



FORMAL REQUEST FOR PROPOSAL

**Lane Education Service District
 1200 Highway 99 North
 Eugene, Oregon 97402**

**Architect and Engineering Services for Seismic Upgrades of Westmoreland
 Campus, Phase 1**

RFP No. P20002-1005-20

Proposals Due:	Not Later than <u>2:00 PM PST, November 20, 2020.</u> Late proposals will not be accepted or considered.
Submit Proposals to:	Physical Address: 1200 Highway 99 N. Eugene, OR 97402, Attn: Brad Johnston US Mail Address: 1200 Highway 99 N. Eugene, OR 97402, Attn: Brad Johnston
Direct Questions to:	Procurement Contact : Brad Johnston Email: bjohnston@lesd.k12.or.us Phone: 541-461-8260 Deadline for Questions: <u>November 13, 2020</u>
Electronic Responses:	Electronic responses shall not be accepted or considered.

RFP Availability:

Interested firms may obtain a copy of the Request for Proposals (RFP) by download from the Oregon Procurement Information Network (ORPIN) or by emailing Brad Johnston, bjohnston@lesd.k12.or.us expressing interest along with contact information and address. You can also access the RFP and supporting documents on the Lane ESD website at <https://www.lesd.k12.or.us/facilities/projects>. The Lane ESD office is open between the hours of 8:00 am and 5:00 pm, Monday-Friday, 1200 Highway 99 N. Eugene, Oregon 97402.

REQUEST FOR PROPOSALS (RFP) FOR ARCHITECT AND ENGINEERING SERVICES FOR SEISMIC UPGRADES OF WESTMORELAND CAMPUS, PHASE 1

1. PURPOSE OF RFP

Lane Education Service District (the “District”) is seeking proposals from firms for the architectural, structural, mechanical and electrical design for the Seismic Rehabilitation of Westmoreland (the “Project”), located at 1717 City View Street, Eugene, Oregon 97402. In January 2020, the District applied for and received a Seismic Rehabilitation Grant (“SRG”) for the project through the Infrastructure Finance Authority: Business Oregon, based on the application prepared by ZCS Engineering & Architecture. The intent of this RFP is for the consultant to provide an integrated design solution for the entire building. As part of this grant, a preliminary rehabilitation feasibility report was prepared for each portion of the project and is enclosed. The District was awarded \$2,378,365 for the design and construction of Westmoreland Phase 1 Seismic Rehabilitation.

2. DEFINITIONS

In general, words, terms and phrases used in this RFP shall have their ordinary meaning, unless a different meaning is ascribed to them in the construction industry, or the context clearly indicates otherwise. As used in this RFP:

- 2.1. “A/E” means architectural services, engineering services or both architectural and engineering services and used to describe a proposer, firm, or type of professional services associated with this RFP.
- 2.2. “Award” A proposer has been awarded a Contract for Services. The deadline for protest of Proposer selection has passed and no aggrieved Proposer has filed a protest of the selected Proposer.
- 2.3. “Contract” An agreement between Lane Education Service District and an A/E or A/E Related Service firm for the Services covered by this RFP.
- 2.4. “Consultant” means the successful proposer as determined by the ESD.
- 2.5. “ESD” means Lane Education Service District or Lane ESD.
- 2.6. “Owner” as defined in the Contract between Owner and the Consultant shall be the Lane Education Service District.
- 2.7. “Project Team or Project Team Members” means the Owner, the Consultant, the construction contractor, and other contractors and agencies who will be responsible for various aspects of the Project.
- 2.8. “Proposal” is the Proposer’s response to this RFP.

- 2.9. "Proposer" is the entity submitting a response to the RFP solicitation.
- 2.10. "Proposer or Offeror" is any person, corporation, or partnership who chooses to submit a Proposal in response to this RFP, with intent of providing A/E services for this Project.
- 2.11. "Request for Proposal" or "Request for Proposals" or "RFP" is this solicitation document, any attachments incorporated by reference, and any addenda issued for use in soliciting Proposals, for this Project.
- 2.12. "Responsive Offer" or "Responsive Proposal" means an Offer or Proposal which conforms in all material respects to the requirements set forth in the RFP as determined by the Owner Selection Committee. Materials respects of an RFP include, but are not limited to quality, quantity or delivery requirements.
- 2.13. "Selection Notice" means a formal written notice by Lane ESD that a Proposer has been selected for an award and can enter into a Contract for Services after the protest period passes.
- 2.14. "Services" means the Services to be performed by the consultant on the Project.

3. BASIC SERVICES

- 3.1. The Basic Services are set out in Attachment A to the Sample Contract, attached. The ESD reserves the right to negotiate the scope of Basic Services.

4. INFORMATION CONCERNING RFP

- 4.1. The Purchasing Office is the sole point of contact in the District for this selection process. All correspondence pertaining to this RFP should be directed to:

Brad Johnston, Facilities Manager
1200 Highway 99 North, Eugene, Oregon 97402
Phone: 541-461-8260
Fax: 541-461-8298

- 4.2. Proposers are cautioned not to make any assumptions as to the implied meaning or intent of any part of the RFP. Proposers should request clarification or additional information concerning the RFP in writing as soon as possible, but in no event will such requests be received by the District later than 2:00PM on November 13, 2020. ANY CORRECTIONS OR CLARIFICATIONS MADE IN ANY MANNER OTHER THAN BY A WRITTEN ADDENDUM ADDRESSED TO ALL PROPOSERS WILL NOT BE BINDING ON THE ESD AND PROPOSERS SHALL NOT RELY THEREON.

- 4.3. Any prospective Proposer who contends that the terms and conditions of this RFP or any aspect of the selection process (1) will encourage favoritism in the award of the Contract for Services; (2) will substantially diminish competition; (3) will violate any other statute, regulation (including but not limited to OAR Chapter 137), policy, or law of any kind; or (4) is ambiguous, insufficient, or unfair for any reason, must file a written protest to the RFP received by the District by 2:00 pm on November 13, 2020. Failure to file a protest by this time will be deemed a waiver of any claim by a Proposer that the selection process violates any of the items (1) - (4) of the foregoing sentence.
- 4.4. The District reserves the right to (1) reject any or all proposals, (2) cancel the RFP, or (3) extend the closing date if doing so would be in the public interest as determined by the ESD, in accordance with ORS 279B.100.

5. SCHEDULE OF EVENTS

- 5.1. The following schedule of events shall be followed for this RFP.
 - 5.1.2. Inquiries for clarification or additional information as described in Section 4.2, if any, must be received by Lane ESD by 2:00 pm on November 13, 2020.
 - 5.1.3. Solicitation protests must be received by 2:00 pm on November 13, 2020 at Lane ESD's Main Office, Attn: Brad Johnston, 1200 Highway 99 N., Eugene, Oregon 97402.
 - 5.1.4. Proposals must be received at the Lane ESD's Main Office, Attn: Brad Johnston, 1200 Highway 99 N., Eugene, Oregon 97402 by 2:00 pm on November 20, 2020. Proposals submitted after this time will be rejected.
 - 5.1.5. The number of proposals and names of proposers will be publicly disclosed at the Lane ESD's Main Office immediately following the closing on November 20, 2020 at 2:00 pm. This information will also be posted on Lane ESD's website. No other information will be provided at that time.
 - 5.1.6. If any interviews are conducted, they will take place with qualified Proposers November 23-27, 2020.
 - 5.1.7. A Consultant (or consultants) will be selected, if at all, by November 30, 2020, and sent a notice of intent to award on December 1, 2020. The unsuccessful Proposers will be sent a copy of the notice of intent to award December 1, 2020.
 - 5.1.8. Protests of the contract award must be received by December 8, 2020. Any issue that could have been raised by a request for clarification or solicitation protest under Sections 5.1.2 or 5.1.3 of this Section shall not be a ground for protest of award.

5.1.9. The ESD intends to enter into a Contract with the selected Consultant(s) by December 14, 2020 unless there is an extension pursuant to Section 14.4.

5.2. The schedule of events in Section 5.1 is intended to allow prospective Proposers sufficient time for requests for information, objections to the requirements of this RFP, and preparation of proposals.

6. ADDENDA TO THE REQUEST FOR PROPOSALS

The provisions of this RFP cannot be modified by oral interpretations or statements by the ESD's representatives or any other person or party. If inquiries or comments by Proposers raise issues that in the ESD's opinion require clarification by the ESD, or if the ESD decides in its sole discretion to revise any part of this RFP, written addenda will be provided to all persons who receive the RFP. A Proposers receipt of an addendum shall be acknowledged by signing it and returning it with their Proposal.

7. NO REIMBURSEMENT FOR PROPOSAL

Proposers responding to this RFP do so solely at their own expense. Under no circumstances whatsoever will the ESD be responsible or reimburse Proposers for any costs incurred in the preparation and presentation of their proposals or for any related expenses or consequential damages of any kind.

8. FORMAT OF PROPOSAL

8.1. Proposals must be submitted in the format described in this Section 8.

8.2. A Proposer must submit a complete, succinct response to this RFP (not exceeding twenty single sided pages in length). Proposals must be prepared simply and economically, providing a concise description of the Proposer's capabilities to satisfy the requirements of the RFP.

8.3. All proposals must be typed. Erasures or other changes must be initialed by the person signing the proposal. All proposals must be signed in ink by a person who is authorized to represent the Proposer.

8.4. A proposal from a partnership must be signed by at least one partner.

8.5. A proposal from a corporation must be signed by the president, the chief executive officer or other person authorized to act on behalf of the corporation, shall include evidence of the corporate officer's authority to sign, and shall identify the state of incorporation.

8.6. By submitting a proposal for the Project, a Proposer expressly represents that the Proposer has read and understands the terms and conditions contained in this RFP and that the Proposer agrees to be bound by such terms and conditions. A Proposer further represents that it takes no exception to any terms, conditions, obligations, or requirements of the form of Contract.

9. CONTENT OF PROPOSALS

- 9.1. The contents of the Proposer's proposal must include the information described in this Section 9.
- 9.2. The proposal must identify any confidential information that the Proposer contends is exempt from disclosure under ORS 192.345(2). The ESD will endeavor in good faith to honor appropriate requests for exemption from disclosure, but the ESD reserves exclusive discretion to determine whether information qualifies for a statutory exemption. The ESD's obligation under this Section 9.2 shall survive selection of the Consultant.
- 9.3. Proposals must contain sufficient information for the ESD to determine which Proposer will be most qualified to furnish the Services that are contemplated by this RFP. The proposal must include the following information:
 - 9.3.1. The Proposer's name, address, telephone number, fax number and, e-mail address.
 - 9.3.2. The number of years the Proposer has been in business.
 - 9.3.3. The names of the Proposer's key personnel who will be assigned for the duration of the Project (the Project Team).
 - 9.3.4. The experience of the personnel on the project team, including, but not limited to, experience in school construction, experience with project and reporting, experience with green construction and LEEDS certification, experience with the CM/GC, design/bid/build and with design/build delivery methods, and experience with both federal and state permit application processes and related agency negotiations and consultations as well as experience with the City of Eugene.
 - 9.3.5. The Proposer's experience in the successful completion of similar projects both in scope, size, and focus.
 - 9.3.6. A list of clients for which the Proposer has performed similar services, and the name, address, and telephone number of a representative of each client whom the District may contact.
 - 9.3.7. A statement that Proposer, if selected, shall provide the insurance coverage required in Section 10 of the Contract attached as Exhibit 1 to this RFP.
 - 9.3.8. A signed copy of Attachment E, Certification of Non-Discrimination.
- 9.4. The proposal must describe the Proposer's proposed work plan for providing the Services, including a description of tasks that will be performed by each member of the project team. The proposal must address how the Proposer would implement the Services.

- 9.5. The proposal must include an example of a project schedule and budget control, as well as proposed schedule for performing the Services and identify any constraints that could affect the Proposer's ability to perform the Services promptly and efficiently.
- 9.6. The proposal must include the names and addresses of any clients of the Proposer, or any other persons or entities, who have made claims against the Proposer within the last five years alleging that the Proposer breached a contract for services, was negligent in performance of services, or otherwise caused harm or damage to the Claimant, in all cases whether or not the claim proceeded to formal dispute resolution proceedings. Describe the nature and status of the claims. Claims must be fully disclosed regardless of whether they involved litigation, arbitration or other formal or informal dispute resolution process. The disclosures required under this provision also apply to any claims arising out of services of any principal or officer of the Proposer or any member of the project team regardless of whether the person was associated with the Proposer at the time of the claim.
- 9.7. The proposal must include information on any claim asserted by a contractor within the last five years against a client of the Proposer in which the contractor alleged that the Proposer was responsible for the problem that was the basis of the claim. This information shall include claims for breach of implied warranty of plans and specifications. Include all information that is required for claims addressed in Section 9.6, above.
- 9.8. The proposal must state whether the Proposer can perform all Services described in Section 3 of this RFP and other Services recommended in the proposal. If the Proposer intends to subcontract any of the Services to other consultants, the proposal shall identify those consultants and describe the consultants' experience in providing the type of Services covered by this RFP.
- 9.9. If the Proposer believes there are additional services not identified in this RFP that are necessary for the successful completion of the Project, Proposer's proposal must include a description of the additional services recommended by the Proposer, describe how the additional services would benefit the ESD, describe the Proposer's ability to provide the additional services, and propose a cost for providing the additional services.
- 9.10. The proposal must specify any exception the Proposer takes to any provision of the attached sample Contract, and any alternative provisions requested by the Proposer.
- 9.11. The proposal must specify a good faith estimate of the amount for Services, both prior to Bond passage, and total breakdown by Service, on the form attached as Attachment B-1. The proposal must include the Proposer's standard fee schedule for the Services. State the multiples of direct personnel expense, direct salaries, Consultants' charges and reimbursable expenses.

- 9.12. The Proposer shall submit three (3) printed and bound copies and one digital copy provided on USB drive of their proposal to Lane ESD, attention: Brad Johnston.

10. CONTRACT

- 10.1. The Proposer selected by the ESD will be required to enter into a written contract in the form attached as Exhibit 1 to this RFP.

11. SUBMISSION OF PROPOSALS

- 11.1. The ESD will accept written proposals until 2:00 pm on November 20, 2020, delivered to the following address: 1200 Highway 99 N., Eugene, Oregon 97402. The electronic version of the proposal is also due at that time. Proposers who mail proposals should allow extra mail delivery time to ensure timely receipt of their proposals. Proposers may not submit only an electronic proposal; both the electronic version and three (3) written copies must be received by the specified time and date. Proposals received after the specified time and date will be rejected.

- 11.2. Proposals must be submitted in sealed packages or envelopes and clearly identified on the exterior of the envelope or package as follows:

PROPOSAL FOR AE SERVICES FOR THE SEISMIC UPGRADES OF WESTMORELAND
CAMPUS, PHASE 1

Name of Proposer
Address of Proposer

- 11.3. Proposals received in response to this RFP by the Lane Education Service District at the Main Campus, will be opened at 2:00 pm on November 20, 2020. Proposers who wish to be present at that time will be informed of the number and names of Proposers. No other information will be made available at that time.
- 11.4. If any interviews take place, they will be conducted on November 23-27, 2020. The District retains sole discretion to determine which Proposers, if any, will be interviewed and the number of interviews, if any, to be conducted.

12. WITHDRAWAL OF PROPOSALS

Any proposal may be withdrawn by delivering a written request to the District at any time prior to November 20, 2020 at 2:00 pm. The request shall be executed by a duly authorized representative of the Proposer, as described in Sections 8.3 through 8.5, above.

13. EVALUATION OF PROPOSALS

- 13.1. The ESD's evaluation committee, with assistance from legal counsel, will evaluate the proposals. The process for evaluation will be as set forth in this Section 13.
- 13.2. Proposals that do not adhere to all terms and conditions of this RFP or that are otherwise non-responsive will be rejected or may be given a lower rating in the evaluation process.
- 13.3. The ESD may request supplemental information from a Proposer concerning the Proposer's ability to perform the Services. If a Proposer fails to provide supplemental information promptly after receiving a written request from the ESD, the ESD will refuse to consider the Proposer's proposal.
- 13.4. The ESD reserves the right to reject any and all proposals or to waive irregularities or deficiencies in a proposal if the ESD determines that such a waiver is in the best interests of the ESD.
- 13.5. If the ESD in its sole discretion determines that collusion exists among Proposers, none of the proposals of the participants in such collusion will be considered.
- 13.6. In accordance with this RFP, all or part of the evaluation committee, or an administrator designated by the ESD, may interview selected Proposers based on initial scoring. Interviews, if any, will include an evaluation criterion eligible for points. **There is no guarantee of an interview for any one Proposer or all Proposers.**
- 13.7. The evaluation criteria and the maximum number of points available for each criterion (in parentheses) are as follows:
 - A. Cover Letter/Background – 5 Points
Each Proposal shall contain a cover letter with the following:
 - a. A statement that Proposer accepts the terms and conditions contained in Exhibit 1 – Sample Contract Form.
 - b. A brief introduction of the Proposer's organization and background with similar projects.
 - c. A statement that the Proposal is valid for at least ninety (90) calendar days following the proposal submission deadline.
 - B. Proposer History and Philosophy -15 Points
Each Proposal shall describe the Proposer's history as well as the Proposer's philosophy for approaching projects similar to the project. Each Proposal should include the following information:
 - a. A description of the Proposer's size and corporate structure;

- b. Proposer's organizational chart showing staff to be assigned to this Project; and
- c. A description as to how the Proposer will maintain stability in assigned Project staff during the Project.
- d. A description of any experience with projects funded through the Seismic Rehabilitation Grant Program (SRGP).

C. Project Approach/Schedule – 25 Points

Proposals shall demonstrate an understanding of Project requirements and the steps necessary to successfully meet the Project goals. Each Proposal shall include the following:

- a. A step-by-step detailed description as to how the Proposer would approach the Project in order to minimize Project costs, provide Services in a timely manner, and ensure Project quality;
- b. An outline of the elements of the Services to be performed, in the stages and a schedule for the performance of the Services elements;
- c. A description of how the Proposer will meet Project objectives within the schedule;
- d. A description of how the Proposer's Project team members will interact effectively with each other, with Lane ESD and with all other Project participants including contractors; and
- e. Proposer's approach to handling proposed change order requests from the general construction contractor during Project construction.

D. Proposer's Experience – 25 points

Each Proposal shall include the following:

- a. A completed Proposer Reference Form (Attachment F to this RFP)
- b. A list and brief project description of up to ten (10) projects that Proposer has been the principle architect/engineer of record within the last 5 years, especially those funded by the Seismic Rehabilitation Grant Program.
- c. The initial construction contract amount for the individual projects identified under subsection b above, and the final construction contract amount after all change orders.
- d. A 5-year work history being a principal or a consultant for projects similar to the Project;

E. Experience of Assigned Project Team Members – 15 points

Each Proposal shall specifically identify each individual employee and Sub-consultant intended to assist Proposer with Project Services and shall include the following for each identified employee and Sub-consultant.

- a. Names and titles of all staff (employees and Sub-consultants' employees) assigned to Project.
- b. Resumes for all staff assigned to the Project that include a summary of the staff professional qualification and relevant experience, including but not limited to: education, years of experience in design field, years in proposed Project capacity, industry license, and certifications.
- c. A summary of Project staff experience within the past 5 years on projects similar in size and scope to the Project, and the dollar amount, size and description of the projects, including experience organizing, scheduling, coordination, and producing periodic reports for those projects.

F. Price – 15 points

Top-Ranked Consultant's shall include a Pricing Proposal for all Contractor obligations for completion of all Basic Services specified in Attachment A of the Sample Contract (Exhibit 1), in the form of Exhibit B-1. The lowest Pricing Proposal will receive 15 points, and all other Pricing Proposals will receive the percentage of 10 points that equals the percentage of that proposed price to the lowest proposed price. This evaluation criteria will be applied only after Phase 1 evaluation as provided below.

- 13.8. Additional factors to be considered, but not weighted as basic criteria, are motivation, professionalism, philosophy of service and written proposal.
- 13.9. The ESD retains exclusive discretion and reserves the right to determine:
 - 13.9.1. Whether a proposal is complete and complies with the provisions of this RFP;
 - 13.9.2. Whether a Proposer should be allowed to submit supplemental information
 - 13.9.3. Whether a Proposer will be interviewed by the selection committee;
 - 13.9.4. Whether to seek clarifications of each proposal or request additional information necessary to permit the ESD to evaluate, rank and select the most qualified Proposer;
 - 13.9.5. Whether a short list of qualified Proposers should be created; and
 - 13.9.6. Whether the evaluation committee should reconvene and collectively review the scoring.
 - 13.9.7. Reject all proposals when deemed in the best interest of the ESD by the evaluation committee.

13.10 Price Evaluation

- A. Pursuant to ORS 279C.110(5):
 - a. The ESD will screen and select prospective consultants in accordance with ORS 279C.110(5);
 - b. Ranking of proposals from prospective consultants, as provided herein, will include as an evaluation factor pricing policies, proposals or other pricing information, and the ESD will use pricing policies, proposals or other pricing information in the evaluation;
 - c. An estimate of the cost of professional services the local contracting agency requires for the procurement is \$ _____; and
 - d. By proposing, each proposer confirms that this Request for Proposal includes a scope of work that is sufficiently detailed to enable a prospective consultant to prepare a responsive proposal.
- B. The ESD shall evaluate each prospective consultant on the basis of the prospective consultant's qualifications to perform the professional services the local contracting agency requires for the procurement, without regard to pricing. ("Phase 1")
- C. At Phase 1, the ESD will announce the evaluation scores and rank for each prospective consultant after the evaluation described in paragraph (B) of this subsection. The ESD may determine that as many as three of the top-ranked prospective consultants ("Top-Ranked Consultants") are qualified to perform the professional services required for the procurement and will request a Pricing Proposal for the scope of work stated in this Request for Proposal from each of the Top-Ranked Consultants. The pricing proposal:
 - a. Must consist of:
 - i. A schedule of hourly rates that the prospective consultant will charge for the work each individual or each labor classification that will perform the professional services the local contracting agency requires for the procurement, in the form of an offer that is irrevocable for not less than 90 days after the date of the proposal; and
 - ii. A reasonable estimate of hours that the prospective consultant will require to perform the professional services the ESD requires for the procurement; and

- b. May include, at the ESD's request given at the time of request for pricing proposals, additional pricing information that is limited to:
 - i. A description of each task that the prospective consultant understands as comprising the professional services;
 - ii. A list of each individual or labor classification that will perform each task, together with the hourly rate that applies to the individual or labor classification; and
 - iii. A list of expenses, including travel expenses that the prospective consultant expects to incur in connection with providing the professional services.

- D. A Top-Ranked Consultant may withdraw from consideration for the procurement if the prospective consultant does not wish to provide a price proposal.

- E. The ESD shall then complete the evaluation ("Phase 2") and decide to select a consultant from among the Top-Ranked Consultants that have not withdrawn as provided under paragraph (D) of this subsection, giving weight in the evaluation to each prospective consultant's price proposal as provided in Section 13.7F.

14. SELECTION

- 14.1. The Contract will be awarded to the Proposer who in the ESD's judgment has submitted a proposal that best meets the ESD's requirements. After the evaluation is completed, the selection committee will make a recommendation to the ESD on award of the Contract. The ESD's Board of Directors will make the final decision on award of the Contract.

- 14.2. All Proposers not selected will be notified of the ESD's decision by receiving a copy of the notice of intent to award sent to the selected Proposer. After the ESD selects the Consultant to perform the Services, any Proposer may review the evaluation documentation at the Main Office of Lane ESD, except for information that the ESD determines to be exempt from disclosure under ORS 192.345(2). Protest procedures are set forth in OAR 137-048-0240 and Section 5 of this RFP. At the request of the protester, a hearing will be conducted before the ESD within seven (7) calendar days after submission of the written protest. The ESD will either uphold or deny the protest, and a written response will be issued for all properly submitted protests. If the protest is denied, the ESD will proceed to award the Contract.

- 14.3 Final award will be subject to execution of the Contract. The ESD reserves the right to negotiate any terms of the Contract as the ESD determines to be in the best interest of the ESD. If permitted by the ESD, in its sole discretion, negotiation of the Contract may include one or more of the proposed alternate terms and conditions, if any, in the selected Consultant's proposal. Award of the Contract to the successful Proposer may be withdrawn if the ESD determines in its sole discretion that Contract negotiations are or will not be concluded in time to execute a Contract by December 14, 2020.
- 14.4. If the ESD determines in its sole discretion that it and the Proposer initially selected by the ESD are or will be unable to negotiate a Contract, the ESD reserves the right to select the next-ranked Proposer that remains willing to negotiate the Contract, and negotiate a Contract with that Proposer in accordance with this Section 14. In that event, the date for executing a Contract will be extended to December 28, 2020.

15. EXHIBITS

Exhibits to this RFQ include:

Exhibit 1—Sample Contract Form

- Attachment A - Basic Services & Structural Seismic Evaluation Report for Westmoreland Elementary School Phase 1
- Attachment B – Compensation
- Attachment C - Insurance
- Attachment D - Dispute Resolution
- Attachment E - Certificate of Non-Discrimination
- Attachment F – Reference Form

EXHIBIT 1

**SAMPLE
CONTRACT FORM**

**Agreement for Architect & Engineering
Services**

AGREEMENT FOR ARCHITECT & ENGINEERING SERVICES

PROJECT: SEISMIC UPGRADES FOR WESTMORELAND CAMPUS, PHASE 1

This Agreement is entered into by and between Lane Education Service District (hereinafter referred to as "ESD") and _____ (hereinafter referred to as "Consultant"), effective on _____, 2020.

1. **BASIC SERVICES.** The Consultant shall perform for the benefit of the ESD the services ("Services") described herein for the construction projects ("Project") financed by the Business Oregon Infrastructure Finance Authority, including those certain Basic Services described in Attachment A attached hereto and incorporated herein by this reference and any Additional Services in accordance with Article 2. Basic Services shall be performed pursuant to the terms and conditions set out in Attachment A and this Agreement. In addition, the provisions for Services required under the Request for Proposals (RFP) for this Project are incorporated by reference (except to the extent expressly modified hereby). Within the general scope of this Agreement, the ESD shall have the right to add to, delete from or modify the Basic Services set out in this Agreement or Attachment A; provided that any services required to be performed by the Consultant beyond those set out in or reasonably inferable from the RFP, this Agreement or Attachment A shall be considered Additional Services in accordance with Article 2. The ESD reserves the right, in its sole discretion, to have certain of the Services performed by others upon written notice to the Consultant, in which case the Consultant's compensation shall be proportionately adjusted.
2. **ADDITIONAL SERVICES.** The Consultant shall perform services beyond those set out in or reasonably inferable from the RFP, this Agreement or Attachment A ("Additional Services") within the general scope of this Agreement upon written direction or authorization from the ESD. No such Additional Services shall be performed, nor shall Consultant be entitled to any compensation therefor, without such prior written direction or authorization from the ESD. Compensation for such Additional Services shall be based on the Additional Services performed and the Reimbursable Expenses incurred in conjunction with such Additional Services, pursuant to Attachment B, unless otherwise mutually agreed.
3. **PERIOD OF PERFORMANCE.**
 - 3.1. The Consultant shall begin performance of Services upon award of the Contract. The period during which the Consultant is obligated to perform Basic Services and Additional Services under this Agreement is hereinafter referred to as the "Period of Performance". Consultant's performance shall continue until completion of the Project unless the ESD determines otherwise.
 - 3.2. The ESD and Consultant acknowledge and agree that while the schedule for the design, permitting and construction of the Project has yet to be finalized, the construction portion of the Project will begin in approximately June 2021 and end in September 2021. The Consultant shall assist and advise the ESD regarding adjustments to the schedule during the Project.

4. PERSONNEL. _____ shall lead in performing all Basic Services and Additional Services under this Agreement on behalf of the Consultant (other than secretarial and bookkeeping Services) throughout the Period of Performance unless the ESD expressly approves otherwise and then only to the extent the ESD expressly approves otherwise. The ESD shall have the right to approve any individuals proposed to perform any of the Consultant's services hereunder, and upon request of the ESD any such individuals shall be replaced either by _____ personally or by another individual acceptable to the ESD.

5. CONSULTANTS

5.1. The Consultant shall not employ consultants to perform services or incur Reimbursable Expenses under this Agreement without the prior written approval of the ESD. The Consultant shall terminate or replace any such consultant as to which the ESD has given notice of a reasonable objection.

5.2. The Consultant shall be responsible for all acts and omissions of its consultants at all tiers, if any, and those of their respective employees and agents.

5.3. All consultants of the Consultant, if any, shall perform their services or incur their Reimbursable Expenses pursuant to a written contract. Each such written contract shall (i) require the consultant, to the extent of its performance on the Project, to be bound to the Consultant by the terms of this Agreement and to assume toward the Consultant all of the obligations and responsibilities which the Consultant under this Agreement assumes toward the ESD, (ii) provide that the ESD is a third party beneficiary of the contract, (iii) provide for the contract's termination for the ESD's convenience consistent with Section 13.1 and (iv) bind the consultant to the dispute resolution provisions referenced in Article 18.

6. COMPENSATION. The Compensation to be paid by the ESD to the Consultant shall consist of (a) compensation for Basic Services performed and Reimbursable Expenses incurred on the Project as set out in Attachment B attached hereto and incorporated herein by this reference and (b) compensation for Additional Services performed and Reimbursable Expenses in conjunction with such Additional Services pursuant to Article 2 as set out in Attachment B. The Consultant's compensation for the Services shall not exceed \$_____ in total; for any Service shall not exceed any cap subsequently agreed between the parties.

6.1. Payments of the Compensation shall be made based upon the Consultant's monthly invoices for Basic Services and Additional Services performed and Reimbursable Expenses incurred, together with such documentation as the District may reasonably require, demonstrating the Consultant's right to payment.

6.2. Payments under this Article shall be due and payable within thirty (30) days after the ESD's receipt of the Consultant's monthly invoice. Payments due to the Consultant which are unpaid thirty (30) days after the Owner's receipt of the Consultant's invoice shall bear interest at the legal rate.

6.3. In the event the undisputed amount of an invoice submitted by the Consultant is not paid within sixty (60) days after the ESD's receipt of the invoice, the Consultant after giving the ESD ten (10) days' written notice may, without breaching this Agreement, suspend further performance under this Agreement until the undisputed portion of the invoice is paid in full.

7. LANE ESD'S RESPONSIBILITIES. The ESD shall provide information to the Consultant in the ESD's possession regarding the ESD's requirements for the Project.
 - 7.1. The ESD shall furnish directly or contract for all design professional services, surveys, soil borings, materials tests and other such reports and all legal, accounting and insurance counseling services as may be necessary for the Project, unless the ESD requests that the Consultant engage such professionals as subconsultants as is reasonably related to performance of the Services.
 - 7.2. The ESD shall furnish directly or contract for all construction necessary for the Project, including labor, supervision, materials, and equipment.
8. INDEMNITY. To the fullest extent allowed by law, the Consultant shall indemnify, hold harmless, reimburse and defend the ESD, and its respective members, partners, officers, directors, agents and employees, and the successors in interest of the foregoing, from, for and against any and all injury, loss, expense, damage, claim, suit, action, penalty or liability of any kind, whether actual or merely alleged and whether directly incurred or from third parties, including but not limited to attorneys' and expert witnesses' fees and related costs, disbursements and expenses, that arise out of or relate to the Project, to the extent arising out of or caused by the negligent or other wrongful acts or omission of the Consultant, its employees or consultants, or any person or entity for which any of them are responsible, or by the failure of such parties to perform as required by this Agreement.
9. DELAYS. The Consultant and the ESD shall not be liable to each other for any delays in the performance of their obligations and responsibilities under this Agreement occurring beyond their reasonable control or without their fault or negligence, including but not limited to any of the following events or occurrences: fire, strike or lockout, insurrection, terrorist attack, war, flood, unusual weather, earthquake or other Act of God. In the event of any such delay, the Period of Performance shall be extended by a period of time corresponding with the period for which the Work was so delayed, and the Consultant shall be entitled to an equitable adjustment in its Compensation.
10. INSURANCE. The Consultant shall procure and maintain the insurance described in Attachment C attached hereto and incorporated herein.
11. STANDARD OF CARE. The Consultant shall perform Basic Services and Additional Services under this Agreement in accordance with the highest standards prevalent for construction management practices in the State of Oregon for similar projects in similar circumstances, and in accordance with the laws and regulations which are applicable to the performance of the Consultant's services under this Agreement.
12. ASSIGNMENT AND DELEGATION.
 - 12.1. The ESD may assign any rights or obligations under this Agreement. The ESD shall provide timely written notice to the Consultant of any such assignment.
 - 12.2. The Consultant may not assign any rights or obligations under this Agreement without the express prior written consent of the ESD.

13. TERMINATION

13.1. The ESD, without prior notice and without cause, may terminate this Agreement in whole or in part at any time by giving the Consultant written notice of the termination. In the event of such termination for the convenience of the ESD, the ESD shall pay the Consultant for all amounts due for terminated services performed and related Reimbursable Expenses incurred as of the effective date of the termination plus the Consultant's expenses reasonably incurred to wind down its terminated services, as set out in the Consultant's invoices and supporting documentation as reasonably required by the ESD, less damages. Under no circumstances shall Consultant be entitled to compensation, including but not limited to overhead and profit, for services not performed.

13.2. Nothing in Section 13.1 shall negate, abridge or reduce the rights of either the Consultant or the ESD to terminate this Agreement in whole or in part for cause as otherwise expressly provided for in this Agreement or pursuant to applicable law. Notwithstanding the foregoing, the Consultant shall not suspend, delay or withhold Services or terminate this Agreement in the event of dispute over Consultant's invoices so long as the undisputed portion of its invoices is paid.

14. INDEPENDENT CONTRACTOR. The ESD and Consultant acknowledge and agree that the Consultant is an independent contractor and employing unit and shall be responsible for payment of all employment-related taxes and contributions and filing all reports and documents required by applicable employment-related law. In no event shall any employee of the Consultant or its subconsultants be deemed to be an employee of the ESD, nor shall the ESD in any event be deemed to be responsible for the act or omission of any such employee.

15. EXTENT OF AGREEMENT. This Agreement represents the entire and integrated agreement between the ESD and Consultant with respect to the Project and supersedes all prior and contemporaneous communications, representations, promises, understandings, and agreements, both oral and written. This Agreement shall be amended only in writing signed by both parties.

16. THIRD PARTIES. This Agreement is not intended to create nor shall it be construed as creating any contractual relationship or obligation between Consultant and any third party, including but not limited to any design professional or contractor under direct or indirect contract with the ESD; and nothing contained in this Agreement and no performance of the parties hereunder shall inure to the benefit of any third party.

17. NOTICE. Notices hereunder shall be in writing and shall be deemed properly given when delivered in person, or by commercial messenger or courier, or by facsimile, as follows:

17.1. To the Consultant:

Attn: _____

Telephone No.: _____

Fax No.: _____

17.2. To the Owner/ESD:

Lane Education Service District
Attention: Brad Johnston, Facilities Manager
1200 Highway 99 N.
Eugene, OR 97402
Telephone No.: 541-461-8260
Fax No.: 541-461-8298

or to such other addressee, address, or facsimile number as either party shall designate to the other in the manner provided herein for the giving of notice.

18. DISPUTE RESOLUTION. The ESD and Consultant agree to be bound by the dispute resolution provisions set out in Attachment D attached hereto and incorporated herein, including but not limited to those relating to consolidated mediation and consolidated arbitration.
19. SEVERABILITY. Should any provision of this Agreement be in conflict with any law, rule, regulation, ruling or order, or be unenforceable or inoperative for any reason, then the remaining provisions nevertheless shall remain in full force and effect and the arbitrator(s) or court shall give the offending provision the fullest meaning and effect allowed by law.
20. WAIVER. Waiver of any default or breach under this Agreement by ESD will be effective only in the specific instance and for the specific purpose given. Any such waiver does not constitute a waiver of any subsequent default or a modification of any other provisions of this Agreement.
21. DISTRICT RIGHTS; CONTROLLING LAW; VENUE.
- 21.1. In addition to the ESD's pursuit of other available remedies, consequences for the Consultant's failure to perform the Services or failure to meet the established performance standards may include, but are not limited to:
- (A) Reducing or withholding payment;
 - (B) Requiring the Consultant to perform, at the Consultant's expense, additional work necessary to perform the identified Services or meet the established performance standards; or
 - (C) Declaring a default, terminating the Agreement in whole or in part and seeking damages and other relief available under the terms of the Agreement or other applicable law.
- 21.2. Any dispute under this Agreement or related to this Agreement will be governed by Oregon law, and any litigation arising out of the Agreement will be conducted in courts located in Multnomah County, Oregon.
22. PUBLIC CONTRACT PROVISIONS. The Public Contracting Code and the Attorney General's Model Public Contracting Rules contain certain requirements for public contracts, including but not limited to certain required contract provisions. The required contract provisions are contained in this Section 20, and Owner and Consultant agree to comply with all applicable requirements of ORS

Chapters 279A, 279B and 279C; the Attorney General's Model Public Contracting Rules; and other Oregon laws whether or not such provisions are included in this Section 22 or excised from this Section 22.

- 22.1. As required by ORS 279A.110, Consultant shall not discriminate against minority-owned, women owned, or emerging small businesses certified under ORS 200.055 or a business enterprise that is owned or controlled by or employs a disabled veteran as defined in ORS 408.225.
- 22.2. Consultant shall comply with all applicable federal, state, and local laws, statutes, codes, regulations, rules, orders and rulings as well as all applicable construction industry standards, including without limitation those governing labor, materials, equipment, construction procedures, safety, health, sanitation and the environment. Consultant agrees to indemnify, hold harmless, reimburse, and defend the ESD from and against any penalties or liabilities arising out of violations of such obligations by Consultant or its sub consultants at any tier.
- 22.3. Contractor represents and warrants that Contractor has complied with the applicable tax laws of this state or a political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318. Contractor covenants that contractor will continue to comply with the tax laws of this state or a political subdivision of this state during the term of this contract. Failure by the Contractor to comply with the applicable tax laws of this state or a political subdivision of this state before the execution of this Contract or during the term of this Contract is a default for which the ESD may terminate this Contract and seek damages and other relief available under the terms of this Contract or under applicable law.
- 22.4. To the extent applicable to the Services, no person shall be required or permitted to labor more than forty (40) hours in any one week, except in cases of necessity or emergency, or when the public policy absolutely requires it, in which event, the person so employed for excessive hours shall receive at least time and a half pay for (1) all overtime in excess of 40 hours in any one week; and (2) all work performed on any legal holiday specified in ORS 279C.540. This section does not apply to persons employed under this contract who are excluded under ORS 653.010 to 653.261 or under 29 USC 201 to 209 from receiving overtime.
- 22.5. Consultant shall comply with ORS 652.220 (Prohibition of discriminatory wage rates based on sex; employer not to discriminate against employee who is a complainant). Compliance is a material element of the Contract. Failure to comply is a breach that entitles the ESD to terminate the contact for cause.
- 22.6. Consultant may not prohibit any of the Consultant's employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or another person, and may not retaliate against an employee who does so.
- 22.7. The Consultant, each sub consultant and each lower-tier sub consultant must give notice to its employees in writing, either at the time of hire or before commencement of work, or by posting a notice in a location frequented by its employees, of the number of hours per day and days per week that the employees may be required to work.

- 22.8. Consultant shall promptly, as due, make payment to any person, co partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Consultant, of all sums that the Consultant agrees to pay for the services and all moneys and sums that the Consultant collected or deducted from the wages of employees under any law, contract, or agreement for the purpose of providing or paying for the services.
- 22.9. All employers, including Consultant, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Consultant shall ensure that each of its sub consultants complies with these requirements.
- 22.10. The Consultant, in performance of the Work, shall use recycled paper as defined in ORS 279A.010(1)(ee), recycled PETE products as defined in ORS 279A.010(1)(ff), and other recycled plastic resin products to the maximum extent economically feasible.
- 22.11. Consultant shall ensure its employees have identifying uniforms or other designation of identity such as badge, shirt, etc. with Consultant logo/name while on ESD property.
- 22.12. Consultant agrees that each employee, sub consultants' employees and principals/owners under this contract may, at the option of the ESD, be subject to a security check at any time through means determined by the ESD, and that any person who may have direct, unsupervised contact with students as determined by the ESD will be subject to fingerprinting and a criminal records check. The Consultant also agrees to comply and cause all subconsultants to comply with any school access rules and regulations of the ESD. ESD retains the right to require immediate removal of any consultant, sub consultant, employee or agent. Notwithstanding the foregoing, Consultant remains solely responsible for performing background checks on and screening for public safety of all sub consultants and employees and, to the extent allowed by law, shall provide such screening methodologies and information to the ESD upon request.

[Signatures on following page]

OWNER:

Lane Education Service District

By: _____

Name: _____

Title: _____

Date: _____

CONSULTANT:

By: _____

Name: _____

Title: _____

Date: _____

ATTACHMENT A

Basic Services

Seismic Upgrades for Westmoreland Campus, Phase 1

Introduction:

Lane Education Service District (the “District”) is seeking proposals from firms for the architectural, structural, mechanical and electrical design for the Seismic Rehabilitation of Westmoreland (the “Project”), located at 1717 City View Street, Eugene, Oregon 97402. In January 2020, the District applied for and received a Seismic Rehabilitation Grant (“SRG”) for the project through the Infrastructure Finance Authority: Business Oregon, based on the application prepared by ZCS Engineering & Architecture. The intent of this RFP is for the consultant to provide an integrated design solution for the entire building. As part of this grant, a preliminary rehabilitation feasibility report was prepared for each portion of the project and is enclosed. The District was awarded \$2,378,365 for the design and construction of Westmoreland Phase 1 Seismic Rehabilitation.

Lane ESD intends to use the typical Design-Bid-Build procurement for engineering services delivery method for this Project. Pre-Design/Schematic Design would begin immediately upon award and approval of the resulting design contract. Construction on the project is anticipated to start in the month of **June 2021** with Project completion expected by **September 2021**.

Scope of Work:

Structural Rehabilitation Scope of Service

The work associated with this task includes advancing preliminary structural rehabilitation plans for the Seismic Rehabilitation Grant (SRG). The rehabilitation work will be designed based on the 2019 Oregon Structural Specialty Code (OSSC) and the American Society of Civil Engineer’s rehabilitation document ASCE 41-17: Seismic Evaluation and Retrofit of Existing Buildings. Once final construction has been completed under the rehabilitation plan, the building will meet the Life Safety performance level as identified in ASCE 41-17. The following tasks outline the services to be included in this task:

Task 1: Pre-design/Schematic Design Phase

- Submit necessary SHPO paperwork as required and coordinate responses as required
- Support Lane ESD with technical communication Seismic Rehabilitation Grant Program (SRGP) as required, including quarterly seismic performance status report
- Review original building construction drawings to verify areas of structural concern

- Perform site visits to verify structural systems and advance schematic level as-built building drawings
- Perform a structural evaluation of existing building based on the ASCE 41-17 and identify all areas of structural deficiency
- Collate findings in preliminary calculations to assist in the determination of the existing building structural seismic deficiencies
- Coordinate with Lane ESD and geotech engineer to provided geotech hazard study
- Architectural, Mechanical, Plumbing, and Electrical services associated with the repair or replacement of building components affected by the implementation of the structural rehabilitation including but not limited to wall finishes (interior and exterior), ceiling and floor finishes, mechanical, plumbing, electrical systems, and roof are included in this scope of work

Task 2: Design Development Phase

Meetings with the owner to discuss proposed schematic rehabilitation program and make adjustments to benefit the use of the building during and after construction

- Hold a collaborative in-house work session to develop structural repair strategies to resolve primary structural deficiencies and perform value engineering of schematic design
- Perform a structural evaluation of existing structure based on the ASCE 41-17 and identify all areas of structural deficiency
- Perform a collaborative in-house work session to develop structural repair strategies to resolve primary structural deficiencies and perform value engineering of schematic design
- Perform structural calculations per the seismic rehabilitation program to the building as proposed based on the 2014 OSSC, and ASCE 41-17
- Develop 65% structural rehabilitation construction plans illustrating the seismic rehabilitation plan
- Perform in-house quality control peer review and principal engineer review
- Meetings with the owner to discuss the seismic rehabilitation scheme findings and solution options

Task 3: Construction Document Phase

- Perform structural analysis of final seismic rehabilitation program
- Develop complete structural rehabilitation construction documents and specifications to implement selected seismic rehabilitation program for competitive bid delivery method
- Develop architectural, electrical, and mechanical drawings and specifications where surfaces, systems, or other elements are effected by the seismic upgrades
- Coordinate 90% drawings with the owner and design team
- Perform in-house quality control peer review and principal engineer review

- Incorporated final team comments, address any conflicts, and review for value engineering strategies as needed
- Coordinate permit submittal documents and provide response to local building department review comments as needed

Task 4: Bidding Phase

- Assist with Competitive Bid solicitation and selection
- Attend pre-bid meeting
- Coordinated bid documents and provide response to Request For Information (RFI) received during the bidding period as needed

Task 5: Construction Administration Phase

- Perform review of shop drawings, material testing reports, inspection reports, and other submittals
- Attend project meetings (every other week) and perform necessary site visits and observations
- Perform necessary site visits and observations
- Perform necessary structural inspections and provide inspection reports
- Provide response to Request for Information (RFI) issued by the General Contractor.
- Provide review and make recommendations for material substitution requests, alternate construction options (design not included), review pay requests, and change orders issued by the ESD or the General Contractor.
- Provide as-built document submittal for owner's records (significant construction alterations to be provided by the General Contractor in form of marked-up prints)
- As requested, provide such further construction administration services as are normally required of the engineer under AIA or DAS construction contracts.

Please read the attached Seismic Rehab Grant Report and Drawing package prepared by ZCS Engineering, for further details on the scope of this project. The document can be found on the Orpin website or at the Lane ESD website at:

<https://www.lesd.k12.or.us/facilities/projects/index.html> labeled, "SeismicEvaluationReportPhase1.pdf".

ATTACHMENT B

Compensation: The compensation paid to the Consultant by the Owner shall be comprised of compensation for Basic Services and Additional Services performed and payment for Reimbursable Expenses incurred.

1. Compensation for Services Performed. Subject to the not-to-exceed amounts set forth in Article 6, compensation for both Basic Services and authorized Additional Services performed shall be determined by the number of hours of services performed in the interest of the Project by personnel of the Consultant or of its consultants multiplied by the hourly billing rate for such personnel. The Consultant personnel assigned to the Project shall be billed at the following hourly billing rates during the Period of Performance:

Rates for other personnel of the Consultant or of its consultants' personnel, if any, shall be as approved by the Owner in writing in advance. Hourly rates utilized for consultants' personnel shall be applied without markup by the Consultant.

2. Reimbursable Expenses. Reimbursable Expenses shall be based on the Consultant's actual costs incurred in the interest of the Project. Reimbursable Expenses shall be stated in each Top-Ranked Proposer's response, at a not to exceed amount identified in their attachment B-1 response.
3. Estimate. A good faith not-to-exceed estimate of Consultant's fees for services, broken out by Project component, is attached as Attachment B-1.

ATTACHMENT B-1

FEE ESTIMATE

<u>PROJECT</u>	<u>AMOUNT</u>
Engineering Services	\$ _____
Reimbursable Expenses (Cap (including markup))	\$ _____
Reimbursable Expense Markup: _____	
_____ %	
List of Reimbursable Expenses:	

ATTACHMENT C

INSURANCE

1. Insurance Coverage. The consultant shall procure and maintain at its expense during the Period of Performance and thereafter as required below the following insurance from one or more companies authorized to do business in the State of Oregon with a policyholder's rating of not less than A-IX in the most recent edition of Best's Rating Guide. Except as approved otherwise by the Owner in advance, such insurance shall protect against claims which arise out of or relate to all of the Consultant's services under the Agreement, whether performed by the Consultant or a consultant or a person or entity for which either of them may be responsible.
 - 1.1. Workers' Compensation Insurance, as required by law, with statutory limits.
 - 1.2. Employer's Liability Insurance, if employees are employed for other than secretarial or bookkeeping services, with a limit of not less than \$2,000,000 each accident, \$2,000,000 disease each employee and \$2,000,000 disease policy limit.
 - 1.3. Commercial General Liability Insurance, applicable to all premises and operations, including Bodily Injury, Property Damage, Personal Injury, Contractual Liability, Independent Contractors, Products and Completed Operations, Broad Form Property Damage (including Completed Operations), and coverage for explosion, collapse and underground hazards, with limits of not less than \$2,000,000 per occurrence, \$3,000,000 aggregate applicable specifically to the Project, \$2,000,000 personal and advertising injury and \$3,000,000 Products and Completed Operations.
 - 1.4. Business Automobile Liability Insurance, applicable to owned, non-owned and hired automobiles, with a limit of not less than \$2,000,000 combined single limit each accident.
 - 1.5. Professional Liability Insurance, applicable to all acts and omissions of Consultant and its consultants at all tiers, with limits of not less than \$2,000,000 per occurrence and \$3,000,000 aggregate.
2. Deductibles. The Consultant shall pay all deductibles on all policies required by Paragraph 1.
3. Waivers of Subrogation Regarding Liability Insurance. The Workers' Compensation and Employer's Liability policies shall be subject to a waiver of subrogation in favor of Owner and its members, partners, officers, directors, agents and employees, and the successors in interest of the foregoing.

4. Cross-Liability Coverage. The Commercial General Liability and Automobile Liability policies shall provide cross-liability coverage as would be achieved under the standard International Organization for Standardization ("ISO") separations of insured clause.
5. Additional Insured. The Commercial General Liability and Automobile Liability policies shall name the Owner and its members, partners, officers, directors, agents and employees, and the successors in interest of the foregoing, as additional insured, using ISO additional insured endorsement CG 20 10 11 85 or a substitute providing equivalent coverage. Such coverage provided to the additional insured shall (a) be primary and noncontributory with respect to any insurance or self-insurance retention of the additional insured, including but not limited to any Excess Liability coverage maintained by the additional insured, (b) provide the same types and extents of coverage as the coverage provided to the primary insured, and shall not be limited to the "vicarious liability" of the additional insured, (c) waive all rights of subrogation against the additional insured, (d) cover all additional insured that are a partnership or joint venture, if any, as "Named Insured" as expressly stated in endorsements and (e) be maintained for the same durations as the coverage provided to the primary insured, including but not limited to the continuation of the Products and Completed Operations coverage until three (3) years after final payment to the Owner's prime contractor on the Project, and shall not be limited to "ongoing operations". Notwithstanding the foregoing, this Paragraph shall not be construed to require the Consultant to provide insurance coverage of the additional insured in a way or to an extent that results in a violation of ORS §30.140.
6. Duration of Coverage. The insurance coverage required by Paragraph 1 shall be written on an occurrence basis, except the Professional Liability Insurance. The Professional Liability policy shall provide for a retroactive date of placement prior to or coinciding with the commencement of the performance of the design professional services under the Agreement. All other policies shall be in effect as of the date of commencement of the Consultant's services under the Agreement. All policies shall be maintained and remain in effect until one (1) year after final payment to the Owner's prime contractor on the Project and thereafter when the Consultant is assisting or advising the Owner regarding the correction of defective or nonconforming Work; provided that the Products and Completed Operations policy and the Professional Liability policy shall remain in effect until three (3) years after final payment to the Owner's prime contractor on the Project. The Consultant shall notify the Owner of any claims against the Professional Liability policy, in which event the Owner shall have the right to require the Consultant at its expense to obtain additional Professional Liability Insurance in order to restore the required coverage available for the Project.
7. Proof of Insurance. The Consultant shall file with Owner, upon execution of the Agreement, certificates of insurance acceptable to the Owner as well as copies of all insurance policies, with all riders and endorsements, all separate exclusions, conditions and waivers, and all other amendatory documents attached, evidencing the insurance required by this Attachment C. These certificates and policies shall contain a provision that coverage afforded under the policies will not be cancelled or allowed to expire until

at least thirty (30) days' written notice has been given to the Owner. If any of the required coverage are to renew during the period when such coverage is to remain in effect, or are required to remain in force after final payment to the Owner's prime contractor on the Project, an additional certificate evidencing continuation of such coverage shall be submitted upon renewal or with the Consultant's final invoice.

8. Effect of No or Insufficient Insurance. The Consultant's failure to comply with the requirements of this Attachment C shall constitute a material breach of the Agreement entitling the Owner to terminate the Agreement for cause. In the alternative, the Owner in its sole discretion may purchase the insurance required of, but not obtained or maintained by, the Consultant pursuant to this Attachment C and charge such costs thereof to the Consultant. The Owner's rights under this Paragraph shall be in addition to, and without waiver of, its other rights and remedies under the Agreement or applicable law.
9. Limitation of This Attachment C. Nothing in this Attachment C shall negate, abridge or reduce the Consultant's responsibilities or liabilities under the Agreement or applicable law, the meaning and effect of the provisions of this Attachment C being limited to setting out the Consultant's express obligations with respect to insurance.

ATTACHMENT D
DISPUTE RESOLUTION

1. In the event the Consultant or the ESD has a claim against the other arising out of or related to the Agreement, the party asserting the claim shall send a written notice of claim to the other party. A single notice shall suffice in the event of a continuing claim.
2. Notice of claims by Consultant shall be sent within a reasonable time, but not later than twenty-one (21) days, after the Consultant knew or reasonably should have known of the event or occurrence giving rise to the claim. The notice of claim shall be accompanied by such documentation and other information regarding the claim as is then available to the claimant; the claimant thereafter shall timely augment such documentation and information as it becomes available. Failure of Consultant to provide the written notice, documentation and other information required by this Paragraph shall result in waiver of the claim.
3. All claims and disputes between the Consultant and ESD arising out of or relating to the Agreement, the breach thereof, the Consultant's services hereunder or the Project shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, or at the election of the ESD, Arbitration Service of Portland (the service so selected by the ESD being the "Arbitration Service") then in effect unless the parties mutually agree otherwise and subject to prior mediation under Paragraph 4. Notice of the demand for arbitration shall be filed in writing with the other party to the Agreement and with the Arbitration Service and shall be made within a reasonable time after completion of mediation pursuant to Paragraph 4 without resolution of all claims or disputes; provided that in no event shall such demand be filed after the expiration of the statute of limitations applicable to the involved claims. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. The agreement herein between the parties to the Agreement and any other written agreement to arbitrate referred to herein shall be specifically enforceable under applicable law in any court having jurisdiction thereof.
4. All claims or disputes subject to arbitration under Paragraph 3 shall be subject to prior mediation in accordance with the mediation rules of the Arbitration Service then in effect unless the parties mutually agree otherwise. Notice of demand for mediation shall be filed in writing with the other party to the Agreement and with the Arbitration Service and shall be made within a reasonable time after the claim or dispute has arisen. The parties shall share equally in the cost of the mediation but shall bear their own costs of counsel.
5. In addition to the agreements to mediate and arbitrate set out in Paragraphs 3 and 4, the Consultant and ESD agree to a consolidated mediation and a consolidated arbitration of such claims, disputes or other matters in question between them arising

out of or relating to the Project with claims, disputes or other matters in question between or among the Owner, Consultant, Contractor, Contractor's subcontractors and suppliers at all tiers, Contractor's and its subcontractors' sureties, if any, Architect, Architect's consultants at all tiers, the ESD's separate contractors and consultants and their subcontractors, suppliers and sub consultants at all tiers, and any other person or entity under contract or otherwise engaged to perform work or services for the Project; provided that all such parties to the consolidated mediation and consolidated arbitration shall be persons or entities substantially involved in a common question or law or fact whose presence is required if complete relief is to be accorded in the consolidated proceeding. The consolidated mediation shall be consistent with Paragraph 3. The consolidated arbitration shall be consistent with Paragraph 2. The costs of the consolidated mediation shall be borne proportionately by the involved parties.

6. In the event of any litigation between the ESD and a project architect or construction contractor that involves work of the Consultant, The ESD may join the Consultant as a party in such litigation without mediation or arbitration.
7. Any mediation, arbitration or trial court suit or action arising out of or relating to the Agreement or the Project shall be conducted in Lane County.
8. The Agreement shall be governed by the law of the place where the Project is located.
9. Should any arbitration, suit or action be commenced in connection with any claim, dispute, controversy or other matter in question arising out of or related to the Agreement or the breach thereof, or Consultant's services under the Agreement or the Project, to obtain a construction of or enforce any provision of the Agreement, to rescind the Agreement, or to enforce or collect any award obtained during arbitration or any judgment or decree of any court arising out of or related to the Agreement, the prevailing party shall be entitled to recover its attorneys' and expert witnesses' fees and related costs, disbursements and expenses incurred prior to and during the arbitration or trial, on review for appeal, on appeal, upon request for reconsideration and upon reconsideration, as the arbitrator(s) or court may adjudge reasonable. The Consultant and Owner intend that the arbitrator(s) or court, as applicable, shall determine which party is the prevailing party for purposes of this Paragraph even if the award, judgment or other decision is a "compromise" result. The Consultant and Owner intend that the arbitrator(s) or court shall determine the prevailing party under the circumstance referenced in the prior sentence by determining which party accomplished the most of what it was seeking to accomplish at the commencement of the proceeding, trial or appeal.

ATTACHMENT E

CERTIFICATION OF NON-DISCRIMINATION

1. The undersigned Proposer is aware that, under ORS 279A.110, no proposer who contracts with a public contracting agency may discriminate against minority, women or emerging small businesses in the awarding of subcontracts. Accordingly, the undersigned Proposer hereby certifies as part of its proposal submission that it has not and will not discriminate against any minority, women or emerging small business enterprises in obtaining any of the required subcontracts for this Project.

Proposer's Name: _____

Signed By: _____

Title: _____

Dated: _____

ATTACHMENT F

OFFEROR REFERENCES FOR COMPARABLE PROJECTS IN SIZE AND SCOPE

Offeror shall provide a list of three different project references with the Offer that can be contacted regarding the quality of workmanship and service that the Offeror provided on projects of comparable size and scope. Offeror shall submit this information using the form provided in this section or may use the Offeror's form. The list of three different project references shall include the following information.

Project Reference #1

Name of Project: _____

Project Location: _____

Project Date: _____

Firm Name for Contact Person #1: _____

Name of Contact Person #1: _____

Telephone Number for Contact Person #1: _____

Fax number for Contact Person #1: _____

Firm Name for Contact Person #2: _____

Name of Contact Person #2: _____

Telephone Number for Contact Person #2: _____

Fax number for Contact Person #2: _____

Project Reference #2

Name of Project: _____

Project Location: _____

Project Date: _____

Firm Name for Contact Person #1: _____

Name of Contact Person #1: _____

Telephone Number for Contact Person #1: _____

Fax number for Contact Person #1: _____

Firm Name for Contact Person #2: _____

Name of Contact Person #2: _____

Telephone Number for Contact Person #2: _____

Fax number for Contact Person #2: _____

Project Reference #3

Name of Project: _____

Project Location: _____

Project Date: _____

Firm Name for Contact Person #1: _____

Name of Contact Person #1: _____

Telephone Number for Contact Person #1: _____

Fax number for Contact Person #1: _____

Firm Name for Contact Person #2: _____

Name of Contact Person #2: _____

Telephone Number for Contact Person #2: _____

Fax number for Contact Person #2: _____