-year period, the records must be maintained until the questions are resolved. To the extent applicable, client records shall be kept confidential in accordance with ORS 179.505, OAR 309-11-020, 45 CFR 205.50 and 42 CFR Part 2.

12. COMPLIANCE WITH APPLICABLE LAWS: The Contractor shall comply with all applicable Federal, State and local laws, rules and regulations. All provisions of ORS 279B (Public Contracts and Purchasing) are incorporated herein to the extent applicable to POs.

13. WORKERS' COMPENSATION: Contractor shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless exempt under ORS 656.126(2). Contractor shall ensure that its Subcontractors, if any, comply with these requirements.

14. SAFETY AND HEALTH REQUIREMENTS: Contractor represents and warrants that the Goods comply with all federal and Oregon safety and health requirements.

15. MATERIAL SAFETY DATA SHEET: Contractor shall provide County with a Material Safety Data Sheet for any Goods which may release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use (OAR 437-002-0360 and 29 CFR 1910.1020). Contractor shall label, tag or mark such Goods.

16. AMENDMENTS: All amendments to this PO must be in writing, signed by County.

17. SEVERABILITY: If a court of competent jurisdiction declares any provision of this PO to be invalid, the other provisions and the rights and obligations of the parties remain in effect.

18. WAIVER: Failure of either party to enforce any provision of this PO is not a waiver or relinquishment of that party's rights to such performance in the future or to enforce any other provisions.

19. TAX CERTIFICATION: Contractor hereby certifies under penalty of perjury: (a) the number shown on this form is the correct Federal Employer Identification Number; (b) it is not subject to backup withholding because (i) it is exempt from backup withholding, (ii) it has not been notified by the IRS that it is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that it is no longer subject to backup withholding; and (c) it is not in violation of any Oregon tax laws.

PURCHASE ORDER #912381
JOHN DEERE FINANCIAL
MARION COUNTY SIGNATURE PAGE

BOARD OF COMMISSIONERS:

Chair _____ Date _____

Commissioner _____ Date _____

Commissioner _____ Date _____

Authorized Signature: DocuSigned by:
Brian Melodas 5/16/2023
0793BA7AC08D443
Department Director or designee Date

Authorized Signature: _____
Chief Administrative Officer Date

Reviewed by Signature: DocuSigned by:
Jane E Vetto 5/17/2023
D00F05B04D9F403
Marion County Legal Counsel Date

Reviewed by Signature: DocuSigned by:
Camber Schlay 5/16/2023
C5B2E3DE257E444
Marion County Contracts & Procurement Date

INTERSTATE COOPERATIVE CHECKLIST

Cooperative:	Sourcewell #011723-JDC	Contract Start Date	4/5/2023
Title:	John Deere	Contract Expiration Date	4/14/2027
Solicitation#		Contract #	011723-JDC

Requirement	#	Question	Y/N	notes	guidance
279A.220(1)(a)	1	Was the solicitation and award process a manner substantially equivalent to those specified in ORS 279B.055 or 279B.060?	Yes		proceed to question 2
279A.220(1)(b)	2	Does the solicitation allow other governmental bodies to establish contracts or price agreements under the terms, conditions, and prices of the original solicitation? Upload the document or relevant pages into CMS and note in column G where this information can be found.	Yes		proceed to question 3
279A.220(1)(b)	3	Does the original contract allow other governmental bodies to establish contracts or price agreements under the terms, conditions, and prices of the original contract? Upload the document or relevant pages into CMS and note in column G where this information can be found.	Yes		proceed to question 4
279A.220(2)(a)	4	Is Marion County specifically listed in the solicitation OR is Marion County a member of the cooperative group? Attach in CMS or link to demonstration of membership.	Yes		proceed to question 5
279A.220(2)(a)	5	Was the solicitation advertised in Oregon? Upload the advertisement document into CMS.	Yes		usable by MC
279A.220(2)(b)	6	Has Marion County advertised a notice of intent to establish a contract under the cooperative?	No		usable by MC

ORS 279A.200 (1)(d) "Interstate cooperative procurement" means a permissive cooperative procurement in which the administering contracting agency is a governmental body, domestic or foreign, that is authorized under the governmental body's laws, rules or regulations to enter into public contracts and in which one or more of the participating governmental bodies are located outside this state.

Examples: OMNIA Partners, Sourcewell, HGAC, NCPA

AFFIDAVIT OF PUBLICATION



DJC OREGON

11 NE Martin Luther King Jr. Blvd. Suite 201 / Portland, OR 97232-3579
(503) 226-1311

STATE OF OREGON, COUNTY OF MULTNOMAH--ss.

I, **Nick Bjork**, being first duly sworn, depose and say that I am a **Publisher** of the **Daily Journal of Commerce**, a newspaper of general circulation in the counties of **CLACKAMAS, MULTNOMAH, and WASHINGTON** as defined by **ORS 193.010 and 193.020**; published at **Portland** in the aforesaid County and State; that I know from my personal knowledge that the Goods and Services notice described as

Case Number: NOT PROVIDED

**HEAVY CONSTRUCTION EQUIPMENT WITH RELATED ATTACHMENTS AND TECHNOLOGY
Sourcewell; Bid Location Staples, MN, Todd County; Due 01/17/2023 at 04:30 PM**

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for 1 time(s) in the following issues:

11/16/2022

State of Oregon
County of Multnomah

SIGNED OR ATTESTED BEFORE ME
ON THE 16th DAY OF November, 2022

Nick Bjork

Notary Public-State of Oregon



**SOURCEWELL
HEAVY CONSTRUCTION EQUIPMENT
WITH RELATED ATTACHMENTS
AND TECHNOLOGY
Proposals due 4:30 pm,
January 17, 2023
REQUEST FOR PROPOSALS**

Sourcewell, a State of Minnesota local government unit and service cooperative, is requesting proposals for Heavy Construction Equipment with Related Attachments and Technology to result in a contracting solution for use by its Participating Entities. Sourcewell Participating Entities include thousands of governmental, higher education, K-12 education, nonprofit, tribal government, and other public agencies located in the United States and Canada. A full copy of the Request for Proposals can be found on the Sourcewell Procurement Portal [<https://portal.sourcewell-mn.gov>]. Only proposals submitted through the Sourcewell Procurement Portal will be considered. Proposals are due no later than January 17, 2023, at 4:30 p.m. Central Time, and late proposals will not be considered.
Published Nov. 16, 2022. 12173819

Carol Jackson
Sourcewell
202 12th St NE
Staples, MN 56479-2438

Order No.: 12173819
Client Reference No:



Solicitation Number: RFP # 011723

CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and John Deere Construction Retail Sales a division of John Deere Shared Services LLC, DBA John Deere Construction Retail Sales, 1300 River Drive, Moline, IL 61265 (Supplier).

Sourcewell is a State of Minnesota local government unit and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to eligible federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Heavy Construction Equipment with Related Attachments and Technology from which Supplier was awarded a contract.

Supplier desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

1. TERM OF CONTRACT

- A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.
- B. **EXPIRATION DATE AND EXTENSION.** This Contract expires April 14, 2027, unless it is cancelled sooner pursuant to Article 22. This Contract may be extended one additional year upon the request of Sourcewell and written agreement by Supplier.
- C. **SURVIVAL OF TERMS.** Notwithstanding any expiration or termination of this Contract, all payment obligations incurred prior to expiration or termination will survive, as will the following: Articles 11 through 14 survive the expiration or cancellation of this Contract. All other rights will cease upon expiration or termination of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. **EQUIPMENT, PRODUCTS, OR SERVICES.** Supplier will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above.

Supplier's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new and the current model. Supplier may offer close-out or refurbished Equipment or Products if they are clearly indicated in Supplier's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. WARRANTY. Supplier warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Supplier warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Supplier's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that extends beyond the expiration of the Supplier's warranty will be passed on to the Participating Entity.

C. DEALERS, DISTRIBUTORS, AND/OR RESELLERS. Upon Contract execution and throughout the Contract term, Supplier must provide to Sourcewell a current means to validate or authenticate Supplier's authorized dealers, distributors, or resellers relative to the Equipment, Products, and Services offered under this Contract, which will be incorporated into this Contract by reference. It is the Supplier's responsibility to ensure Sourcewell receives the most current information.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced at or below the price stated in Supplier's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. SHIPPING AND SHIPPING COSTS. All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. The John Deere Warranty Statement describes covered items and services when returning Damaged Equipment and

Products. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Supplier as soon as possible and the Supplier will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

Sourcewell may declare the Supplier in breach of this Contract if the Supplier intentionally delivers substandard or inferior Equipment or Products.

B. SALES TAX. Each Participating Entity is responsible for supplying the Supplier with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Supplier may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Supplier determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

4. PRODUCT AND PRICING CHANGE REQUESTS

Supplier may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Supplier Development Administrator. This approved form is available from the assigned Sourcewell Supplier Development Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Request Form will become an amendment to this Contract and will be incorporated by reference.

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. **PARTICIPATION.** Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Supplier understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Supplier is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. **PUBLIC FACILITIES.** Supplier's employees may be required to perform work at government-owned facilities, including schools. Supplier's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

6. PARTICIPATING ENTITY USE AND PURCHASING

A. **ORDERS AND PAYMENT.** To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Supplier that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Supplier. Typically, a Participating Entity will issue an order directly to Supplier or its authorized subsidiary, distributor, dealer, or reseller. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration or cancellation of this Contract; however, Supplier performance, Participating Entity payment obligations, and any applicable warranty periods or other Supplier or Participating Entity obligations may extend beyond the term of this Contract.