

Fern Ridge School District 28J

Elmira, Oregon

REQUEST FOR PROPOSALS for CONSTRUCTION SPECIAL INSPECTION SERVICES

RFP Number 5.14.15.1

Proposal Date Due: **May 14th, 2015**

Time Due: 2:00 pm, PST

Place Due:

Fern Ridge School District 28J
88834 Territorial Rd
Elmira, Oregon 97437

Person to Receive Proposals:

Olivia Meyers Buch
Phone: (541) 935-2253 x1202
Fax: (541) 935-8222
Email: omeyers@fernridge.k12.or.us

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TENTATIVE SCHEDULE OF EVENTS

ADVERTISEMENT ----- April 20, 2015

MANDATORY PRE-PROPOSAL MEETING----- April 29, 2015 2:00 PM

CLARIFICATION INQUIRIES ----- No later than May 6, 2015 5:00 PM

PROPOSAL CLOSING ----- May 14, 2015 2:00 PM

EVALUATION----- May 15, 2015

INTENT TO AWARD ----- May 18, 2015

I. ADVERTISEMENT

**FERN RIDGE SCHOOL DISTRICT 28J
CONSTRUCTION SPECIAL INSPECTION SERVICES
Proposals Due: May 14, 2:00 PM
REQUEST FOR PROPOSALS**

The Fern Ridge School District is soliciting proposals from qualified Construction Special Inspection Services firms for consulting services for project support of selected projects, current and future, throughout the District. Qualified firms will have not less than 5 years of public project experience within the state of Oregon. The District will select one consultant to provide services as assigned for the projects scheduled to start this year.

A copy of the full RFP can be obtained from the District's website at <http://www.fernridge.k12.or.us/bond-bids-awards> or by contacting Business Manager Olivia Meyers Buch at omeyers@fernridge.k12.or.us. A mandatory pre-proposal conference will be held on Wednesday, April 29th at 2:00 p.m. at the District Office located at 88834 Territorial Rd, Elmira, OR 97437. All potential proposers must attend this conference to qualify to submit a proposal.

Proposals will be accepted until 2:00 p.m., Thursday, May 14th, 2015. Late proposals will not be accepted. The District reserves the right to reject any proposal not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any or all proposals upon a finding of the District it is in the public interest to do so.

No proposal will be received or considered by the District unless the bid contains a statement as to whether the Proposer is a resident bidder. The Contractor and all subcontractors shall comply with prevailing wage rates as provided in ORS 279.350 through 279.354.

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II. STATEMENT OF WORK

The consultant chosen shall provide project related consulting services for Construction Special Inspection services of project sites as assigned. The scope of work entails special inspections and material testing under the guidelines of the current International Building Code [IBC], project specifications and the jurisdictions of Lane County or the City of Veneta, based on the location of the assigned District project. Specific tests and

inspects include but are not limited to: rebar inspection, concrete slump test, concrete strength tests, structural steel welding inspection, non-destructive testing and bolting, fabricators inspections, masonry reinforcement, grout testing and observation, and asphalt sampling.

The below projects and schedule dates are the projects currently in the design phase and scheduled for construction in 2015 and 2016:

Elmira Elementary School

General construction concepts at Elmira Elementary School (88960 Territorial Road, Elmira, OR 97437) include a multi-phased approach to the selective demolition and replacement of all of the school except the main administration building, which will be renovated. This will include complete site and building construction work.

Veneta Elementary School

General construction concepts at Veneta Elementary School (88131 Territorial Road, Veneta, Oregon 97487) include the addition of new classrooms, a new cafeteria and kitchen, as well as renovations of the library, office, and support spaces, including building-wide technology and alarm systems.

Fern Ridge Middle School

General construction concepts at Fern Ridge Middle School (88831 Territorial Hwy, Elmira, OR 97437) include enclosing the library, replacing finishes, making mechanical and electrical modifications, and seismic improvements including anchoring exterior walls and interior shear wall sill plates to concrete stem walls

III. INSTRUCTIONS

A. SUBMISSION REQUIREMENTS

The following describes the required format for providing a response to this RFP. The District reserves the right to consider non-responsive any submission that does not adhere to this format. The purpose of this section is to ensure uniformity in the submission of information essential to the understanding and evaluation of each firm's qualifications. There is no intent to limit the contents of responses. Proposers shall refrain from including marketing materials.

Responses shall be submitted as an original and three (3) copies. Submit responses on 8.5" x 11" white bond paper. Responses must be typed, all erasures, or other changes must be initialed by the person signing the response. All copies shall be complete, individually bound, and one copy shall be identified as the original and bear the original signature of the party offering the response.

By submitting a proposal, the 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.

Responses must be submitted in a sealed envelope, or other sealed container which is clearly marked with the RFP number and the RFP Title (RFP 5.14.15.1 Proposals for Construction Special Inspection Services for the Fern Ridge School District). Responses must be received by the closing date and time stated on the face of this document. Submit responses via US mail, in person, or by other courier to Olivia Meyers Buch, Business Manager, Fern Ridge School District, 88834 Territorial Rd, Elmira, OR 97437.

Pursuant to ORS 192.501 and ORS 646.461 to 646.475, all information contained in the response designated as confidential must be clearly marked and separated from other non-confidential information at the time the response is submitted.

1. Each response shall contain the Proposal Form (Appendix A) with all requested information completed and signed in ink by an authorized representative. If different from the signer, provide the name, address, and telephone number of a representative authorized to communicate with the District's Business Manager.
2. Proposals should contain sufficient information for the District to determine which Proposer will be most qualified to furnish the Services that are contemplated by this RFP. At a minimum, Proposals should include the following information:
 - a. Name of the firm and the managing principal.
 - b. Principal place of business and all field offices.
 - c. Size of the firm and current workload.
 - d. A record of previous relevant experience in providing special inspection services to school projects including on-site and off-site tasks.
 - e. A list of references including names, addresses, and phone numbers of no more than 6 individuals or organizations familiar with the firm's performance.
 - f. Identify the key client contact responsible for the administering of this contract and assigning staff, and who will be the key and single point of contact to the District.
 - g. Provide a list of any projects your firm has provided services for (preferably other Oregon school districts) within the last 5 years.
 - h. Provide list of potential sub-consultants engaged by the firm for similar projects
 - i. A statement that Proposer, if selected, shall provide the insurance coverage required in this RFP.

- j. A signed copy of the Certification of Non-Discrimination document per this RFP
- k. Describe fee structure and hourly rates for scheduled services and proposed staff. Include unit cost breakdown for each type of inspector, test, mileage, and any equipment charges. Indicate mark-ups as they apply.

The proposal should 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. Describe the nature and current status of the claims.

If the Proposer believes that there are additional services that may be appropriate for this proposal but are not identified in this RFP, Proposer should include a description of the additional services recommended and describe how the additional services would benefit the District.

The proposal should identify any confidential information that the Proposer contends is exempt from disclosure under ORS 192.501 or 192.502. The District will endeavor in good faith to honor appropriate requests for exemption from disclosure, but the District reserves exclusive discretion to determine whether information qualifies for a statutory exemption.

B. PROCUREMENT OF SOLICITATION DOCUMENT

Solicitation documents may be obtained from the District's website at <http://www.fernridge.k12.or.us/bond-bids-awards>, or by contacting Business Manager Olivia Meyers Buch at omeyers@fernridge.k12.or.us.

C. RESERVATIONS

1. The Fern Ridge School District expressly reserves the following rights:
2. To reject all proposals.
3. To reject any proposal or proposals not in compliance with all prescribed public bidding procedures and requirements.
4. To reject any proposal or proposals not meeting the specifications set forth herein.
5. To waive any or all irregularities in proposals submitted.
6. To consider the competency and responsibility of proposers in making any award.
7. In the event any proposer or proposers to whom a contract is awarded shall default in executing said formal contract or in furnishing a satisfactory performance bond within the time and in the manner hereinbefore specified, to re-award the contract to another proposer or proposers.

8. To make the award based on their best judgment as to which merchandise or services comply with the specifications.
9. To not award a contract for the project if deemed in the best public interest.

D. PRE-OPENING MODIFICATIONS OR WITHDRAWAL OF PROPOSALS

1. Modifications: Once submitted, proposals may be modified in writing prior to the time and date set forth in the proposal closing. Any modifications shall be prepared on the proposer's letterhead, signed by an authorized representative of the proposer, state that the new document supersedes or modifies the prior proposal and be submitted in a sealed envelope, appropriately marked. To ensure integrity of the proposal process, the envelope containing any modifications to a proposal shall be marked as follows:

Proposal Modification

Solicitation Number and Document Title

2. Withdrawals: Proposals may be withdrawn by written notification on the proposer's letterhead, signed by an authorized representative of the proposer, and received prior to the time and date set for proposal closing. Proposals also may be withdrawn in person, prior to the scheduled proposal closing, upon presentation of appropriate identification.

Unopened proposals withdrawn under (A) may be released to the proposer after voiding any date and time stamp used;

Request to withdraw mailed proposals shall be marked as follows:

Proposal Withdrawn

Solicitation Number and Document Title

E. REQUEST FOR CHANGE OR PROTEST OF SOLICITATION SPECIFICATIONS OR CONTRACT PROVISIONS

1. Time for Submission of Request for Change or Protest. Requests for change or protests of solicitation specifications or contract provisions shall be presented to the District Office, in writing, six (6) calendar days prior to proposal closing.

Such request for change or protest shall include the reasons for the request or protest, and any proposed changes to specifications or provisions. No request for change or protest of the content of solicitation specifications or contractor provisions shall be considered after the deadline established for submitting such request or protest.

2. Extension of Closing Date. If any request for change or protest is received in accordance with section (1) above, the proposal closing date may be extended if

the District determines an extension is necessary to allow consideration of the request or protest and issuance of any addenda to the solicitation documents.

3. Identification of Request for Change or Protest. Envelopes containing requests for change or protests of solicitation specifications or contract provisions shall be marked as follows:

Solicitation Specifications (or Contract Provisions)

Request for Change (or Protest)

Solicitation Document (or Other Identification)

F. PROTEST OF CONTRACTOR SELECTION, CONTRACT

1. Notice of Award.

The District's written notice of contract award shall constitute a final decision of the District to award the contract or proceed with the purchase if no written protest of the contractor selection or contract award is filed with the District's Business Manager within four (4) calendar days following issuance of the award documents. If a protest of contractor selection or contract award is timely filed by an actual aggrieved proposer, the award documents shall constitute a final decision of the District only upon issuance to the protesting proposer of a written decision denying the protest and affirming the selection or the award.

2. Right to Protest. Any actual proposer who is adversely affected or aggrieved by the District's grounds upon which the protest is based may submit a written protest. In order to be an adversely affected or aggrieved proposer with a right to submit a written protest, a proposer must itself claim to be eligible for award of the contract as the best proposer and must be next in line for award, *i.e.*, the protestor must claim that *all* better proposals are ineligible for award because their proposals were non-responsive or as a result of the District committing a material violation of a solicitation provision or of an applicable procurement statute or administrative rule, the protestor was unfairly evaluated and would have, but for such material violation, been the highest-ranked proposer. The District shall not entertain a protest submitted after the time period provided in the District's solicitation.
3. Authority to Resolve Protests. The Business Manager or the Business Manager's designee shall have the authority to settle or resolve a written protest.
4. Decision. After the Business Manager or the Business Manager's designee issues a response, an aggrieved proposer may seek judicial review in the manner provided in ORS 279B.415.

G. ACCEPTANCE OF CONDITIONS

Each proposer by the submission of a proposal assents to each and every term and condition set forth anywhere in these specifications and agrees to be bound thereby.

H. INTERPRETATION OF SPECIFICATION

Any interpretation upon the foregoing or annexed specifications, either verbal or written, attempted to be placed thereon by any person other than the Director of Administrative Services coordinator or his/her designee will not be binding upon the District.

I. WARRANTY AND GUARANTEE

Unless otherwise specified herein, all goods, materials and workmanship shall be guaranteed and warranted for a period of twelve months from date of delivery, including parts, labor, transportation, technician mileage, service calls, etc., except for damage caused by misuse, vandalism or acts(s) of God.

J. TAX EXEMPTION

Prices quoted should not include Federal Excise or Transportation taxes, nor State or sales tax as the District is exempt from such taxes. Federal Excise Tax exemption certificate will be furnished, if required.

IV. GENERAL CONDITIONS

A. REQUEST FOR CHANGE/CLARIFICATION: All requests for changes in specifications regarding this RFP must be submitted in writing no later than six (6) calendar days prior to the closing date. All written requests must be sent to: Olivia Meyers Buch, Business Manager, Fern Ridge School District, 88834 Territorial Rd, Elmira, OR 97437

Any questions or comments directed by a proposer to persons outside of the District Office are inappropriate and such activity may result in that proposal being deemed non-responsive.

B. REQUEST FOR PROPOSALS CLOSING DATE, TIME AND PROCEDURE

Sealed proposals will be received in person at the Fern Ridge School District in the District Office located at 88834 Territorial Rd., Fern Ridge, OR on the date and time set forth on the face of this document. Proposals received in response to this RFP will be accepted at the District Office at the scheduled closing time. Proposers who attend the opening will be informed only of the names of proposers submitting proposals. No other information will be made available until the District has completed its evaluation of all proposals.

C. ALTERNATE PROPOSALS

The District will not accept alternate proposals.

D. ADDENDA

If any part of this RFP is amended, addenda will be issued and provided to all proposers who requested the RFP.

E. DEFINITIONS: As used in the Contract Documents, unless the context requires otherwise:

1. "District", "School District", "Fern Ridge School District", or "Owner" means Fern Ridge School District 28J, Lane County, Oregon.
2. "Bond" means a performance and/or labor and materials bond in form and with corporate surety satisfactory to the District. (not required)
3. "Contract" or "Contract Documents" include the Agreement, the bond, the Proposal, the Instructions to Proposers, the General Conditions of the contract and Detailed Specifications, the Addenda, if any, incorporated in the Documents before their execution.
4. "Contractor" means the person or persons with whom a contract is entered into by the District for the performance of work or the providing of goods and/or services.
5. "Person" means a person, partnership, corporation, and other association.
6. "Responsible Proposer" means an individual, firm or corporation who has the capability in all respects to perform fully the contract requirements, the integrity and reliability which will assure good faith performance, and who has not been disqualified under ORS 279C.440.
7. "Specifications" means the directions, requirements, explanations, terms and provisions pertaining to the various features of the work, the manner and method of proposing for the work, the manner and method of performance of the work, and the manner and method of payment all as they appear in the contract documents.

F. The contract negotiated as a result of this RFP will be subject to the following terms:

1. Consultant's performance of Services shall be as a professional consultant to Owner to carry out the Project and to provide the technical documents and supervision to achieve Owner's Project objectives.
2. Consultant shall provide a list of all sub-consultants, which Consultant intends to utilize on the Project (the "Sub-consultants"). This list shall include such information on the qualifications of the Sub-consultants as may be requested by Owner. Owner reserves the right to review the Sub-consultants proposed, and the Consultant shall not retain a Sub-consultant to which Owner has a reasonable objection.

3. Consultant shall make available Key Personnel as identified in its proposal. Consultant shall provide to Owner a list of the proposed Key Personnel to be assigned to the Project. This list shall include such information on the professional background of each Key Person as may be requested by Owner. If any Key Person becomes unavailable to Consultant, the Parties shall mutually agree upon an appropriate replacement. Consultant shall remove any individual or Sub-consultant from the Project if so directed by Owner in writing following discussion with Consultant, provided that Consultant shall have a reasonable time period within which to find a suitable replacement.
4. **Contract Performance.** Consultant shall at all times perform the Services diligently and without delay and shall punctually fulfill all Contract requirements consistent with the schedule for the performance of Services. Expiration or termination of the Contract shall not extinguish, prejudice, or limit either party's right to enforce this Contract with respect to any default or defect in performance. Time is of the essence in the performance of this Contract.
5. **Access to Records.** For not less than three (3) years after the Contract's expiration or termination, Owner, and its duly authorized representatives shall have access to the books, documents, papers, and records of Consultant and the Sub-consultants which pertain to the Contract for the purpose of making audits, examination, excerpts, and transcripts. If, for any reason, any part of this Contract, any Project-related consultant contract or any Project-related construction contract(s) is involved in litigation, Consultant shall retain all pertinent records for not less than three years or until all litigation is resolved, whichever is longer. Consultant shall provide Owner and the other entities referenced above with full access to these records in preparation for and during litigation.
6. **Funds Available and Authorized.** Owner reasonably believes as of the Effective Date that sufficient funds are available and authorized for expenditure to finance the cost of this Contract within Owner's appropriation or limitation. Consultant understands and agrees that, to the extent that sufficient funds are not available and authorized for expenditure to finance the cost of this Contract, Owner's payment of amounts under this Contract attributable to Services performed after the last day of the current biennium is contingent on Owner receiving appropriations, limitations or other expenditure authority sufficient to allow Owner, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.
7. **Insurance.** Consultant shall maintain in effect for the duration of this Contract, or any other time periods required herein, the insurance required by this Contract.

8. Indemnity

- 8.1 CLAIMS FOR OTHER THAN PROFESSIONAL LIABILITY. CONSULTANT SHALL INDEMNIFY, DEFEND, SAVE, AND HOLD HARMLESS THE FERN RIDGE SCHOOL DISTRICT 28J AND ITS OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF WHATSOEVER NATURE RESULTING FROM OR ARISING OUT OF THE ACTS OR OMISSIONS OF CONSULTANT OR ITS SUB-CONSULTANTS, SUBCONTRACTORS, AGENTS, OR EMPLOYEES UNDER THIS CONTRACT. THIS SECTION DOES NOT APPLY TO CLAIMS ARISING FROM THE SOLE NEGLIGENCE OF THE DISTRICT.
- 8.2 CLAIMS FOR PROFESSIONAL LIABILITY. CONSULTANT SHALL INDEMNIFY, DEFEND, SAVE, AND HOLD HARMLESS THE FERN RIDGE SCHOOL DISTRICT 28J AND ITS OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF WHATSOEVER NATURE ARISING OUT OF THE PROFESSIONALLY NEGLIGENT ACTS, ERRORS OR OMISSIONS OF CONSULTANT OR ITS SUB-CONSULTANTS, SUBCONTRACTORS, AGENTS, OR EMPLOYEES IN THE PERFORMANCE OF PROFESSIONAL SERVICES UNDER THIS CONTRACT. THIS SECTION DOES NOT APPLY TO CLAIMS ARISING FROM THE SOLE NEGLIGENCE OF THE DISTRICT
- 8.3 Owner Defense Requirements. Notwithstanding the obligations under Sections 8.1 and 8.2, neither Consultant nor any attorney engaged by Consultant shall defend any claim in the name of the Fern Ridge School District 28J without the prior written consent of the Business Manager. Fern Ridge School District 28J, may, at any time and at its election, assume its own defense and settlement of any claims in the event that: it determines that Consultant is prohibited from defending Fern Ridge School District 28J; Consultant is not adequately defending Fern Ridge School District 28J's interests; an important governmental principle is at issue; or it is in the best interests of the Fern Ridge School District 28J to do so. The Fern Ridge School District 28J reserves all rights to pursue any claims it may have against Consultant if the Fern Ridge School District 28J elects to assume its own defense.
- 8.4 Owner's Actions. This Section 8 does not include indemnification by Consultant of the Fern Ridge School District 28J, its officers, agents, and employees, for the acts or omissions of the Fern Ridge School District 28J, its officers, agents, and employees, whether within the scope of the Contract or otherwise.
- 8.5 Oregon Tort Claims Act. Nothing herein shall be construed as any waiver by the District of the limitations and provisions of the Oregon Tort Claims Act ORS 30.260, et seq.

9. Consultant's Status

- 9.1 Consultant shall perform all Services as an independent contractor. Although Owner reserves the right to set the delivery schedule for the Services to be performed and to evaluate the quality of the completed performance, Owner cannot and will not control the means and manner of Consultant's performance. Consultant is responsible for determining the appropriate means and manner of performing the Services. Consultant, Consultant's employees and the Sub-consultants are not "officers, employees, or agents" of the Fern Ridge School District 28J as those terms are used in ORS 30.265.
- 9.2 Consultant shall not have control or charge of, and shall not be responsible for, the acts or omissions of other consultants or contractors under contract with Owner who are performing services or construction work on the Project. However, this provision does not in any way change Consultant's professional responsibility to report to Owner any information, including information on the performance of consultants or contractors outside the control or charge of Consultant, concerning activities or conditions that have or could have an adverse effect on Owner or the Project.
- 9.3 Consultant is not a contributing member of the Public Employees Retirement System and will be responsible for any federal, state or other taxes applicable to any compensation or payments paid to Consultant under this Contract. Consultant will not be eligible insurance, or worker's compensation, except as for any benefits from any payments made under this Contract for federal Social Security, unemployment a self-employed individual. If any payment under this Contract is to be charged against federal funds, Consultant certifies that it is not currently employed by the federal government.

10. **Successors & Assignments.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns. After the original Contract is executed, Consultant shall not enter into any Sub-consultant agreements for any of the Services or assign or transfer any of its interest in this Contract, without the prior written consent of Owner.

11. **Compliance with Applicable Law.** Consultant shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Services. Owner's performance under this Contract is conditioned upon Consultant's compliance with the provisions of ORS 279C.505, 279C.515, 279C.520, and 279C.530, which are hereby incorporated by reference. Consultant, the Sub-consultants, if any, and all employers providing Services, labor or materials under this Contract are subject employers under the Oregon workers' compensation law and shall comply with ORS 656.017.

12. Governing Law; Jurisdiction; Venue. This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between Owner and Consultant that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Lane County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this "Governing Law; Jurisdiction; Venue" section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether based on sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution or otherwise. CONSULTANT, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

13. Tax Compliance Certification

- 13.1 Pursuant to ORS 305.385 by signature on this Contract, the undersigned certifies under penalty of perjury that the undersigned is authorized to act on behalf of Consultant and that Consultant is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws.
- 13.2 For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 403.200 to 403.250 (Tax For Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 320 (Amusement Device and Transient Lodging Taxes), 321 (Timber and Forestland Tax), 323 (Cigarettes and Tobacco Products Tax), the elderly rental assistance program under ORS 310.630 to 310.706, and any local taxes administered by the Department of Revenue under ORS 305.620.

14. Severability. The Parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

15. Force Majeure. Neither party shall be held responsible for delay or default in the performance of its obligations due to a cause beyond its reasonable control, including, but not limited to fire, riot, acts of God, terrorist acts or war where such cause was beyond such party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the Contract.

16. **Waiver.** The failure of Owner to enforce any provision of this Contract shall not constitute a waiver by Owner of that or any other provision.

17. **Third Party Beneficiaries.** Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third party against Owner or Consultant. Consultant's Services under this Contract shall be performed solely for Owner's benefit and no other entity or person shall have any claim against Consultant because of this Contract for the performance or nonperformance of Services hereunder.

18. **Ownership of Work Product; Confidentiality.**

18.1 Definitions. As used in this Contract, the following terms have the meanings set forth below:

18.1.1 "Consultant Intellectual Property" means any intellectual property that is owned by Consultant and developed independently from this Contract and that is applicable to the Services or included in the Work Product.

18.1.2 "Third Party Intellectual Property" means any intellectual property that is owned by parties other than Owner or Consultant and that is applicable to the Services or included in the Work Product.

18.1.3 "Work Product" means the Services Consultant delivers or is required to deliver to Owner under this Contract. Work Product includes every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein, and all copies of plans, specifications, reports and other materials, whether completed, partially completed or in draft form.

18.2 Work Product. Except as provided in Sections 18.3, 18.4, 18.5, and 18.6, all Work Product created by Consultant pursuant to this Contract, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire" or an employment to invent, shall be the exclusive property of Owner. Owner and Consultant agree that such original works of authorship are "work made for hire" of which Owner is the author within the meaning of the United States Copyright Act. To the extent that Owner is not the owner of the intellectual property rights in such Work Product, Consultant hereby irrevocably assigns to Owner any and all of its rights, title, and interest in all original Work Product created pursuant to this Contract, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Owner's reasonable request, Consultant shall execute such further documents and instruments necessary to fully vest such rights in Owner. Consultant forever waives any and all rights relating to original Work Product created

pursuant to this Contract, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

- 18.3 Consultant Intellectual Property. In the event that Consultant Intellectual Property is necessary for the use of any Work Product, Consultant hereby grants to Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use Consultant Intellectual Property, including the right of Owner to authorize contractors, consultants and others to use Consultant Intellectual Property, for the purposes described in this Contract.
- 18.4 Third Party Intellectual Property. In the event that Third Party Intellectual Property is necessary for the use of any Work Product, Consultant shall secure on Owner's behalf and in the name of Owner, an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the Third Party Intellectual Property, including the right of Owner to authorize contractors, consultants and others to use the Third Party Intellectual Property, for the purposes described in this Contract.
- 18.5 Consultant Intellectual Property-Derivative Work. In the event that Work Product created by Consultant under this Contract is a derivative work based on Consultant Intellectual Property or is a compilation that includes Consultant Intellectual Property, Consultant hereby grants to Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the pre-existing elements of Consultant Intellectual Property employed in the Work Product, including the right of Owner to authorize contractors, consultants and others to use the pre-existing elements of Consultant Intellectual Property employed in a Work Product, for the purposes described in this Contract.
- 18.6 Third Party Intellectual Property-Derivative Work. In the event that Work Product created by Consultant under this Contract is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Consultant shall secure on Owner's behalf and in the name of Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the pre-existing elements of the Third Party Intellectual Property employed in a Contract Work Product, including the right to authorize contractors, consultants and others to use the pre-existing elements of the Third Party Intellectual Property employed in a Contract Work Product, for the purposes described in this Contract.
- 18.7 Limited Owner Indemnity. To the extent permitted by the Oregon Constitution, Article XI, Section 7, and by the Oregon Tort Claims Act, ORS 30.260 through 30.397, Consultant shall be indemnified and held harmless by Owner from liability arising out of re-use or alteration of the

Work Product by Owner which was not specifically contemplated and agreed to by the Parties in this Contract or under separate contract.

- 18.8 Consultant Use of Work Product. Consultant may refer to the Work Product in its brochures or other literature that Consultant utilizes for advertising purposes and, unless otherwise specified, Consultant may use standard line drawings, specifications and calculations on other, unrelated projects.
- 18.9 Confidential Information. Consultant acknowledges that it or its employees, Sub-consultants, subcontractors or agents may, in the course of performing their responsibilities under this Contract, be exposed to or acquire information that is the confidential information of Owner or Owner's clients. Any and all information provided by Owner and marked confidential, or identified as confidential in a separate writing, that becomes available to Consultant or its employees, Sub-consultants, subcontractors or agents in the performance of this Contract shall be deemed to be confidential information of Owner ("Confidential Information"). Any reports or other documents or items, including software, that result from Consultant's use of the Confidential Information and any Work Product that Owner designates as confidential are deemed Confidential Information. Confidential Information shall be deemed not to include information that: (a) is or becomes (other than by disclosure by Consultant) publicly known; (b) is furnished by Owner to others without restrictions similar to those imposed by this Contract; (c) is rightfully in Consultant's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (d) is obtained from a source other than Owner without the obligation of confidentiality; (e) is disclosed with the written consent of Owner; or (f) is independently developed by employees or agents of Consultant who can be shown to have had no access to the Confidential Information.
- 18.10 Non-Disclosure. Consultant agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Consultant uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to Owner under this Contract, and to advise each of its employees, Sub-consultants, subcontractors and agents of their obligations to keep Confidential Information confidential. Consultant shall use its best efforts to assist Owner in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Consultant shall advise Owner immediately in the event Consultant learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to

violate the terms of this Contract and Consultant will at its expense cooperate with Owner in seeking injunctive or other equitable relief in the name of Owner or Consultant against any such person. Consultant agrees that, except as directed by Owner, Consultant will not at any time during or after the term of this Contract disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Contract, and that upon termination of this Contract or at Owner's request, Consultant will turn over to Owner all documents, papers, and other matter in Consultant's possession that embody Confidential Information.

- 18.11 Injunctive Relief. Consultant acknowledges that breach of Section 18.9 and 18.10, including disclosure of any Confidential Information, will give rise to irreparable injury to Owner that is inadequately compensable in damages. Accordingly, Owner may seek and obtain injunctive relief against the breach or threatened breach of this Section 18.11, in addition to any other legal remedies that may be available. Consultant acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Owner and are reasonable in scope and content.
- 18.12 Publicity. Consultant agrees that news releases and other publicity relating to the subject of this Contract will be made only with the prior written consent of Owner.
- 18.13 Security. Consultant shall comply with all virus-protection, access control, back-up, password, and other security and other information technology policies of Owner when using, having access to, or creating systems for any of Owner's computers, data, systems, personnel, or other information resources.

19. Termination.

- 19.1 Parties Right to Terminate by Agreement. This Contract may be terminated at any time, in whole or in part, by written mutual consent of the Parties.
- 19.2 Owner's Right to Terminate for Convenience. Owner may, at its sole discretion, terminate this Contract, in whole or in part, by written notice to Consultant specifying the termination date of the Contract.
- 19.3 Owner's Right to Terminate for Cause. Owner may terminate this Contract immediately, in whole or in part, upon written notice to Consultant, or such later date as Owner may establish in such notice, upon the occurrence of any of the following events:
 - 19.3.1 Owner lacks lawful funding, appropriations, limitations or other expenditure authority at levels sufficient to allow Owner, in the exercise of its reasonable discretion, to pay for Consultant's Services;

- 19.3.2 Federal, state or local laws, regulations or guidelines are modified or interpreted in such a way that either the Services under this Contract are prohibited or Owner is prohibited from paying for such Services from the planned funding source;
- 19.3.3 Consultant no longer holds all licenses or certificates that are required to perform the Services; or
- 19.3.4 Consultant fails to provide Services within the times specified or allowed under this Contract; fails to perform any of the provisions of this Contract; or so fails to perform the Services as to endanger performance of this Contract in accordance with its terms, and after receipt of written notice from Owner, does not correct such failures within the time that Owner specifies (which shall not be less than 10 calendar days, except in the case of emergency).
- 19.4 Cessation of Services. Upon receiving a notice of termination, and except as otherwise directed in writing by Owner, Consultant shall immediately cease all activities related to the Services or the Project.
- 19.5 Consultant's Right to Terminate for Cause.
 - 19.5.1 Consultant may terminate this Contract if Owner fails to pay Consultant pursuant to this Contract, provided that Owner has failed to make such payment to Consultant within forty-five (45) calendar days after receiving written notice from Consultant of such failure.
 - 19.5.2 Consultant may terminate this Contract, for reasons other than non-payment, if Owner commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform under the Contract within the time specified, or so fails to perform as to endanger Consultant's performance under this Contract, and such breach, default or failure is not cured within thirty (30) calendar days after delivery of Consultant's notice, or such longer period as Consultant may specify in such notice.
- 19.6 Delivery of Work Product/Retained Remedies of Owner. As directed by Owner, Consultant shall, upon termination, promptly deliver to Owner all documents, information, works in progress and other property that are deliverables or would be deliverables if the Contract had been completed. By Consultant's signature, Consultant allows Owner to use Work Product and other property for Owner's intended use. The rights and remedies of Owner provided in this Section 16 are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

20. Payment upon Termination.

- 20.1 In the event of termination pursuant to Sections 19.1, 19.2, 19.3.1, 19.3.2 or 19.5, Consultant's sole remedy shall be a claim for the sum designated

for accomplishing the Services multiplied by the percentage of Services completed and accepted by Owner plus Consultant's reasonable Contract close-out costs, less previous amounts paid and any claim(s) which Owner has against Consultant, except in the event of a termination under Section 19.3.1, where no payment will be due and payable for Services performed or costs incurred after the last day of the current biennium, consistent with Section 6. Within thirty (30) days after termination, Consultant shall submit an itemized invoice for all un-reimbursed Services completed before termination and all Contract close-out costs actually incurred by Consultant. Owner shall not be obligated to pay for any such costs invoiced to and received by Owner later than thirty (30) days after termination. If previous amounts paid to Consultant exceed the amount due to Consultant under this subsection, Consultant shall promptly refund any excess amount upon demand.

20.2 In the event of termination pursuant to Sections 19.3.3 or 19.3.4, Owner shall have any remedy available to it in law or equity. Such remedies may be pursued separately, collectively or in any order whatsoever. If it is determined for any reason that Consultant was not in default under Sections 19.3.3 or 19.3.4, the rights and obligations of the Parties shall be the same as if the Contract was terminated pursuant to Section 19.2.

21. **Foreign Contractor.** If Consultant is not domiciled in or registered to do business in the State of Oregon as of the Effective Date, Consultant shall promptly provide to the Oregon Department of Revenue and the Secretary of State's Corporation Division all information required by those agencies relative to this Contract. Consultant shall demonstrate its legal capacity to perform the Services under this Contract in the State of Oregon prior to executing this Contract.

22. **Notice.** Except as otherwise expressly provided in this Contract, any notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mail, postage prepaid, to Consultant or Owner at the address or number as either party may provide pursuant to this "Notice" section. Any notice delivered by mail shall be deemed to be given five (5) calendar days after the date of mailing. Any notice delivered by facsimile shall be deemed to be given when the transmitting machine generates a receipt of the transmission. To be effective against Owner, any facsimile communication or notice must be confirmed by telephone notice to Owner's Representative for the Project and shall not be deemed to be given until such confirmation is completed. Any notice by personal delivery shall be deemed to be given when actually delivered. Regular, day-to-day communications between the Parties may be transmitted through one of the methods set forth above, in person, by telephone, by e-mail, or by other similar electronic transmission.

23. **Media Contacts; Confidentiality.** Consultant shall provide no news release, press release, or any other statement to a member of the news media regarding this Project, without Owner's prior written authorization.
24. **Conflict of Interest.** Except with Owner's prior written consent, Consultant shall not engage in any activity, or accept any employment, interest or contribution that would, or would reasonably appear to, compromise Consultant's professional judgment with respect to this Project, including, without limitation, concurrent employment on any project in direct competition with the Project.

APPENDIX A
Proposal Form

REQUEST FOR PROPOSALS FOR CONSTRUCTION SPECIAL INSPECTION SERVICES

Proposal Closing Date: Thursday, May 14th, 2015, 2:00 P.M. Pacific Time.

The undersigned offers and agrees to provide Construction Special Inspection Services to the Fern Ridge School District, in accordance with Request for Proposals No. 5.14.15.1.

ACKNOWLEDGMENT OF ADDENDUM: None ___ 1. ___ 2. ___ 3. ___

The undersigned further certifies that he/she has read, understands, and agrees to abide by all terms and conditions of this Request for Proposals if awarded the contract for these services. The District reserves the right to award contracts by project, and may make award to one or more qualified firms.

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

The term of the contract will be from the date executed through the end of the project specified within the contract. The District may amend the contract to include subsequent one-month periods if mutually agreed. The District reserves the right to cancel the contract, after providing thirty days written notice of intent to cancel. The District shall not incur any penalties or damages for cancellation.

The Proposer certifies that it does not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, handicap, financial ability, age or other non-job-related factors as per ORS Chapter 659 and 42 USC §2000e.

The Proposer has read and understands the Affirmative Employment Practices provision to be included in all District contracts and is prepared to comply with said provisions if awarded the contract.

NO REIMBURSEMENT FOR PROPOSAL

Proposers responding to this RFP do so solely at their own expense. Under no circumstances whatsoever will the District 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.

ADDITIONAL REPRESENTATIONS

- A. The undersigned certifies the proposal is offered by an independent contractor as defined in ORS 670.600.
- B. The proposer, if an individual, is of lawful age; is the only one interested in this proposal; and that no person, firm, or corporation, other than that named, has any interest in the proposal or in the proposed contract.
- C. The proposal, if submitted by a joint venture is in the name of the joint venture and all parties have examined this RFP including all requirements and contract terms and conditions thereof, and, if successful, the joint venture shall execute a contract, which incorporates the stated requirements, proposal response and terms and conditions.
- D. By submitting a response, the proposer certifies that no relationship exists between the proposer and the District that interferes with fair competition or is a Conflict of Interest, and no relationship exists between the proposer and another person or firm that constitutes a Conflict of Interest.
- E. The proposer has examined all parts of this RFP, including all requirements and contract terms and conditions thereof, and, if successful, the proposer shall execute a contract, which incorporates the stated requirements, proposal response and terms and conditions.
- F. The proposer fully understands and submits its proposal with specific knowledge that in the event the proposer's proposal is accepted and receives all necessary approvals, the proposal will be incorporated into a contract containing general terms and conditions as provided in the RFP.

The undersigned hereby certifies to the truth and accuracy of all statements, answers and data contained in this proposal and application, and hereby authorizes the District to make any necessary examinations or inquiries in order to make a determination as to the qualifications and responsibility of the proposer. The undersigned has examined all parts of this RFP and understands that it is completely discretionary with the Selection Committee whether to accept, reject, or negotiate its proposal submitted pursuant thereto.

RESIDENT BIDDER STATUS

In determining the lowest responsible bidder, the District is required by ORS 279A.120 to "add a percent increase to the bid of a non-resident bidder equal to the percent, if any, of the preference given to that bidder in the state in which the bidder resides."

A resident bidder is defined as a bidder that has paid unemployment taxes or income taxes in Oregon during the 12 calendar months immediately preceding submission of the bid, has a business address in this state and has stated in the bid that they are a resident bidder.

The undersigned bidder hereby states their bidder status as follows:

RESIDENT BIDDER **YES** ___ **NO** ___

If nonresident bidder, indicate percent of preference given to bidders in the state or area in which you reside. ___ %

FIRM NAME: _____ PHONE: _____

ADDRESS: _____ FAX NO: _____
 street city state zip

SSN/TID: _____ e-mail: _____

BY: _____ TITLE: _____
 print/type name

BY: _____ DATE: _____
 signature

Business Designation: (check one)

___ Individual ___ Partnership ___ Joint Venture ___ Sole Proprietorship ___ Corporation

___ Other: _____

If a Joint Venture, attach verification that all parties to the joint venture accept the terms, and agree to perform services under this contract. The attached page must contain signatures of all parties to the joint venture.

**APPENDIX B
CERTIFICATE OF NON-DISCRIMINATION**

Pursuant to ORS 279A.110, discrimination in subcontracting is prohibited. Any contractor who contracts with a public contracting agency shall not discriminate against minority, women or emerging small business enterprises in the awarding of contracts.

By signature of the authorized representative of the bidder/proposer, the bidder/proposer hereby certifies to the Fern Ridge School District that this bidder/proposer has not discriminated against minority, women, or emerging small business enterprises in obtaining any subcontracts; and, further, that if awarded the contract for which this bid or proposal is submitted, shall not so discriminate.

Date: _____

Signature: _____

Printed/Typed Name: _____

Name of Firm: _____

APPENDIX C EVALUATION & SELECTION PROCESS

A committee comprised of District employees and other stakeholders will evaluate the responses. The committee will consider the merit of information presented in the responses, and is not obligated to conduct further investigation. Proposers are cautioned to make their responses clear, and complete. Each proposal will be evaluated as noted below. The importance of each item is expressed as points to be awarded for each category. **For the items below, reference Section III - Instructions under part A.2 on page 3.** The decision of the committee will be final.

Item	Description	Points
1	Ease of coordination, presence of key personnel, accessibility and availability of key personnel. Provide principal place of business and all field offices. Provide key personnel. Describe how you will affirmatively coordinate with District. This category will be evaluated by review of coordination proposed, its level of expertise, accessibility and availability.	10
2	A description of the firm's experience of the performance of the type of work described in the Statement of Work for projects involving schools. Include any experience discussing insights or special concerns regarding school projects. This category will be evaluated by overall assessment of references for school projects including references representation of customer service, availability of personnel, and satisfaction related to scope of work and record of completing projects within specified time frames and budgets.	25
3	Demonstrated past performance of work described in Statement of Work for other individuals or entities other than school districts, provide or list references including names (contact person), addresses, and telephone numbers of individuals and entities familiar with your firm's performance. This category will be evaluated by overall assessment of references for similar projects including references, representation of customer service and satisfaction related to the scope of work and record of completing projects within the specified time frame and budget.	20
4	Demonstrated past performance (within the past 5 years) of services within the statement of work performed for any Oregon school districts or similar educational entities. This category will be evaluated by overall assessment of references for similar projects including references, representation of customer service and satisfaction related to the scope of work and record of completing projects within the specified time frame and budget.	20
5	Describe fee structure and hourly rates for proposed staff and scheduled services. This category will be evaluated using the attached cost proposal worksheet as a comparison for typical costs related to the types of inspections required by this project	25
Total Possible Points		100

Proposers will be evaluated using the criteria listed above. In determining award, the District will consider the information under the statement of work on pages 1-2 of this document and the criteria listed above. The District reserves the right to select a final Firm that is in the best interest of the District.

Ties: In the event of a tie during the evaluation process, the tie will be broken by taking the highest scoring proposer based on Evaluation Criteria #2. If these scores are also tied then the committee would break the tie by taking the highest scoring proposer based on Evaluation Criteria #5.

The contract will be awarded to one proposer who in the District's judgment has submitted a proposal that best meets the District's requirements. The District Board Directors may make the final decision on award of the Contract.

All Proposers not selected will be notified of the District's decision by receiving a copy of the notice of selection sent to the selected Proposer. After the District selects the Consultant to perform the Services, any Proposer may review the evaluation documentation at the office of the District, except for information that the District determines to be exempt from disclosure under ORS 192.501 or 192.502.

Final award will be subject to execution of the Contract. The District reserves the right to negotiate a final Contract that is in the best interest of the District.

Late Proposals will be rejected. It is the responsibility of the proposer to ensure that their document is received at the correct location on time. Failure to submit on time is not a minor informality and will not be waived the District.

Oral Presentations: An oral interview with the three highest preliminary evaluated proposers may be requested after written proposals have been received and scored by the Fern Ridge School District. The issuing office will schedule the time and place for this interview if determined to be necessary. Each proposer should be prepared to clarify and elaborate on the details set forth in their proposal.

After the presentations, each individual evaluator would be allowed to revisit their preliminary ranking and modify their scores based on the information provided as part of the oral presentations. This would allow the scoring to change for the top three ranked proposers based on the preliminary scoring.