



Project: Stabilization Center
Title: Addendum 03: Lane County Stabilization Center Request for Proposals for Architectural and Engineering Services
Date: 3/11/2024
From: Matt Dapkus, Project Manager
To: All Interested Respondents

This Addendum modifies the Request for Proposals for Architectural and Engineering Services for the Lane County Stabilization Center in accordance with the following:

Attachment E of the RFP is modified to include a requirement for Professional Liability insurance in accordance with the revised attachment herein.

The RFP is modified to include Attachment F referenced in Article 2.5 of the Form of Agreement and attached herein.

Matt Dapkus

A handwritten signature in black ink, appearing to read "Matt Dapkus", is positioned below the printed name.

Project Manager on behalf of Lane County

INSURANCE COVERAGES REQUIRED

Contractor shall not commence any work until Contractor obtains, at Contractor's own expense, all required insurance as specified below. Such insurance must have the approval of Lane County as to limits, form and amount. The types of insurance Contractor is required to obtain or maintain for the full period of the contract will be:

COMMERCIAL GENERAL LIABILITY WITH ADDITIONAL INSURED STATUS shall include:

Policy must include:

- Commercial General Liability
- Damage to Rented Property (\$50,000)
- Medical Expenses (\$5,000)
- Personal and Advertising (Same as per occurrence)
- Products/Completed Operations (Same as per occurrence)

MINIMUM POLICY LIMITS

\$2 million per occurrence*/\$4 million aggregate*
Amount required by funding source \$ /\$
Other Amount pre-approved by Risk Management:
\$ occurrence /\$ aggregate

Aggregate limits: Per Policy (most contracts) Per Project (construction contracts)

All policies must be of the occurrence form with combined single limit for bodily injury and property damage. Any deviation from this must be approved by Risk Management. All claims-made forms must be approved by Risk Management in advance and provide tail/continuous coverage for 24 months from the end of the project.

ADDITIONAL INSURED STATUS for general liability insurance coverage is required for performance of this contract. Unless otherwise specified below, blanket additional insured is acceptable and is considered a written contract requirement on any insurance policies required herein with respect to Provider's activities being performed under the Contract, excluding Professional Liability coverage. The contract **MUST** either include language that the additional insured status is required, or include this Insurance Coverages Required document as an attachment, and proof of blanket coverage from your policy must be provided either by a copy of your policy or by separate blanket endorsement.

When this box is checked, the Additional Insured status for this contract **MUST** be by scheduled (or named) **endorsement only**, and must read:

Lane County, its officers, agents, employees and volunteers are named as additional insureds with respect to Provider's activities being performed under the Contract. The **additional insureds must be named as an additional insured by separate endorsement**, the policy must be endorsed to show cancellation notices to the Lane County department who originated the contract, and the Endorsement must be attached to the COI.

AUTOMOBILE LIABILITY WITH ADDITIONAL INSURED STATUS: Insurance with limits as specified below. The coverage shall include owned, hired, and non-owned automobiles and include Lane County and its divisions, its commissioners, officers, agent, and employees as additional designated insureds (CA 20 48 02 99 or equivalent).

LIMITS* \$2 million combined single limit per accident for bodily injury and property damage
Amount required by funding source: \$ /\$
Other Amount pre-approved by Risk Management: \$ /\$

WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY as statutorily required for persons performing work under this contract. Any subcontractor hired by Contractor shall also carry Workers' Compensation and Employers' Liability coverage. Sole proprietors not subject to Workers' Compensation coverage must complete, execute, and submit the Workers' Compensation Coverage Exemption Statement.

Statutory amount (currently \$500,000 in Oregon, other states may vary)
Other: minimum of \$1,000,000 when not regulated by statute

OTHER – All non-occurrence coverages must provide tail/continuous coverage for 24 months from the end of the project and shall include completed operations where applicable. All coverages, except Professional Liability, must contain blanket Additional Insured status, unless otherwise indicated.

CYBER coverage in the amount of \$ (\$2,000,000/occurrence minimum unless indicated).
PROFESSIONAL LIABILITY coverage: limits not less than \$ (\$2,000,000/occurrence minimum unless indicated).
POLLUTION LIABILITY coverage: limits not less than \$ (\$2,000,000/occurrence minimum unless indicated).
Type: : limits not less than \$ (\$1,000,000/occurrence minimum unless indicated).
Type: : limits not less than \$ (\$1,000,000/occurrence minimum unless indicated).

***Umbrella or Excess coverage to increase the policy limits to the required amount is acceptable!**

CERTIFICATE HOLDER: Lane County, its officers, agents, employees and volunteers, c/o

LANE COUNTY REQUIRES THE COVERAGE TYPES AND AMOUNTS SHOWN ABOVE OR POLICY LIMITS, WHICHEVER IS GREATER. The policy limits specified above are minimum requirements; Lane County reserves the right to claim up to the policy limits. All coverages are Primary and Non-Contributory with any other insurance and self-insurance. Acceptance of a COI providing less than required coverages does not relieve contractor of the insurance requirements set out above or in the contract. The contractor must notify the County if non-County claims have infringed or impacted the policy. Contractor is required to notify Lane County of any changes to or cancellation of coverage(s) within 24 hours. Contractor is required to provide a copy of the policy to Lane County upon demand.

DIRECT ALL INSURANCE RELATED DOCUMENTS FOR YOUR CONTRACT TO YOUR CONTACT AT LANE COUNTY; DO NOT DIRECT YOUR DOCUMENTS TO RISK MANAGEMENT AS THIS WILL RESULT IN DELAYS.

Your Lane County Contact: email: Phone:

This document is an attachment to and part of your contract with Lane County.

Lane County Risk Management / LCRISKMG@co.lane.or.us

Attachment F: EXHIBIT B – STANDARD COUNTY DESIGN SERVICES (A/E) CONTRACT CONDITIONS

- 1. INDEPENDENT CONTRACTOR STATUS.** The performance of this Contract is at Consultant's sole risk. The service or services to be rendered under this Contract are those of an independent contractor that is not an officer, employee or agent of the County as those terms are used in ORS 30.265. Consultant is solely liable for any workers' compensation coverage; social security, unemployment insurance or retirement payments; and federal or state taxes due as a result of payments under this Contract, whether due on account of Consultant or Consultant's subcontractor, if any. Consultant is not employed by County, will not be under County's direct control, and will not be eligible for any Federal Social Security, State Workers' Compensation, unemployment insurance or Public Employees Retirement System benefits from this Contract.
- 2. INSURANCE AND INDEMNIFICATION**
 - 2.1 Consultant's Required Insurance.** Consultant must provide and maintain all types and amounts of insurance called for on the Exhibit titled "Insurance Coverages Required" to be provided by the Consultant, and must notify Lane County Risk Management of any material reduction or exhaustion of aggregate limits. Consultant may not commence any work until Consultant furnishes evidence of all required insurance specified by the County, and has obtained the County's approval as to limits, form, and amount. Commercial General Liability and Auto Liability coverage must include an Additional Insured Endorsement naming the County and its officers, agents, and employees that includes completed operations, and which is primary and non-contributory with any other insurance and self-insurance.
 - 2.1.1 Limitation on Tail Coverage for Professional Liability.** Notwithstanding the provisions of Exhibit C, County waives the requirement for tail coverage on professional liability insurance policies related to the design services.
 - 2.2 Consultant to Maintain Insurance.** Consultant may not cancel, materially change, or not renew insurance coverages. If any policy is canceled before final payment by County to Consultant, Consultant must immediately procure other insurance meeting the requirements. Any insurance bearing on adequacy of performance must be maintained after completion of the Contract. If Consultant fails to maintain any required insurance, County reserves the right to procure such insurance and to charge the cost to Consultant.
 - 2.3 Workers' Compensation.** Consultant, its subconsultants, subcontractors, and all employers working under this Contract are subject employers under the Oregon Workers' Compensation Law, and must comply with ORS 656.017 and provide Workers' Compensation coverage for all their subject workers unless exempt under ORS 656.126.
 - 2.4 No Limitation.** Nothing contained in these insurance requirements limits the extent of Consultant's responsibility for payment of damages resulting from Consultant's operation under this Contract.
 - 2.5 Consultant's Indemnification.** Except as provided in subsection 2.6 below, to the fullest extent permitted by law, and to the extent otherwise provided for in private contracts of insurance, Consultant shall indemnify, defend, and hold harmless the County and its officers, agents, and employees from all damages, losses, expenses, attorney fees and costs related to litigation, including judgments arising out of or resulting from Consultant's performance under this Contract.
 - 2.5.1 Owner Defense Requirements.** Notwithstanding the foregoing defense obligations, neither Consultant nor any attorney engaged by Consultant shall defend any claim in the name of County, nor purport to act as legal representative of County or any of its agencies, without the prior written consent of County. County may assume its own defense and settlement of any claims, and reserves all rights to pursue any claims it may have against Consultant.
 - 2.5.2 Owner's Actions.** This Section 2.5 does not include indemnification by Consultant of County for County's acts or omissions, whether related to the Contract or otherwise.
 - 2.5.3 Intellectual Property, Defense.** This indemnification shall extend to the work product or any tangible or intangible items delivered to County under the Contract that may be the subject of protection under any state or federal intellectual property law or doctrine, including any claim that the County's use thereof infringes any patent, copyright, trade secret, trade mark, or other proprietary right of any third party. Consultant shall have no affirmative duty to defend any party for claims for professional liability.
 - 2.6 Consultant's Indemnification for Claims for Professional Liability.** Notwithstanding the foregoing subsection 2.5, to the fullest extent permitted by law, and to the extent provided for in private contracts of insurance, Consultant shall indemnify, save, and hold harmless County and its officers, agents, and employees, from all claims, suits, or actions arising out of the professionally negligent acts or omissions of the Consultant or its subconsultants, subcontractors, agents, or employees in performance of professional services under this Contract.
 - 2.6.1** Notwithstanding any contrary provision herein, it is hereby agreed that the Consultant's obligation to defend or to pay the defense costs of the indemnitees shall only apply if and when and to the extent that a court or other forum of competent jurisdiction has determined the percentage of Consultant's fault for the liability alleged in which case Consultant shall be obligated to pay the amount equal to the percentage of its fault that has been actually determined.

3. CONSULTANT'S OBLIGATIONS

- 3.1 Consultant must possess the learning, skills, and experience ordinarily possessed by similar professionals in the community, and use reasonable care and diligence and professional judgment in carrying out the work of this Contract. Nothing in this Contract shall be interpreted to require Consultant to meet any higher standard and this paragraph shall control over any such contrary provision.
- 3.2 Consultant must make all provisions of the Contract applicable to any subconsultant or subcontractor performing work under the Contract.
- 3.3 Consultant agrees that County will not be responsible for any losses or unanticipated costs suffered by Consultant as a result of the Consultant's failure to obtain full information in advance in regard to all conditions pertaining to the work.
- 3.4 Consultant certifies that Consultant has all necessary licenses, permits, or certificates of registration necessary to perform the Contract and further certifies that all subcontractors and subconsultants will likewise have all necessary licenses, permits or certificates before performing any work.
- 3.5 Consultant may not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished, will be responsible for satisfaction of any lien so filed or prosecuted and must defend against, indemnify, and hold the County harmless from any such lien or claim.
- 3.6 Unless otherwise provided by the Contract or law, Consultant agrees that County and its duly authorized representatives may have access to the books, documents, papers, and records of Consultant which are directly pertinent to this Contract for the purpose of making audits, examinations, excerpts, copies and transcripts. Consultant shall retain and keep accessible such books, documents, papers, and records for a minimum of 6 years after County makes final payment on the Contract. Copies of applicable records must be made available upon request, and payment of copy costs is reimbursable by County.
- 3.7 Consultant must, in the course of carrying out Consultant's Work, comply at all times with the then-current "Mandatory County Policies for Vendors" published on County's Procurement and Purchasing webpage at: www.lanecountyor.gov/bids.

4. CONSULTANT'S OBLIGATIONS REQUIRED BY LAW

- 4.1 Consultant must promptly make payments for labor and material, and pay all contributions due to the Industrial Accident Fund, in accordance with ORS 279B.220 or ORS 279C.505, as applicable.
- 4.2 Consultant must promptly make payments for any costs described in ORS 279B.230 and 279C.530, as applicable.
- 4.3 Consultant must comply with requirements related to employed persons' hours of work and payment for overtime work, in accordance with ORS 279B.235, 279C.520, and 279C.540, as applicable.
- 4.4 If Consultant is a nonresident bidder and the Contract price exceeds \$10,000, Consultant must promptly report to the Department of Revenue on forms provided by that Department the total contract price, terms of payment, length of contract and such other information as the Department may require before the County will make final payment on the contract, in accordance with ORS 279A.120.
- 4.5 Consultant and any subcontractor must pay to the Department of Revenue all sums withheld from employees, in accordance with ORS 316.167.
- 4.6 Consultant acknowledges that, pursuant to ORS 210.190, no payment may be made by County on account of this Contract if Consultant is indebted to Lane County in any manner, except for taxes not delinquent. Consultant expressly grants County the right to deduct from any payments due on this Contract the amount necessary to satisfy such indebtedness until any such debt has been satisfied.
- 4.7 **Equal Employment Opportunity.** During the performance of this Contract, Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Consultant will comply with all applicable requirements of 29 CFR Part 471, Appendix A to Subpart A (copy available at: www.dol.gov/olms/regs/compliance/EO13496.htm), and will include the terms of these requirements in all subcontracts entered into under this Contract.
- 4.8 **Oregon False Claims Act.** Consultant acknowledges that the Oregon False Claims Act (ORS 180.750 to 180.785) applies to any action or conduct by Consultant pertaining to this Contract that constitutes a "claim" as defined by the Act. By its execution of this Contract, Consultant certifies the truthfulness, completeness, and accuracy of any statement or claim it has made may make, or causes to be made that pertains to this Contract or to the Work of the Contract.
- 4.9 **Compliance with Law.** In connection with its activities under this Agreement, Consultant must comply with all applicable federal, state and local laws.

5. MODIFICATION AND TERMINATION

- 5.1 **Modification.** No modification or amendment to this Contract will bind either party unless in writing and signed by both parties. In lieu of termination pursuant to subsection 5.2.4 below, County may propose modifications to the Contract sufficient to allow County to perform its obligations.
- 5.2 **Termination:**

5.2.1 The parties may jointly agree to terminate this Contract at any time by written agreement.

5.2.2 County may terminate this Contract for its convenience at any time with no liability on its part, except to pay for services previously provided, by giving Consultant not less than 30 days' advance written notice.

5.2.3 If County reasonably believes that Consultant is in material breach of Consultant's obligations or any representation or warranty contained in this Contract, County may suspend the Work of this Contract at any time without notice. Upon notice to Consultant of such breach, and failure of Consultant to cure such breach within 7 days of receipt of County's notice, County may terminate this Contract.

5.2.4 County certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Contract for the period within the current budget. However, Consultant understands and agrees that: (1) if County fails to appropriate funds for any successive budget year, the Contract will terminate at the end of the last fiscal year for which payments have been appropriated, and (2) if County's funding, appropriations, or expenditure authority are reduced to a level insufficient, in County's reasonable administrative discretion, to perform its obligations under this Contract, County may terminate this Contract immediately upon notice to Consultant.

5.2.5 Upon termination pursuant to this subsection, County will have no further obligation to Consultant except for payments for amounts earned prior to the termination date.

5.3 Remedies and Default. County may exercise any of the following remedies for Consultant's failure to perform the scope of work or failure to meet established performance standards: reduce or withhold payment; require Consultant to perform, at Consultant's expense, additional work necessary to perform the identified scope of work or meet the established performance standards; or declare a default, terminating the Contract and seeking damages and other relief available under the terms of the Contract or applicable law.

5.4 Force Majeure. Neither County nor Consultant will be held responsible for delay or default due to force majeure acts, events, or occurrences, including but not limited to fires, riots, wars, and epidemics, unless such delay or default could have been avoided by the exercise of reasonable care, prudence, foresight, and diligence by that party. If delays or nonperformance are caused by a subcontractor of Consultant, Consultant will be liable for such supplies or services if the supplies or services were obtainable from other sources in sufficient time to permit Consultant to meet the required schedule. County may terminate this Contract upon written notice after determining that a delay or default caused by Force Majeure acts, events, or occurrences will reasonably prevent successful performance of the Contract.

6. DISPUTES

6.1 Dispute Resolution. The parties are required to exert every effort to cooperatively resolve any disagreements that may arise under this Contract. This may be done at any management level, including at a level higher than the persons directly responsible for administration of the Contract. In the event that the parties alone are unable to resolve any conflict under this Contract, they are encouraged to resolve their differences through mediation or other cooperative dispute resolution process.

6.2 Choice of Law, Venue, and Jurisdiction. All matters in dispute between the parties to this Contract arising from or relating to the Contract, including without limitation alleged tort or violation, are governed by, construed, and enforced in accordance with the laws of the State of Oregon without regard to principles of conflict of laws. All disputes and litigation arising out of this Contract will be decided by the state or federal courts of Oregon, CONSULTANT HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS AND WAIVES ANY OBJECTION TO VENUE IN SUCH COURTS, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM. Venue for all disputes and litigation will be in Lane County, Oregon. This section does not constitute a waiver by County of any form of defense or immunity, whether governmental immunity or otherwise, from any claim or from the jurisdiction of any court.

6.3 Attorney Fees. In the event an action, suit or proceeding, including appeals, is brought for failure to observe any of the terms of this Contract, each party shall be responsible for that party's own attorney fees, expenses, costs and disbursements for the action, suit, proceeding or appeal.

7. MISCELLANEOUS PROVISIONS

7.1 Taxes.

7.1.1 County's Tax-Exempt Status. County is a political subdivision of the State of Oregon, and has been granted tax-exempt status by the Internal Revenue Service, affirmed March 26, 2010, reference number 0248464840. County is not obliged to pay or reimburse any costs for taxes upon goods or services furnished under this Contract. Such taxes are included in Consultant's administrative costs for the Contract and any changes thereto.

7.1.2 Consultant's Taxes. Consultant is independently responsible for its obligations for federal, state, and local sales and income taxes, including the Oregon Corporate Activity Tax, and no amount will be chargeable to County for such taxes.

7.2 Public Records. The parties acknowledge that this Contract and all records held by County are public records and subject to public disclosure unless a statutory exemption applies, and agrees that County shall have no liability for the disclosure

of any confidential information in response to a public records request where such disclosure is required by court or district attorney order, or by County's good faith interpretation of its statutory requirements.

- 7.3 Merger and Construction.** This Contract contains the entire agreement of County and Consultant with respect to the subject matter of this Contract, and supersedes all prior negotiations, agreements and understandings. This Contract is the result of an open procurement process and negotiations between the parties, and the provisions of this Contract are to be interpreted and their legal effects determined as a whole, with no part to be construed against the drafter of such part.
- 7.4 Waiver.** Failure of County to enforce any provision of this Contract does not constitute a waiver or relinquishment by County of the right to such performance in the future nor of the right to enforce that or any other provision of this Contract.
- 7.5 Severability.** If any provision of this Contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions are not affected; and the rights and obligations of the parties are to be construed and enforced as if the Contract did not contain the particular provision held to be invalid.
- 7.6 Survival.** The provisions of this Contract with respect to governing law, indemnity, insurance for completed products and operations, warranties, guarantees and, if included in the Contract, attorney fee provisions and limitations, will survive termination or completion of the Contract.
- 7.7 Time is of the Essence.** The parties agree that time is of the essence with respect to all provisions of this Contract.
- 7.8 Non-Assignment.** Consultant may not assign or transfer its interest in this Contract without prior written approval of County.
- 7.9 Binding on Successors and Assigns.** The provisions of this Contract are binding upon and inure to the benefit of the parties to this Contract, their respective successors, and permitted assigns.
- 7.10 No Third-Party Beneficiaries.** County and Consultant are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives or may be construed to give or provide any benefit or right to third persons, either directly or indirectly, that is greater than the rights and benefits enjoyed by the general public, unless that party is identified by name in this Contract.
- 7.11 Headings.** The headings and captions in this Contract are for reference and identification purposes only and may not be used to construe the meaning or to interpret the Contract.