

April 24, 2020

SOLICITATION ADDENDUM NO. 3
ITB 19-0054
Errol Hassell Restrooms Remodel

THE FOLLOWING CHANGES/ADDITIONS TO THE ABOVE CITED SOLICITATION ARE ANNOUNCED:

This Addendum modifies the Invitation to Bid (ITB) document(s) only to the extent indicated herein. All other areas not changed or otherwise modified by this Addendum shall remain in full force and effect. This Addendum is hereby made an integral part of the ITB document. Bidder must be responsive to any requirements of this Addendum as if the requirements were set forth in the ITB. Failure to do so may result in Bid rejection. See the ITB regarding requests for clarification or change and protests of this Addendum, and the deadlines for the foregoing.

This addendum is to be acknowledged in the space provided on the Bidder Certification form supplied in the solicitation document. Failure to acknowledge receipt of this addendum may be cause to reject your offer.

The closing date **REMAINS UNCHANGED: May 19, 2020 at 2:00 PM Pacific Time**

CLARIFICATIONS:

Please see the District's Insurance Requirements below.

-END of Addendum
Peter Madaus
Contract Specialist

EXHIBIT E**INSURANCE REQUIREMENTS**

1. Insurance Coverages. The Contractor shall procure and maintain (and, unless the Owner permits otherwise in writing, shall cause all Subcontractors to procure and maintain) at the Contractor's 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 Contractor's (and such Subcontractors') services under the Agreement, whether performed by the Contractor or a Subcontractor or consultant or a person or entity for which either of them may be responsible. The insurance coverages required by this Paragraph 1 shall be written on an occurrence basis, except the Professional Liability Insurance.

1.1 Workers' Compensation Insurance, if 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 \$500,000.

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), Pollution Liability (coverage shall apply to both sudden and gradual pollution conditions), and coverage for explosion, collapse and underground hazards, with limits of not less than \$1,000,000 per occurrence, \$2,000,000 aggregate applicable specifically to the Project, \$1,000,000 personal and advertising injury and \$1,000,000 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 \$1,000,000 combined single limit each accident; .

1.5 Professional Liability Insurance, covering performance of professional services by the Contractor or any Subcontractor or professional firm at any tier (e.g. for bidder-design or design-build components), whether or not performed by a licensed architect or engineer, with policy limits of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate.

1.6 Pollution Liability Insurance, covering the Contractor's liability for a third-party bodily injury and property damage arising from pollution conditions caused by the Contractor while performing their operations under the contract. The insurance coverage shall apply to sudden and accidental pollution events. Any coverage restriction as to time limit for discovery of a pollution incident and/or a time limit for notice to the insurer must be accepted by the Owner. The insurance coverage shall also respond to cleanup cost. This coverage may be written in combination with the commercial general liability insurance or professional liability insurance. The policy's limits shall not be less than \$1,000,000 each loss / \$1,000,000 aggregate. The policy shall be endorsed to state that the general aggregate limit of liability shall apply separately to this contract. Any self-insured retention / deductible amount shall be submitted to the Owner for review and approval.

1.7 Asbestos/hazardous materials Abatement (only applicable to Asbestos/hazardous materials abatement Contractors): General Liability policy shall be written on a form that meets the following criteria, and must be ASBESTOS SPECIFIC as follows:

- (a) A full occurrence form, or
- (b) A limited occurrence form with at least a three (3) year tail, or
- (c) A claims made form with a three (3) year tail.

1.8 True Umbrella Policy, which provides excess limits over the primary layer, in an amount not less than \$5,000,000.

1.9 Subcontractors: The Contractor shall require all subcontractors to provide and maintain General Liability, Auto Liability, Professional Liability (as applicable), and Workers' Compensation insurance with coverage's equivalent to those required of the General Contractor in this Agreement. The Contractor shall require certificates of insurance from all subcontractors as evidence of coverage.

1.10 Exceptions or Waivers: Any exception of waiver of these requirements shall be subject to review and written approval from the Owner.

2. Deductibles. The Contractor shall pay all deductibles on all policies required by Paragraph 1.

3. Waivers of Subrogation Re 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 Coverages. The Commercial General Liability and Automobile Liability policies shall provide cross-liability coverages as would be achieved under the standard International Organization for Standardization ("ISO") separations of insureds clause.

5. Additional Insureds. The Commercial General Liability and Automobile Liability policies shall name the Owner and its officers, directors, agents and employees, and the successors in interest of the foregoing, as additional insureds, using ISO additional insureds endorsement CG 20 10 11 85 or a substitute providing equivalent coverages. Such coverages provided to the additional insureds shall (a) be primary and noncontributory with respect to any insurance or self-insurance retention of the additional insureds, including but not limited to any Excess Liability coverage maintained by the additional insureds, (b) provide the same types and extents of coverages as the coverages provided to the primary insured, and shall not be limited to the "vicarious liability" of the additional insureds, (c) waive all rights of subrogation against the additional insureds, (d) cover all additional insureds that are a partnership or joint venture, if any, as "Named Insureds" as expressly stated in endorsements and (e) be maintained for the same durations as the coverages 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 Contractor to provide insurance coverage of the additional insureds in a way or to an extent that results in a violation of ORS § 30.140.

6. Duration of Coverages. The insurance coverages 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 date of commencement under the Agreement. All other policies shall be in effect as of the date of commencement of the Contractor's services under the Agreement. All policies shall be maintained and remain in effect until one (1) year after Final Completion and thereafter when the Contractor 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 Contractor shall notify the Owner of any claims against the Professional Liability policy, in which event the Owner shall have the right to require the Contractor at its expense to obtain additional Professional Liability Insurance in order to restore the required coverage available for the Project.

7. Builder's Risk Insurance.

The Contractor shall obtain Builder's Risk Insurance as described below:

(1) The Contractor shall purchase and maintain in force during the term of this Contract, at its own expense, Builder's Risk insurance in an amount equal to the Contract Amount, including any subsequent modifications for the entire project at the site on a replacement cost basis, including covering all costs needed to repair the structure or work based on the value figured at the time of rebuilding or repairing, not at the time of loss. Such coverage shall be maintained, unless otherwise provided in the Contract Documents, or otherwise agreed to in writing by all persons and entities who are beneficiaries of such insurance, until final

payment has been made or until no person or entity other than the Owner has insurable interest in the property to be covered, whichever is earlier. The Builder's Risk insurance shall include interests of the Owner, the Contractor, Subcontractors and sub-tier contractors in the project.

(2) **Special Covered Cause of Loss Form.** The Contractor's Builder's Risk Coverage shall be on a special covered cause of loss form and shall include theft, vandalism, malicious mischief, collapse, false-work, temporary buildings and debris removal including demolition, increased cost of construction, architect's fees and expenses, flood and earthquake coverage, materials and equipment in transit, and all below and above ground structures, water and sewer mains. Other coverage may be required if provided in contract documents. Coverage shall be written for 100% of the completed value (replacement cost basis) of the work being performed.

(3) **Amendments and Provisions.** The Contractor's Builder's Risk shall also include the following amendments and provisions.

a. **Waiver of Subrogation.** Waiver of subrogation against all parties named as insured, to the extent the loss is covered;

b. **Beneficial Occupancy Clause.** The policy shall specifically permit partial or beneficial occupancy at or before substantial completion or final acceptance of the entire work. The Contractor shall take reasonable steps to obtain any necessary consent of the insurance company or companies and agrees to take no action, other than upon mutual written consent, with respect to occupancy or use of the work that could lead to cancellation, lapse or reduction of insurance;

c. **Equipment Breakdown Coverage.** Equipment breakdown coverage (aka boiler & machinery coverage) shall be provided that specifically covers insured equipment during installation and testing;

d. **Interior Damage.** Any clause that excludes recovery of damage to the interior of building shall be deleted. The Builder's Risk policy shall provide for recovery for damage to the interior of a building if caused by perils insured against in the Builder's Risk Policy;

e. **Design Error.** The Builder's Risk policy shall not exclude coverage of damages caused by design error;

f. **Settlement, Cracking, Etc.** The Builder's Risk policy shall cover settling, cracking, shrinking or expansion (including coverage for loss resulting from settling, cracking, shrinking or expansion) of foundation walls, floors and other parts of the structure; and

g. **Deductible.** Any deductible shall not exceed \$50,000 for each loss.

(4) **Builder's Risk Installation Floater.** If approved in writing by the Owner's Risk Manager, the Contractor may obtain a Builder's Risk Installation Floater in lieu of Builder's Risk Insurance at the Contractor's expense. The Contractor shall keep the Builder's Risk Installation Floater in effect during the term of this Contract for the value of materials and equipment, on a replacement cost basis, including covering all costs needed to repair the structure or Work (including overhead and profit) based on the values figured at the time of rebuilding or repairing, not at the time of loss. Such coverage shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed to in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the Owner has an insurable interest in the property to be covered, whichever is earlier. The Builders' Risk Installation Floater shall include interest of the Owner, The Contractor, Subcontractors and sub-tier Contractors in the project. The Builders' Risk Installation Floater shall be on a Special Covered Cause of Loss Form and shall include theft, vandalism, malicious mischief, faulty workmanship, labor, materials and equipment to be installed. Other coverages may be required if provided in the Contract Documents. The Builders' Risk Installation Floater shall also provide a Waiver of Subrogation against all parties named as insured, but only to the extent the loss is covered. Coverages shall be written for 100% of the completed value (replacement cost basis including labor and materials) of the work being performed or other limit as specified in the Contract Documents. Coverage shall extend to when project materials are in off-site storage and while in transit.

(5) **Insured Loss.** The owner shall have sole power and authority to adjust and settle a loss with insurers. A loss insured under the Builder's Risk Insurance or Builder's Risk Installation Floater shall be adjusted by the Owner and any payments or settlements shall be made payable to the Owner for the insureds, as their interests may appear. The Owner shall be entitled to full payment of its loss from the insurance proceeds before payment of the remainder to any other beneficiaries of the policy. The Contractor shall pay Subcontractors their just share of remaining insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors make payments to the Sub-subcontractors in similar manner.

(6) **Deductible.** Payment of the deductible on the Builders Risk policy claims is the responsibility of the Contractor and is not subject to reimbursement by the Owner. The Contractor promptly shall pay the deductible (or if the claim is less than the deductible, the amount of the claim) promptly and without offset or deduction. If the Contractor does not do so, the Owner may, in addition to other remedies, deduct and offset the amount of the deductible from the Contract Sum.

8. **Proof of Insurance.** The Contractor 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 of the Contractor by this Exhibit E. No progress payment will be due until all such Certificates and policies are furnished. All policies and certificates must be signed copies and shall contain a provision that coverages afforded under the policies cannot be materially altered (i.e., the coverage's reduced, the limits decreased, or the additional insured removed), allowed to expire, or cancelled without first giving 30 days' prior written notice to the Owner. The Contractor shall furnish to the Owner copies of any subsequently issued endorsements amending, modifying, altering, or restricting coverage of limits. Furthermore, such policies or certificates shall verify that the policy contains coverage for blanket contractual liability including both oral and written contracts and acknowledge the indemnification provisions and liability coverages called for by this Agreement. If any of the required coverages 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 Contractor's final invoice.

9. **Effect of No or Insufficient Insurance.** The Contractor's failure to comply with the requirements of this Exhibit E 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 Contractor pursuant to this Exhibit E and charge such costs thereof to the Contractor or deduct the costs thereof from the Contract Sum. 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.

10. **Waivers of Subrogation.** The Owner and the Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or the Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, the Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

1. **Limitation of This Exhibit E.** Nothing in this Exhibit E shall negate, abridge or reduce the Contractor's responsibilities or liabilities under the Agreement or applicable law, the meaning and effect of the provisions of this Exhibit E being limited to setting out the Contractor's express obligations with respect to

insurance. By requiring insurance, the Owner does not guarantee that the insurance is sufficient to cover all the risks the Contractor may face. The Contractor's liability is not limited to insurance.

2. The Contractor shall obtain, at its own expense, the minimum insurance coverage described in this Exhibit and maintain that coverage until final acceptance of the entire Project, and through the stated completed operations period as applicable. By requiring such minimum insurance, the Owner does not guarantee that the insurance is sufficient to cover all the risks the Contractor may face. The Contractor's liability is not limited to insurance. The insurance carried by the Contractor shall be the primary coverage and non-contributory, and any insurance maintained by the Owner is excess and in any event solely for damages or losses for which the Owner is responsible.

3. The Owner's specification or approval of the insurance in this Contract or of its amount shall not relieve or decrease the liability of the Contractor under the Contract documents or otherwise. Coverage's are the minimum to be provided and are not limitations of liability under the Contract, indemnification, or applicable law provisions. The Contractor may, at its expense, purchase larger coverage amounts.

4. Contract Sum. The Contract Sum includes the cost of any insurance required by the Contract Documents.