



CLARIFICATION NO. 2

ENGINEERING CONSULTANT SERVICES

**TUMALO RESERVOIR RD:
O.B. RILEY RD TO SISEMORE RD**

September 22, 2023

The following is a list of questions received and responses by the Agency in regards to the Request for Proposals:

- **Question 1** - *Would it be acceptable to include an 11x17-inch page in the Supportive Information Section?*

Agency Response to Question 1 – Proposals shall be formatted with 8.5” by 11”-size pages.

- **Question 2** - *Does the County have subsurface geotechnical data that can be made available for evaluation by prospective proposers?*

Agency Response to Question 2 – The County does not have geotechnical data for the project location.

- **Question 3** – Proposed edit to Subsection 10(b-1) of the template services contract:

10. Work Standard.

b. For goods and services to be provided under this contract, Contractor agrees to:

- 1) perform the work ~~with the care and skill ordinarily used by members of the same profession, practicing under similar circumstances, at the same time, in the same locality in a good, workmanlike, and timely manner using the schedule, materials, plans and specifications approved by County;~~

Agency Response to Question 3 – The proposed edit would be **acceptable**.

- **Question 4** – Proposed edit to Subsection 10(b-4) of the template services contract:

10. Work Standard.

b. For goods and services to be provided under this contract, Contractor agrees to:

- 4) take all precautions necessary to protect the safety of ~~all persons at or near County~~

~~of Contractor’s facilities, including employees of Contractor, County and any other contractors or subcontractors and to protect the work and all other property against damage.~~

Agency Response to Question 4 – The proposed edit would be **unacceptable**. The scope of work will include onsite work, including field surveying and subsurface investigation.

- **Question 5** – Proposed addition to Section 18 of the template services contract, inserted as Subsection 18(g):

18. Ownership of Work. All work of Contractor that results from this Contract (the “Work Product”) is the exclusive property of County.

- g. ~~Such work product is not intended for re-use or alteration and any such reuse, without the prior authorization of the Contractor is done at the County’s sole risk and the County shall hold the Contractor harmless from any and all losses, expenses (including attorney’s fees), liabilities, claims arising out of such unauthorized reuse.~~

Agency Response to Question 5 – The proposed addition would be **acceptable**.

- **Question 6** – Proposed addition to Subsection 21(b) of the template services contract:

21. Indemnity and Hold Harmless

- b. Contractor shall have control of the defense and settlement of any claim that is subject to subparagraph a of this paragraph; however neither contractor nor any attorney engaged by Contractor shall defend the claim in the name of Deschutes County or any department or agency thereof, nor purport to act as legal representative of the County or any of its departments or agencies without first receiving from the County’s legal counsel, in a form and manner determined appropriate by the County’s legal counsel, authority to act as legal counsel for the County, nor shall Contractor settle any claim on behalf of the Count without the approval of the County’s legal counsel. ~~For professional liability claims, Contractor’s defense obligation means only the reimbursement of reasonable defense costs to the proportionate extent of the Contractor’s actual liability hereunder~~

Agency Response to Question 6 – The proposed addition would be **acceptable subject to the following edit**:

21. Indemnity and Hold Harmless

- b. Contractor shall have control of the defense and settlement of any claim that is subject to subparagraph a of this paragraph; however neither contractor nor any attorney engaged by Contractor shall defend the claim in the name of Deschutes County or any department or agency thereof, nor purport to act as legal representative of the County or any of its departments or agencies without first receiving from the County’s legal counsel, in a form and manner determined appropriate by the County’s legal counsel, authority to act as legal counsel for the County, nor shall Contractor settle any claim on behalf of the Count without the approval of the County’s legal counsel. ~~For professional liability claims, Contractor’s defense obligation means only the reimbursement of reasonable defense costs~~ (to include indemnification) ~~to the proportionate extent of the Contractor’s actual liability hereunder~~

- **Question 7** – Proposed edit to Exhibit 3, Subsection C(3) of the template services contract:

C. Representation and Warranties

Contractor certifies under penalty of perjury that the following statements are true to the best of Contractor's knowledge:

3. The services under this Contract shall be performed ~~in a good and workmanlike manner and in accordance with the highest professional standards~~; and

Agency Response to Question 7 – The proposed edit would be **acceptable**.