

Blue Mountain Translator District
Board of Directors Regular Meeting
May 20, 2020

Regular Meeting: 6:00 PM
Conference Number: 253-215-8782
Meeting ID: 81635105239

Public Participation: BMTD is required by law to permit participation at a public location. In compliance with Executive Order 20-16, that members of the public may participate via phone. The meeting will be streamed online at BMTD's Facebook page.

Agenda

1. Call to Order and Roll Call Vote
2. Declaration of Conflict of Interest
3. Reports
 - a. Director Reports
 - b. Staff Report
4. Old Business
 - a. Mt. Fanny Building
 - b. Procurement Policies and RFP Template
5. New Business
 - a. RFP 2020-3: Sponsor Recruitment and Ad Sales
 - b. Expenditures
 - c. Local Channel Discussion
 - d. Contract Review Board - Inter-Governmental Agreement with Union County 4-H & Extension Service District
 - e. Budget Committee Membership
6. Public Comment
7. Scheduling of Next Meeting and Adjournment

4.a. Mt. Fanny Building

Staff Summary

Blue Mountain Translator District will incorporate funding for modifications to the Mt. Fanny telecommunications facility in the 2020-21 Budget. During the next fiscal year, BMTD will review options for the expansion of the existing facility; replacement of the existing facility; or construction of a second facility that can house existing equipment while the existing structure is replaced. Expenditures will include obtaining quotes from contractors and impact studies by USFS.

BMTD has invited the participation of existing tenants, including Elkhorn Media Group, Eastern Oregon Net, Inc., and First Baptist Church of La Grande.

4.b. Procurement Policies and RFP Template

Staff Summary: Board Policies Regarding Contracts and Competitive Bidding

BMTD does not currently have its own Board Policies Regarding Procurement and Contracting. As a result, ORS 279.065 requires BMTD to use the Oregon Attorney General's Model Rules General Provisions Related to Public Contracting (Oregon Administrative Rules Chapter 137 Division 46). These rules were generally designed for high-dollar state projects, and do not easily accommodate small projects by a rural special district. BMTD is statutorily permitted to reject the Attorney General's Model Rules and adopt its own procurement policies.

The following Board Policies Regarding Contracts and Procurements are proposed by the Executive Director. These policies duplicate the City of Aurora, Oregon's Municipal Code Contracts and Bidding Ordinance. Aurora is a rural community with fewer than 1,000 residents in Marion County.

Suggested Motion: *I move to approve the second reading of Board Policies Regarding Contracts and Competitive Bidding.*

Staff Summary - RFP Template

Following rejection of the Attorney General Model Rules, BMTD must adopt a new RFP template. An RFP used by the City of Aurora, OR in compliance with their municipal ordinance regarding public contracting can be used by BMTD as a template.

Suggested Motion: *I move to adopt the RFP Template.*

BMTD Board Policies Regarding Contracts and Competitive Bidding

1. Contract Review Board
 - a. The Board of Directors is designated as the local contract review board and relative to contract concerns of this District shall have all the powers granted to the State Public Contract Review Board.
2. Administrative Rules Adopted by Reference
 - a. The Model Public Contract Rules prepared by the state Attorney General are rejected.
 - b. The administrative rules for the local contract review board, attached to the ordinance codified in this section as Exhibit B, are adopted by the Board of Directors acting as the official governing body of the District and in its capacity as the local contract review board and will be available for public inspection at the office of the Executive Director.
3. Definitions

- a. The following words and phrases shall mean:
 - i. Board means the local contract review board as established in Section 1.
 - ii. Public contract means any purchase, lease or sale by the Blue Mountain Translator District Board of Directors of personal property, public improvements or services other than agreements which are exclusively for personal service.
 - iii. Public improvement means any construction of improvements on real property by or for the District.

4. Competitive Bids - Exemptions

- a. All contracts shall be based upon competitive bids except:
 - i. Contracts made with, or the cost of which is provided by, other public agencies or the federal government;
 - ii. Contracts for any purchase the amount of which are two thousand dollars (\$2,000.00) or less;
 - iii. Contracts for any item which is available only through one company, firm or individual;
 - iv. In any case where the interest or property of the District probably would suffer material injury by delay or would be materially benefited by immediate purchase or contract;
 - v. And including the other exemptions listed in ORS 279.015(1).
- b. The contract review board may by resolution exempt other contracts from competitive bidding if it finds:
 - i. The lack of bids will not result in favoritism or substantially diminish competition in awarding the contract; and
 - ii. The exemption will result in substantial cost savings. In making such finding, the board may consider the type, cost, amount of the contract, number of persons available to bid, and such other factors as the board may deem appropriate.

5. Emergency Contracts

- a. A contract may also be exempted from competitive bidding if the board, by unanimous vote, determines that emergency conditions require prompt execution of the contract. A determination of such an emergency shall be entered into the record of the meeting at which the determination was made.

6. Brand name specification in contracts.

- a. Specifications for contracts shall not require any product by any brand name or mark, nor the product of any particular manufacturer or seller, unless the product is exempted from this requirement by the board under this section. However, this section shall not be construed to

prevent reference in the specification to a particular product as a description of the type of item required.

- b. The board may by resolution exempt certain products or classes of products upon any of the following findings:
 - i. It is unlikely that such exemption will encourage favoritism in the awarding of the contract or substantially diminish competition.
 - ii. The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings.
 - iii. There is only one manufacturer or seller of the product of the quality required.
 - iv. Efficient utilization of existing equipment or supplies require the acquisition of compatible equipment or supplies.
7. Bid Rejection
- a. The BMTD Board of Directors or an official designated by the BMTD Board of Directors may reject any bid not in compliance with all prescribed public bidding procedures and requirements and may reject all bids if it is in the public interest to do so.
8. Bidder Disqualification
- a. The BMTD Board of Directors or an official designated by the BMTD Board of Directors may disqualify any person as a bidder on a contract if:
 - i. The person does not have sufficient financial ability to perform the contract. Evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;
 - ii. The person does not have equipment available to perform the contract;
 - iii. The person does not have personnel of sufficient experience to perform the contract; or
 - iv. The person has repeatedly breached contractual obligations to public and private contracting agencies.
9. Appeal of Disqualification
- a. A person who has been disqualified as a bidder may appeal such disqualification to the board as provided in this section:
 - i. The person shall, within three business days after receipt of notice of disqualification, in writing notify the BMTD Executive Directors that he or she wishes to appeal his or her disqualification.
 - ii. Immediately upon receipt of such written notice of appeal, the BMTD Executive Director shall inform the board.

- iii. Upon receipt of notice of appeal, the board shall notify the person appealing of the time and place of the hearing.
 - iv. The board shall consider de novo the notice of disqualification, the record of the investigation made by the Executive Director and any evidence provided by the parties. The hearing shall be public and the appeal decided within thirty (30) days after receiving the notification. The board's decision and reasons therefore shall be in writing.
10. Additional Authority of the Board
- a. In addition to the powers and duties established by this chapter, the board shall have such additional powers as authorized by state law and may also:
 - i. Require notice publication in addition to that required by state law;
 - ii. Require prequalification for persons desiring to bid for public improvement contracts;
 - iii. Grant exemptions from the bid security and performance bond required on contracts for public improvements;
 - iv. Make alternate arrangements for retainage pursuant to ORS 279.435.

5. a. RFP 2020-3

Staff Summary

RFP 2020-1 did not receive any bids. RFP 2020-3 revises RFP 2020-1 in keeping with BMTD's new procurement policies. The purpose of the RFP is to recruit a firm with a pedigree in advertising to recruit partners that can help generate revenue for BMTD's over the air and over the top media distribution efforts. This RFP will remain open until closed, as most potential bidders in the region must focus on the COVID-19 outbreak. RFP 2020-3 is proposed with the following information:

**SECTION III
EVALUATION / SELECTION OF PROPOSALS**

III-1 Evaluation Criteria

The following information will be taken into consideration during the evaluation process:

- a. Meets qualifications identified in the Request for Qualifications and Proposals.
- b. Included complete and clear responses to items in the Content of Response section.
- c. Demonstrates pedigree in selling advertisements, preferably for broadcast.
- d. Demonstrated expertise in the following areas as it relates to municipalities:
 - 1) Public Service Announcements and Advertising
 - 2) Telecommunications
 - 3) Mass Communications
- e. Adequate local facilities, available support staff, and range of services offered.
- f. Demonstration of workload capacity and a level of experience commensurate with the level of service required by the District.
- g. The professional reputation for providing high-quality services, ability to work cooperatively with Board of Directors, Executive Director, and independent contractors.
- h. Proposer is bonded.
- i. Results of interview.

III-2 Clarifications

The District reserves the right to seek clarification of each proposal submitted. The District also reserves the right to require other evidence of technical, managerial, financial, or other abilities prior to selection.

III-3 Interviews

In connection with the evaluation, the Proposer may conference with the Executive Director. A Proposer may follow the conference by meeting with the Selection Panel consisting of two Directors and the Executive Director. However, a Proposer may choose simply to meet with the selection panel. Interviews should be conducted in Executive Session.

III-4 Method of Selection

The Board of Directors and Executive Director will review the submitted proposals. After review, they may select finalists for interviewing and choose a finalist. After completing negotiations and contract process, the Board of Directors shall award a contract. The Firm serves in accordance with the contract. The successful Proposer will be the one(s) that in the judgment of the Board of Directors best demonstrates the ability to cover the broadest range of services that includes the assigned tasks and any combination of the specialized services currently provided by outside firms, in a cost-effective manner.

III-5 Notice of Intent to Award

Upon completion of the evaluation process, the Executive Director will advise the proposers of its number one selection.

III-6 Agreement

The contract will define the extent of services to be rendered, method and amount of compensation.

When an agreement is reached, a contract for the work will be prepared and executed upon the Board of Directors approval. The successful proposer agrees to enter into a contract with the District. The District reserves the right to negotiate a final contract that is in the best interest of the District.

SECTION IV BACKGROUND AND SCOPE OF WORK

Background: SB 394 (2019 Oregon Legislative Assembly) authorizes translator districts to operate their own TV stations and distribute signals over the air and via alternative methods. Such a TV station is intended to provide translator districts with an additional source of revenue. BMTD launched Blue Mountains Now, a streaming TV service, in April 2020, and will pursue launch of a non-commercial over-the-air station during the 2020-21 fiscal year.

Purpose of Request for Proposals: BMTD does not possess the resources to recruit sponsors for noncommercial TV broadcasts, or advertising clients for an online streaming service. The District seeks a firm with pedigree in advertising sales to recruit broadcast sponsors and sell streaming advertisements with the goal of generating revenue for said firm, BMTD, and the creators of content distributed by BMTD locally and in syndication.

Services to be provided:

- Firm will recruit donors/underwriters for a noncommercial TV station distributed over the air and on Cable TV. Donors and underwriters will receive enhanced recognition in BMTD broadcasts.
- Firm will sell advertisements on a streaming version of a noncommercial TV station. Advertisements will specifically be incorporated in on-demand video streamed over-the-top.
- Firm will solicit the financial support of partners and clients in a variety of locations in descending order of preference for: Baker and Union Counties; northeast Oregon; Treasure Valley, Idaho and southeast Washington; Oregon; Pacific Northwest; and US.
- Firm will assist BMTD in creating and approving a cost schedule for noncommercial station sponsorship and streaming advertising.
- Additional: BMTD will not generate enhanced recognition or advertising media. Firm may create sponsor recognition and advertising media in a variety of formats, including videos, graphics, and audio; firm will not owe any revenue from media production to BMTD. If Firm is unable to generate enhanced recognition and advertising media, BMTD or firm may by agreement take responsibility for referrals to a media production partner.

5.b. Expenditures

Payee	Expenditure	Requirement	Amount
Baum Smith	Policy Legal Review	Professional Services	\$240.00
EO Media Group	Budget Legal Notices, BCH & LGO	Advertising	\$99.94
EO Media Group	Graduation Tab Ads, BCH & LGO	Advertising	\$98.00

5.d. **Contract Review Board - Inter-Governmental Agreement with Union
County 4-H & Extension Service District**

Staff Summary

The Intergovernmental Agreement between BMTD and Union County is up for renewal in October, 2020 and will be approved by Union County Commissioners at that time. Proposed changes to the agreement requested by OSU Extension staff and BMTD are **bolded**.

INTERGOVERNMENTAL AGREEMENT

Blue Mountain Translator District and Union County 4-H & Extension
Service District

This Intergovernmental Agreement is made and entered into between Blue Mountain Translator District, hereinafter "Blue Mountain" and Union County 4-H & Extension Service District, hereinafter "4-H."

RECITALS

WHEREAS, Blue Mountain has a need to occupy an agreed upon space of a storage building of 4-H to allow it access to the Windwave Switch available in the building and to house electrical equipment together with approximately four (4) square feet of an existing tower base.

WHEREAS, Blue Mountain and 4-H have determined that it is to their mutual benefit and the benefit of the general public if 4-H provides access to the Windwave switch, storage building and tower base.

WHEREAS, pursuant to ORS 190.010, units of local government may enter into agreement with other units of local government for the performance of any and all functions and activities that the parties to the agreement, its officers and agents have the authority to perform; and

WHEREAS, each party is a unit of local government, authorized to enter into this Agreement pursuant to ORS 10.010;

NOW, THEREFORE, THE PARTIES, in consideration of the mutual covenants set forth herein, agree as follows:

1. Term. This Agreement shall be effective upon the date of execution by both parties and shall continue for a period of 5 years

beginning October 22, 2020 and terminating October 21, 2025, unless terminated earlier as provided herein.

2. Renewal. As long as Blue Mountain is not in default under this Agreement, the parties will consider renewal at the end of said term. 4-H is under no obligation to renew this Agreement with Blue Mountain. Scope of Services.

3. Scope of Services.

3.1 4-H shall provide Blue Mountain space that is limited to approximately six (6) square feet inside the storage building to house electrical equipment and approximately four (4) square feet using the existing tower base, which will be for the satellite tower, located outside the Extension storage building north of the main Extension building.

3.2 The 4-H Extension Service District shall allow access to the main Extension building for Blue Mountain to install a communications cable (cat 5e) from the Windwave Communications switch in the main building over to the storage building **to connect to the Skyline Tower television equipment**, and install a four foot microwave dish on a tower next to the storage building. As a public service to the residents of Baker and Union County, there will be no rent charged for using the aforementioned space and existing tower base.

4. Additional Costs for Installation and Operation of Equipment. Any additional costs for internet, installation, and low power usage are the responsibility of Blue Mountain.

5. Utilities. Blue Mountain will pay monthly when due all charges for power incurred in connection with use and operation of its equipment as determined herein. The electrical usage of the Skyline Towers television equipment housed in the storage building will be determined with an in-line meter to measure power usage. This usage can be cross-checked against historical electrical records for verification. The current estimate of power usage based on actual equipment draw is equivalent to one 100 watt light bulb per month. This power usage will be the only cost to Skyline Tower and Blue Mountain.

6. Access. Blue Mountain or its technicians, be that Skyline Tower **or other contractors including RS Technology**, will be granted

24/7 access to their equipment in case of an outage or need for repair. Keys for locks will be held by the **President** of Blue Mountain.

7. Insurance. 4-H is not responsible to insure the equipment of Blue Mountain and it shall be the responsibility of Blue Mountain to insure its equipment.

8. Indemnification. Blue Mountain shall forever indemnify, reimburse, and hold 4-H harmless and, at 4-H's election, defend 4-H for, from and against any and all claims, costs, expenses (including attorney fees) losses, damages, fines, charges, actions, or other liabilities of any description suffered directly or from a third-party claim arising out of or in any way connected with Blue Mountain's possession or use of the property.

9. Termination.

9.1 This Agreement shall be terminated without further notice if Blue Mountain ceases to exist as a special district under Oregon law for any reason.

9.2 This Agreement may be terminated by either party giving sixty (60) days prior written notice to the other party.

9.3 Upon termination of this Agreement, Blue Mountain shall remove all equipment from the premises and repair any physical damage resulting from removal. Any equipment or personal property not removed within 30 days of termination shall be deemed abandoned and 4-H may dispose of it.

10. Notice. Any notice required under this Agreement shall be effective when actually delivered or, if mailed, when deposited in the United States mail, sent registered or certified mail, addressed as follows:

Blue Mountain Translator District
P.O. Box 901
La Grande, OR 97850

Union County 4-H & Extension Service District
10507 N. McAlister Road
Island City, OR 97850

11. Assignment. The parties may not assign this Agreement or sublet any portion of the structure without prior written consent of the other party.

12. Entire Agreement and Amendment. This document is the entire, final and complete agreement between Blue Mountain and 4-H regarding the subject matter contained in it, and supersedes and replaces all prior or existing written and oral agreements between the Blue Mountain and 4-H. No amendment to this Agreement shall be effective unless first reduced to writing and signed by the parties.

13. Waiver. Waiver of either party of strict performance of any provision of this Agreement shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or any other provision.

Tim Wallender, President
The Board of Directors
Blue Mountain Translator
District

Dated: _____, 2020

Paul, Commission Chair
4-H & Extension Service District

Dated: _____, 2020

Donna Beverage, Commissioner
4-H & Extension Service District

Dated: _____, 2020

Matt Scarfo, Commissioner
4-H & Extension Service District

Dated: _____, 2020

5.e. Budget Committee Membership

Staff Summary

BMTD's Budget Committee must include 5 at-large members of the public registered to vote at a property located in the boundary of the Blue Mountain Translator District. Recent participants in the Budget Committee process include:

Member	Term Expiration
Mary McCracken	Expired 7/18. Not seeking re-appointment. Current term expires 7/21.
Helen Tucker	Expired 7/19. Seeking re-appointment for term ending 7/22.
Walt Wood	Expired 7/19. Seeking re-appointment for term ending 7/22.
Jean McKern	Expire 7/20. New term expires 7/23.
Glen Herman	Expire 7/20. New term expires 7/23.

The Board will consider the appointment of a member of the public for term ending 7/21. The Board of Directors will consider the appointment of Mrs. Helen Tucker and Mr. Walter Wood to the Budget Committee for terms ending 7/22. The Board will consider committee membership for terms ending 7/23. Committee members who do not wish to serve may submit a formal written resignation or be removed by the Board without consequence.