



Upper Occoquan Service Authority

Leader in Water Reclamation and Reuse

14631 COMPTON ROAD, CENTREVILLE, VIRGINIA 20121-2506
(703) 830-2200

TO ALL RECIPIENTS:

For UOSA

SUBJECT: Addendum #

The above numbered solicitation is amended as set forth below. The hour and date specified for receipt of offers:

☐ is not extended

☐ is extended

OFFERORS MUST ACKNOWLEDGE receipt of this Addendum by one of the following methods:

- a. By acknowledgement of this Addendum on Submission Form submitted with the proposal;
- b. By referencing its receipt in your Transmittal Letter

If by virtue of this Addendum you desire to change a proposal already submitted, such change may be made by letter, provided it includes reference to the solicitation and this Addendum and is received prior to the due hour and date specified.

DESCRIPTION OF ADDENDUM:

All other Terms, Conditions, Tables, Charts and Specifications, and Drawings not otherwise changed remain as originally stated or as shown.

ISSUED BY:

Upper Occoquan Service Authority

Date

UOSA RFP 22-06 Questions and Answers

- Q: Is the proposal element, **Confirmation of Compliance with Specifications (Section 3.7 A. v.)**, included in the page count? The RFP doesn't explicitly say. Will you please clarify what you're expecting in this section?
- A: *This Section has been removed from the RFP and Proposal requirements. This Section would apply more to a specific project task and does not add any value to an Offeror's response.*
- Q: Under the RFP, several engineer disciplines were listed but "geotechnical" was not listed. Under Section 2.1.H, field activities include: field inspection and oversight of geotechnical testing were mentioned. Is this BOA contract require to have a geotechnical sub-consultant to perform these QC services or typically this is to provide general QA services by the Engineer Firm? Any other geotechnical requirements under this contract? Please advise. Thanks.
- A: *Geotechnical services has been ADDED to 1.2.B and 2.1.A accordingly.*
- Q: How many Contracts will be awarded?
- A: *UOSA anticipates award to as many Contracts as will fall into a competitive range after review of the proposals. We do not have a minimum or maximum in mind. The range and awards will depend on number of proposals received and initial evaluation ranges.*
- Q: What is your expected schedule for review and award?
- A: *UOSA will begin reviewing proposals upon receipt and anticipate award after the April Board Meeting based on approval of Contracts by our Board of Directors. New Contracts are expected to being May 1, 2022.*
- Q: RFP describes Duration that the proposals will be valid. RFP Section 3.5 stipulates 120 day while the sample contract section 2.6 stipulates 90 day. Please clarify.
- A: *Section 2.6 is our part of our General Terms and Conditions that appear in all solicitations. For this RFP, Section 3.5 takes precedence and the 120 day validity applies.*
- Q: Contract terms described in Section 3 of the sample contract, appear to be relevant to contracting services not professional services. Specific language includes sections 3.6, 3.8 and 3.9. Will these sections be edited by UOSA to reflect professional services?
- A: *The Terms and Conditions in Section 3 are a set of general terms and conditions for all UOSA non-construction agreements. Over the years, UOSA has negotiated a Sample Contract with Engineering firms for this type of Basic Ordering Agreement. It is incorporated and provided as part of the revised RFP as Attachment B. The Contract addresses these concerns expressed by and negotiated with varying firms throughout the past agreements.*
- Q: To be fully responsive to your RFP, we request 30 pages be considered for Technical Proposals instead of 20 pages. For example, the prior 2016 RFP for these services was

based on 30 pages. Would UOSA consider revising the page limit to 30 or consider allowing resumes to be included in an Appendix which does not count towards the page count?

A: 20 pages will remain as a limit, However resumes may be provided as an appendix and do not count as part of the 20 pages. The following items do NOT count toward the page count:

- i. Transmittal Letter
- ii. Solicitation Response Form
- iii. Resumes
- iv. Covers, Tabs, Section Dividers
- v. Table of Contents
- vi. References/Client Listing
- vii. Signed and Acknowledged Addenda 1 and 2

Q: Do Covers/Tabs and/or Section Dividers count towards the page count?

A: No.

Q: Does a Table of Contents count towards the page count?

A: No

Q: A review of the Request for Proposals on page 15, under STANDARD TERMS AND CONDITIONS, ARTICLE III – CONTRACT TERMS. 3.1 Contract Documents Precedence, requests exceptions for terms and conditions during the RFP process. The Code specifically states, under § 2.2-4302.2.4. Process for competitive negotiation:

*For professional services, the public body shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used by the public body in addition to the review of the professional competence of the offeror. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the public body may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. In accordance with § 2.2-4342, proprietary information from competing offerors shall not be disclosed to the public or to competitors. **For architectural or engineering services, the public body shall not request or require offerors to list any exceptions to proposed contractual terms and conditions, unless such terms and conditions are required by statute, regulation, ordinance, or standards developed pursuant to § 2.2-1132, until after the qualified offerors are ranked for negotiations.** At the conclusion of discussion, outlined in this*

subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the public body shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious.

I respectfully request that the Upper Occoquan Service Authority modify the Request for Proposal to be consistent with the VPPA

A: UOSA believes that our 3.1 allows for this by stating 'or otherwise required in accordance with Virginia law' but we can certainly see where that can be confusing without a clear statement within the solicitation. So based on that, we are revising Section 3 of the RFP. Areas changed have been highlighted in the updated version.

Q: When possible, can you please let me know if the above referenced contract is a re-compete of an existing contract and whom may have held this contract previously? Or, is this a new requirement? It doesn't appear that it is reflected on the list of current contracts on your website.

*A: This is a recompile of an existing contract. We recompile every 5 years in accordance with the allowance of a 1 year award with 4 renewals under the VPPA (until that changes) 2.2-4303.1. Our current listing of firms under the existing Contract 17-06 are:
CH2M Hill (now Jacobs)
Stantec/MWH
CDM Smith
Dewberry
Hazen and Sawyer
GHD
Gannett Fleming*



UPPER OCCOQUAN SERVICE AUTHORITY

REQUEST FOR PROPOSALS #22-06

FOR

PROFESSIONAL ENGINEERING SERVICES

Issued By: Purchasing Department Administration Building 14631 Compton Road Centreville, Virginia 20121-2506 Tel. 703-830-2200 Fax. 703-830-5934 E-mail: Purchasing@uosa.org	Date Issued:	Monday, December 6, 2021
	Optional Pre-proposal Conference:	Tuesday, January 11, 2022, Virtual via Microsoft Teams
	Deadline For Questions:	Friday, January 14, 2022, 5:00 p.m.
	Proposals Must be Received On Or Before:	Tuesday, February 1, 2022, 2:00 p.m.

NOTICE: Firms who have received this solicitation package from a source other than UOSA's Purchasing Office should immediately contact UOSA's Purchasing Department and provide their name and mailing address in order that amendments to this solicitation or other communications can be sent to them. Firms who fail to notify the Purchasing Office with this information assume complete responsibility in the event that they do not receive communications prior to the closing date.

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Solicitation Response Form

IFB/RFP Number: []

Title: []

Company Identification

Name _____
Mailing _____
Address _____
Remit _____
Address _____
FEIN # _____

Contact Name _____
Title _____
Phone _____
Fax _____
Email _____
VA SCC ID # _____

**Pursuant to VA Code § 2.2-4311.2, an offeror organized or authorized to transact business in the Commonwealth must include its VA SCC provided ID# or proof of pending application for SCC authorization. If offeror is exempt from SCC authorization requirement they shall include, as a separate attachment, a statement accurately and completely reflecting why the offeror does not need to be so authorized. See Section 2.2 in the Standard Terms and Conditions.*

Company Classification

Principal place of business located in (state) _____ State of incorporation _____

Check one: Sole Prop. ☐ Partnership ☐ Limited Partnership ☐ Corporation ☐ Limited Liability Corporation ☐

Check all that apply: Small ☐ Women Owned ☐ Minority Owned ☐ Service Disabled Veteran Owned ☐

Addenda Receipt Confirmation:

Addendum # _____ ☐, Addendum # _____ ☐, Addendum # _____ ☐, Addendum # _____ ☐, Addendum # _____ ☐

Confirmation of Compliance to Solicitation Requirements, Terms and Conditions

The undersigned offers and agrees to furnish the goods, and/or services requested in solicitation [] in accordance with the attached offer. The undersigned certifies that they have read and understand all standard and supplemental terms and conditions provided in the aforementioned solicitation including but not limited to Standard Terms and Conditions Section 2.1 - Collusion, Section 2.2 - Compliance with Laws and Section 2.9 - Ethics in Public Contracting.

The attached offer is in accordance with all specifications and offeror accepts all terms and conditions contained in and incorporated by reference into the solicitation,

☐ with no exceptions.

☐ with the following exceptions/modifications (provided as separate attachment).

Note: Any material exceptions to solicitation specifications, terms or conditions will render an offer non-responsive. UOSA, in its sole discretion, will determine what constitutes a material exception.

Authorized Signature _____
(must be original, ink signature)

Date _____

Printed Name _____

Title _____

Submission Checklist – The following documents and forms are required as part of your submission. See Section 2.

Solicitation Response Form (this form) <input type="checkbox"/>	_____ <input type="checkbox"/>
Attachment A Client List/References	_____ <input type="checkbox"/>
All Addenda	_____ <input type="checkbox"/>
_____	_____ <input type="checkbox"/>

SECTION 1

1. SUMMARY INFORMATION

1.1 Introduction

The Upper Occoquan Service Authority (UOSA) is a public body politic and corporate organized under the Virginia Water and Waste Authorities Act. UOSA was created by the concurrent actions of its member jurisdictions and chartered by the State Corporation Commission of Virginia on April 1, 1971. The member jurisdictions include the Counties of Fairfax and Prince William and the Cities of Manassas and Manassas Park. UOSA is located in Fairfax County and currently employs approximately 180 individuals. UOSA currently owns and operates an advanced water reclamation plant with a capacity of 54 million gallons per day (“mgd”) and a regional system of interceptor sewer lines, pump stations and force mains that deliver sewage from the four member jurisdictions to the treatment plant.

1.2 Objective

- A. This Request For Proposal (RFP) invites written proposals to provide on-call/as needed professional engineering services necessary for construction of various UOSA delivery systems and facilities improvement projects as well as to support technical operations and maintenance or utility management studies as required.
- B. Professional engineering services projects may include, but are not limited to, preliminary engineering reports, pre-design and design services, documentation as required for permitting and construction activities, project management activities, field support during construction, operations and maintenance studies, utility management studies, **geotechnical services**, implementation or other related engineering tasks deemed necessary by UOSA. The prospective Offeror shall be qualified to provide such services, and include proof of such qualifications in its proposal.
- C. UOSA reserves the right to retain more than one firm to address various engineering services that it anticipates in the future. The form of the Contract will be a Basic Ordering Agreement (BOAs) that includes labor rates, multipliers, and terms and conditions, coupled with future Task Orders (TOs) that will specify the scope of the engineering services.
- D. Engineering services for UOSA delivery systems and facilities improvement projects as well as support for technical operations and maintenance or utility management studies may be authorized by separate Task Orders resulting from this procurement. Any additional Task Order assignments shall be at the sole discretion of UOSA.

END SECTION 1

SECTION 2

2. SPECIFICATIONS

2.1 Scope of Work

The Engineering Firm(s) shall be capable of providing registered Professional Engineers for the following services:

- A. Engineering studies (to include hazmat surveys), surveying, and design services related to treatment plant, piping systems, dam and reservoir, storm water system and pump station operations and improvements projects. Projects will likely include some or all of the following engineering disciplines: civil, mechanical, electrical, **geotechnical**, instrumentation, and process controls design and computer programming.
- B. Technical support for UOSA's operations;
- C. Bidding and Award services, which may include attendance at the Pre-Bid Conference, preparation of meeting minutes from the Pre-Bid Conference, develop responses to questions from the bidders, preparation of addenda to the Contract Documents, review of Bids and qualifications of the lowest Bidder, and recommendation to the Owner regarding Notice of Award.
- D. Attendance and possible presentations at public meetings and UOSA's monthly Board meeting;
- E. Meet with affected landowners and assist UOSA in obtaining regulatory approvals from the state and local agencies;
- F. Surveying work including, but not limited to, easements, plats, and deed review, research, and preparation; property boundary stakeout; and construction project stakeout including horizontal and vertical control;
- G. Preparation of construction cost estimates and preliminary construction schedules; and
- H. Services during construction, which may include attendance at the pre-construction conference; project management; submittal review, preparation of responses to Contractor requests for information (RFIs) and review of other Contractor correspondence such as payment applications, monthly project schedule updates, change orders, etc.; field activities to include: field inspection to ensure Contract compliance; oversight of geotechnical testing to ensure Contract compliance and compliance with local codes and ordinances; review of Manufacturers' services, including owner training; start-up support to the Owner if necessary; post construction activities to include operation and maintenance manuals and preparation of record documentation (provide electronic file (USB flash drive) copies of documents with hard-copy submittals).
- I. Electrical system safety and health evaluations and reports, including short circuit surveys.
- J. Preparation of Operations & Maintenance manuals and/or Standard Operating Procedures.
- K. Support to UOSA for evaluating regulatory issues and making recommendations on the same.

2.2 **Invoicing and Payment**

(This paragraph supersedes Paragraph 4.1.A of General Terms and Conditions)

Unless otherwise agreed to in the Contract Documents, invoices shall be submitted to UOSA on

a monthly basis. Each monthly invoice shall be submitted in hard copy format only and shall include **all services** rendered for the 30-day period covered by that particular invoice. Each invoice shall also include detailed breakdown by Task to include names and position titles of staff who worked on service, dates worked (by day, not week), number of hours worked, rate of pay, subtotal of cost per person and total cost per person in a format as shown at Attachment C to this solicitation. The provided sample detail breakdown must be included with all invoices and include information for any/all Tasks being performed. Failure to provide detail may result in delay of payment. Failure to invoice for services within 120 days of the work being performed shall operate as a waiver of payment for such services. Final invoices shall be submitted to UOSA within one hundred twenty (120) days from the date of UOSA's final acceptance of services provided by the Contractor.

Invoices shall be provided as below:

1 hard copy original (marked ORIGINAL) to UOSA Project Manager, CIS Section

1 hard copy duplicate (marked COPY) to UOSA Accounts Payable

2.3 Client List/References

Using Attachment A, provide a list of at least **five (5)** Clients for which you have provided similar or equivalent services. UOSA reserves the right to require additional references from the Offeror, or to obtain additional references from other sources not provided by the Offeror.

END SECTION 2

SECTION 3

3. SUBMISSION OF PROPOSALS AND METHOD OF EVALUATION

3.1 General

The following general information is provided and shall be carefully followed by all Offerors to insure that proposals are properly prepared:

This procurement shall be conducted in accordance with the competitive negotiation procedures of the Virginia Public Procurement Act.

- A. Each Offeror must furnish all information required by the RFP. The person signing the proposal must initial erasures or other changes. Proposals signed by an agent of the corporation must be accompanied by evidence of his or her authority to bind the corporation to the terms and conditions of this solicitation.
- B. UOSA reserves the right to conduct discussions with qualified Offerors in any manner necessary to serve the best interest of UOSA.

3.2 Questions and Communications

- A. All contact between Offerors and UOSA with respect to this solicitation will be formally held at scheduled meetings or in writing through the Purchasing Department. Questions concerning this solicitation are due by the deadline for questions shown on the cover page. Misinterpretation of specifications shall not relieve the Contractor(s) of responsibility to perform. Substantive questions must be submitted in writing via mail, express mail, e-mail, fax, etc., to the attention of the Purchasing Agent listed on the cover page, by the deadline also specified on the cover page. Questions submitted after the deadline will not be answered. All properly submitted substantive questions will be responded to in writing, in the form of an Addendum to the solicitation. Failure to submit questions or to otherwise seek clarification(s) by the deadline for submitting questions shall constitute a waiver of any potential claim by the Offeror/contractor.
- B. Communications between prospective Offerors, their agents and/or representatives and any member of UOSA other than as authorized herein, concerning this solicitation are prohibited. In any event and in all circumstances, unauthorized communications cannot be relied upon.

3.3 Optional Pre-Proposal Conference

UOSA will conduct an Optional Pre-Proposal Conference to give all potential Offerors an opportunity to collect necessary data and to seek answers to any questions which they may have concerning this service. UOSA will issue an addendum resulting from any clarification noted at the Pre-Proposal Conference; no oral changes will be considered. Attendance at this Conference is **OPTIONAL**. Failure to attend the Pre-Proposal Conference will not prohibit Offerors from submitting Proposals. However, it is recommended that potential Offerors attend the Pre-Proposal Conference, as no claims for misunderstandings or lack of information pertaining to these requirements will be considered by UOSA.

The Conference schedule is shown on the cover sheet of this Request for Proposal (RFP). The location of the Pre-Proposal Conference will be in UOSA's Sellman Meeting Room, located in Building "G" at 14631 Compton Road, Centreville, VA 20121. While attendance at the Pre-Proposal Conference is not mandatory, information presented may be very informative; therefore, all interested Offerors are encouraged to attend to increase their chances of preparing acceptable Proposals.

3.4 Addenda to the RFP

UOSA reserves the right to amend this RFP at any time prior to the deadline for submitting proposals. If it becomes necessary to revise any part of this RFP, notice of the revision will be given in the form of an Addendum that will be provided to all prospective Offerors who are on record with the Purchasing Agent as having received this RFP. Addenda will be distributed within a reasonable time to allow Offerors to consider them in preparing their proposals. If in the opinion of the Purchasing Agent, the deadline for receipt of proposals does not provide sufficient preparation time; the deadline shall be extended. Acknowledgment of the receipt of all Addenda is required from all Offerors receiving the RFP. Acknowledgement must be submitted by the final deadline for submission of proposals. Failure to acknowledge receipt of an Addendum may result in rejection of the proposal.

3.5 Duration of Proposals

Proposals shall be valid for a minimum of 120 days following the deadline for submitting offers. If an award is not made during that period, all offers shall be automatically extended for another 120 days. Offers will be automatically renewed until such time as either an award is made or proper notice is given to UOSA of Offeror's intent to withdraw its offer. Offers may only be canceled by submitting Notice at least 15 days before the expiration of the then current 120-day period.

3.6 Contractor Identification

All Offerors must include the following in their transmittal letter:

- A. Individual Contractors must provide their social security numbers.
- B. Proprietorships, partnerships, and corporations must provide their Federal Employer Identification Numbers.

3.7 Proposal Organization

- A. Technical Proposal:

All proposal elements except price shall be included in the Technical Proposal and shall include at a minimum the following:

- i. Transmittal Letter
- ii. UOSA Solicitation Response Form (**Notice – please be sure to complete fully the section of the Response Form which addresses SCC ID. This ID number is NOT your Federal ID or Tax ID number. Offerors will be disqualified if this section is not completed and either a valid number, valid Certificate of Authority, or letter of valid exception from Offeror's legal counsel is provided**)
- iii. Company history and qualifications: The Offeror will briefly describe its company history, sales history, and history of performing work as described herein.
- iv. Written Narrative: Each Offeror must provide a written narrative that discusses the Offeror's experience and the experience of the proposed project team members in providing the services described in Section 2. This Section should include a list of all local office and remote offices that may be used in providing services under any Contract awarded. Include any special qualifications, experience, awards, etc.
- v. Description of any proposed use of subcontractors.
- vi. Client Listing/References (Attachment A)
- vii. Technical Proposals shall be limited in length to 20 (twenty) single-sided letter sized pages. This limit does not include the Solicitation Response Form, Client Listing or

other required forms (Authority to Transaction business in Virginia, etc., proof of insurance, etc.)

- B. Cost Proposal (this will be submitted at the discussion stage and is not required to be submitted with the Technical Proposals at the date/time due shown on the cover page of this solicitation)

At the discussion stage the Offerors with the highest ranked technical proposals may be requested to submit a written non-binding cost proposal. UOSA will provide detailed information regarding what will be required in the non-binding cost proposal at the time this information is requested.

3.8 Instructions for Submitting Proposals

- A. The deadline for submitting Proposals is shown on the cover sheet. Offerors mailing proposals should allow sufficient mail delivery time to insure timely receipt by the Purchasing Department. Proposals will be opened in accordance with the provisions of the Virginia Public Procurement Act. There will be no public proposal opening. The list of prospective Offerors shall be available for public inspection only after Contract Award or upon cancellation of the solicitation.
- B. The attached Solicitation Response Form must accompany the proposal. The purpose of this form is to formally submit the proposal and bind the Offeror to the terms, conditions and specifications contained in the solicitation. The Form must be signed by an individual who is authorized to bind the Offeror's firm to all items in the proposal including products, services, etc., and prices, contained in the proposal. *(*Notice – please be sure to complete fully the section of the Response Form which addresses SCC ID. This ID number is NOT your Federal ID or Tax ID number. Offerors will be disqualified if this section is not completed and either a valid number, valid Certificate of Authority, or letter of valid exception from Offeror's legal counsel is provided*)*
- C. Submit one (1) original and five (5) hard copy sets and 1 electronic copy of your Technical Proposal. The set of originally signed documents must be uniquely identified on the cover of each volume. Costs are not to be included in the Technical Proposal.

All proposals must be submitted in a sealed package(s). The proposal should be submitted in sealed envelopes or packages, and identified as follows:

From: _____

_____	_____
Name of Offeror	Due Date
_____	_____
Street	RFP No.
_____	_____
City, State, Zip Code	RFP Title

3.9 Late Proposals

Proposals or unsolicited amendments to proposals arriving after the closing date and time will not be considered. Proposals received after the proposal submission deadline will be returned to the Offeror unopened providing that sufficient proposal identification information is shown on the outside of the proposal envelope.

3.10 Evaluation Process

- A. Evaluation Committee: UOSA will establish an Evaluation Committee (the “Committee”) to review and rank each proposal. The Committee will be composed of any individuals designated by UOSA. The Committee may request additional technical assistance from other sources.
- B. Qualifying and Evaluating Proposals: Each proposal will first be reviewed for compliance with the requirements to transact business in the Commonwealth of Virginia. Any Offeror who does not comply with this requirement will be disqualified. Thereafter, each proposal will be reviewed for compliance with the remaining requirements of the RFP. The Offeror assumes responsibility for addressing all necessary technical and operational issues in order to meet the objectives of the RFP. Each proposal will be evaluated according to the criteria listed below:
 - i. Project team/key personnel qualifications and experience – 30%
 - ii. Company history, qualifications and capabilities – 25%
 - iii. Responsiveness and completeness of the proposal – 25%
 - iv. Local presence in the metropolitan Washington, D.C. area. – 15%
 - v. Client List/References – 5%

3.11 Acceptable and Unacceptable Proposals and Rejection of Proposals

UOSA reserves the right to reject any or all proposals received. Proposals must meet or exceed the mandatory requirements of the Specifications Section. If an Offeror does not meet a mandatory requirement, UOSA may classify the proposal as “not responsive.” The Evaluation Committee may determine that an Offeror is “not responsible,” i.e., does not have the capabilities in all respects to perform the Work required. The Committee may determine that a proposal meets the Specifications but does not raise itself to the competitive level of some or all of the other Offerors. In such instances, the Committee shall issue a determination that any and all such proposals are “not reasonably susceptible of being selected.” Proposals deemed by the Committee to be not responsive, not responsible, or not reasonably susceptible of being selected will be excluded from further consideration and the Offeror so notified.

3.12 Award

UOSA shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. Ranking of Offerors shall be performed using evaluation criteria listed in Section 3.10.

As stated in Section 3.2, offerors are not required to furnish estimates of man-hours or cost for services. At the discussion stage, the public body may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors.

At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in Section 3.10 and all information developed in the selection process to this point,

UOSA shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious.

PLEASE NOTE: Offerors are not requested or required to list any exceptions to proposed contractual terms and conditions until AFTER the qualified offerors are ranked for negotiations.

Final negotiations with top ranked Offerors will begin with terms and conditions. The final Contract with a successful Offeror will contain the Terms and Conditions from this RFP and the Sample Contract provided as Attachment B to this RFP. If the top ranked Offeror(s) intend(s) to take exception to any Terms and Conditions or proposal additional or alternative language they must:

- (1) Identify clearly the Terms and Conditions to which they take exception and provide additional or alternate terms within three (3) days of being notified of being a top Ranked Offeror.
- (2) Failure to identify clearly the terms and conditions for exception or alternate language may result in termination of negotiations.

If a contract satisfactory and advantageous to the public body can be negotiated with acceptable terms and conditions and rates considered fair and reasonable by UOSA, then an award shall be made to that Offeror. If a contract containing both terms and conditions acceptable to UOSA and rates considered fair and reasonable by UOSA cannot be negotiated, negotiations will be terminated and conducted with the next ranked Offeror, and so on.

Should UOSA determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

3.13 Contract Award (Multiple Contracts)

UOSA reserves the right to award Contracts for Professional Engineering Services to one or more of the ranked Offerors. The UOSA Evaluation Committee may select one or more Contract awardees deemed to be the most advantageous to UOSA to perform the efforts anticipated. Subsequently, UOSA will select a Contract awardee most advantageous to UOSA to draft and perform task orders for engineering service projects under the Contract.

3.14 Term of Contract

The initial Contract will be for one (1) year, with options to extend annually thereafter for up to four (4) additional one-year periods. Renewal will be at the sole option and discretion of UOSA. Renewal will be at the rates, terms and conditions contained within the executed Contract Documents, or as agreed to between the parties prior to Contract renewal.

UOSA expects to award Basic Ordering Agreement(s) in April, 2022.

3.15 Limitations to Term and Scope of Contract

- A. The sum of all projects performed in one contract term (year) shall not exceed \$8 million.
- B. The project fee of any single project shall not exceed \$2,500,000.
- C. Any unused amounts from the first contract term shall not be carried forward to the subsequent term.

- D. The term will expire after one year or when the above caps are met, whichever comes first. Each succeeding term shall auto-renew unless UOSA notifies Contractor thirty (30) days prior to the then current expiration date that the Contract will not be renewed.

3.16 Key Personnel

The Contractor shall assign to this contract, key personnel as listed in their proposal. During the period of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by leave of absence, illness, death or termination of employment. The Contractor shall notify UOSA within five (5) calendar days after the occurrence of any of these events and provide the information required by the paragraph below.

The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes and any additional information requested by UOSA. Proposed substitutes should have comparable qualifications to those of the personnel being replaced. UOSA will notify the Contractor within fifteen (15) calendar days after receipt of all required information whether or not UOSA has approved the Contractor's proposed key personnel substitutions. This clause will be modified to reflect any approved changes of personnel.

END SECTION 3

STANDARD TERMS AND CONDITIONS

[Non-Construction]

The following Terms and Conditions establish requirements and conditions governing responsibility, policy, and procedures under the Contract Documents that apply during the performance of the Contract and Warranty Period. Additional requirements and conditions appear in other Contract Documents. The Contract Documents may be modified only in writing, signed by the Owner.

ARTICLE I **DEFINITIONS**

Whenever used in this solicitation or in the Contract Documents, the following terms have the following meanings, which are applicable to both the singular and plural and the male and female gender thereof:

- 1.0 Acceptance:** UOSA's acceptance of any Phase or of the Project as a whole from the Contractor upon confirmation from the Contract Manager and the Contractor that the Phase or the Project as a whole is totally complete in accordance with the Contract requirements and that all defects have been eliminated. Final Acceptance is UOSA's written determination that the Work (excluding Warranties) is complete. Final Acceptance is confirmed by the making of Final Payment of the Contract Price for the affected Phase or for the Project as a whole including any Change Orders or other modification thereto. Contractor is responsible for all Work until Final Acceptance.
- 1.1 Bidder:** The individual or business entity who or which submits a Bid or a Proposal to the RFP or IFB (see also, Offeror).
- 1.2 Change Order:** A written modification to the Contract affecting Contract Price or Contract Time, or both, signed by both parties. A Unilateral Change Order is a Change Order issued by UOSA establishing a modification when the parties cannot agree on a Change Order, with the right reserved to the Contractor to initiate a claim if the parties are unable to agree on the disputed terms. Any modification to the Contract affecting Contract Price or Contract Time shall be made only by Change Order or Unilateral Change Order.
- 1.3 Contract:**
 - A. "The Contract" is the written agreement of the parties, and shall be deemed to incorporate the Contract Documents covering the performance of the Work and the furnishing of services, labor, materials, Equipment, incidental services, tools, and equipment for the performance of the Work. It shall be deemed to include Supplemental Agreements amending or extending the scope of the Work contemplated and which may be required to achieve Acceptance and Final Acceptance or both. The Contract, as so defined, represents the entire and integrated agreement between the Owner and the Contractor, and supersedes all prior negotiations, representations, or agreements, both written and oral.
 - B. References to the "executed Contract" or the "signed Contract" refers to that portion of the Contract signed by parties. For Projects under \$50,000 and where specifically noted therein, a Purchase Order may take the place of the executed Contract.
 - C. The Contract may be modified only in writing signed by the Owner. The Contractor recognizes that no representative or agent of Owner has any authority to modify the Contract Documents in any other manner, express or implied. The Contractor agrees that it shall not rely upon or in any way assert the occurrence of any modification of any Contract Document other than in writing signed by the Owner and waives any right or ground to do so.
- 1.4 Contract Documents:** The Contract Documents consist of the Invitation for Bid ("IFB") OR the Request for Proposal ("RFP"), a signed copy of the Bid Form OR Proposal (including drawings and submittals and excluding any terms and conditions contrary or in addition to those in the RFP unless specifically agreed to in writing as a Supplemental Condition), the signed Contract, the Payment Bond (if any), the Performance Bond (if any), the Terms and Conditions, the Supplemental Conditions, and shall include all modifications of any of the foregoing incorporated by Addenda into the Contract Documents prior to execution of the Contract, and all Supplemental Agreements or Changes to the Contract Documents made subsequent to execution of the Contract.
- 1.5 Contract Manager:** The UOSA employee designated for purposes of oversight of the Contract and the Work. The Contract Manager is the Owner's authorized representative for all aspects of the Contract after Contract Award. UOSA may also designate a Technical Representative for routine coordination with the Contractor. The Contract Manager and the Technical Representative, if any, should be identified in the executed Contract. However, any change to the Contract affecting the Contract Price or the Contract Time is not effective and has no force and effect unless and until signed by the UOSA Executive Director or, in the absence of the Executive Director, UOSA Deputy Executive Director, or designee.
- 1.6 Contract Price:** The total compensation to be paid the Contractor for performance of all requirements of the Contract Documents. Any provision of the Contract Documents which imposes any responsibility or performance obligation upon the Contractor shall be deemed to include the phrase "within the Contract Price." Any claim or request by the Contractor for additional compensation for any reason shall be deemed to be a claim for modification of the Contract Price and must be submitted in strict accordance with the Disputes clause.
- 1.7 Contract Time:** The time within which the Contractor is required to achieve Acceptance, and thereafter to achieve Final Acceptance, of the Work. The Contract Time is of the essence of the Contract.

- 1.8 Contractor:** The person or persons, partnership, firm, joint venture, or corporation submitting a Bid or Proposal for the Work contemplated.
- 1.9 Notice:** The term "Notice" or the requirement to notify, as used in the Contract Documents or applicable state or federal statutes, shall mean a written communication delivered in person or by certified or registered mail to the individual, or to a member of the firm, or to an officer of the corporation for whom it is intended. Certified or registered mail shall be addressed to the last business address known to the party who gives the Notice. Notice to the Owner shall be given at the office of the Owner's Contract Manager. Notice is effective upon receipt. Communications by email shall not satisfy any Notice requirements of the Contract Documents except as may be provided specifically.
- 1.10 Notice to Proceed:** A written Notice given by the Owner to the Contractor establishing the date on which the Contract Time will commence and on which the Contractor shall be authorized to begin the Work. The execution of a Task Order or the issuance of a Purchase Order shall operate as a Notice to Proceed for the Work included in that document.
- 1.11 Offeror:** The individual or business entity who or which submits a Bid or a Proposal to the RFP or IFB. (see also, Bidder)
- 1.12 Owner:**
- A. Owner means the Upper Occoquan Sewage Authority, also known as Upper Occoquan Service Authority, and referred to by the acronym "UOSA", whose address is 14631 Compton Road, Centreville, Virginia, 20121-2506 (telephone number 703-830-2200). The Executive Director of the Upper Occoquan Sewage Authority shall have the authority to act on behalf of the Upper Occoquan Sewage Authority for all purposes under this Contract, and in the absence or incapacity of the Executive Director, the Deputy Executive Director shall have all powers and authority of the Executive Director. The Executive Director may designate a Contract Manager for purposes of over-sight of the Contract and the Work.
 - B. UOSA is a public body politic and corporate organized under the Virginia Water and Waste Authorities Act and subject to the Occoquan Policy. UOSA was created by the concurrent actions of the governing bodies of Fairfax County, Prince William County, the Town of Manassas (now the City of Manassas), and the Town of Manassas Park (now the City of Manassas Park) and was chartered by the State Corporation Commission of Virginia on April 1, 1971. UOSA was formed to acquire, finance, construct, operate and maintain facilities for the abatement of pollution resulting from sewage in its service areas in order to protect water quality in the Occoquan Watershed.
 - C. UOSA currently owns and operates an advanced water reclamation plant and a regional system of interceptor sewer lines, pump stations and force mains that deliver sewage from the four member jurisdictions to the treatment plant.
- 1.13 Partial Utilization:** The terms "or a defined portion thereof," "Partial Utilization," "Owner's Partial Utilization," "defined portion of the Work," "Owner's use of portions of the Work," or words of similar import when used in the Contract Documents shall be deemed to mean such portion of the Work as may be designated by the Owner in its sole discretion as having achieved that degree of completion which will permit the Owner to take over and commence the use and operation thereof prior to Acceptance of all Work. Such determination as to a defined portion of the Work so as to permit Owner's Partial Utilization shall not affect the determination of either Acceptance or Final Acceptance of the Work as a whole, which is understood to be indivisible, nor shall such determination have any impact on the obligation of the Owner to assess and deduct Liquidated Damages for failure to achieve Acceptance of the Work.
- 1.14 Project:** The term "Project" shall be synonymous with the term "the Work."
- 1.15 Proposal:** The response by an Offeror to the RFP.
- 1.16 SubContractor:** Any party, entity, or enterprise of any sort other than the Contractor providing labor or services to the Project pursuant to any agreement or arrangement with the Contractor.
- 1.17 Supplemental Agreements:** Written agreements covering alterations, amendments, or extensions to the Contract and include Change Orders and Unilateral Change Orders.
- 1.18 UOSA:** Upper Occoquan Service Authority, interchangeable with "Owner."
- 1.19 Work:** The word "Work" within the Contract Documents shall include all services, material, labor, equipment and tools, Equipment, appliances, machinery, transportation, appurtenances, bonds, insurance, and all related costs necessary to perform and complete the Contract, and any such additional items and costs not specifically indicated or described which can be reasonably inferred as belonging to the item described or indicated or as required by industry practice, custom or usage to provide a complete and satisfactory deliverable system, structure or product in strict compliance with all requirements of the Contract Documents. Work means the same as "Project".

ARTICLE II
THE CONTRACTOR REPRESENTATIONS AND OBLIGATIONS

- 2.0 Arrearage:** By submitting a Bid or Proposal in response to this IFB or RFP, the Offeror shall be deemed to represent that it is not in arrears in the payment of any obligation due and owing UOSA, the Commonwealth of Virginia, or any public body within Virginia. Said representation shall include the payment of taxes and employee benefits. Offeror further agrees that it shall make diligent effort to avoid becoming in arrears during the term of the Contract.

- 2.1 Collusion:** By submitting a bid or a proposal, Offeror represents that such bid or proposal is submitted without prior understanding, agreement, or connection with any corporation, partnership, firm, or person submitting a proposal for the same requirements, without improper collusion or fraud. Collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards. All Bidders are required to sign the included UOSA Solicitation Response Form that is included at the beginning of the Solicitation document. (Response form must be filled out in its entirety.)
- 2.2 Compliance with Laws:** The Offeror/Contractor hereby represents and warrants that:
It is qualified to do business in the Commonwealth of Virginia and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under the Contract including, but not limited to the Virginia Procurement Act;
It shall obtain at its expense, all regulatory and professional licenses, business licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under the Contract; and
The Offeror shall include in its bid or Proposal the identification number issued to it by the Virginia State Corporation Commission. Any bidder that is not required to be authorized to transact business in the Commonwealth of Virginia as a foreign business entity under Title 13.1 or Title 50 of the Virginia Code or as otherwise required by law shall include in its bid a statement describing why the bidder is not required to be so authorized. Any Offeror that fails to provide this required information shall not be entitled to a Contract Award.
- 2.3 Contractor's Responsibilities:** The Contractor shall be responsible for all Work required by this solicitation. The use of SubContractors is prohibited, without prior written consent from UOSA. Any consent to use SubContractors, shall not relieve the Contractor of liability under the Contract.
- 2.4 Debarment Status:** By submitting a Bid or a Proposal, Offeror certifies that it is not currently debarred by the Commonwealth of Virginia (or any other Virginia public body) from submitting Offers or proposals on Contracts for the type of goods and/or services covered by this solicitation, nor is it an agent of any person or entity that is currently so debarred.
- 2.5 Drug-free Workplace:** During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every SubContract or purchase order of over \$10,000, so that the provisions will be binding upon each SubContractor or vendor.
- 2.6 Duration of Bids/Proposals:** Bids/Proposals shall be valid for a minimum of 90 days following the deadline for submitting bids. If an award is not made during that period, all offers shall be automatically extended for another 90 days. Bids/Proposals will be automatically renewed until such time as either an award is made or proper notice is given to UOSA of Bidder's/Offeror's intent to withdraw its bid/proposal. Bids/Proposals may only be canceled by submitting written notice at least 15 days before the expiration of the then current 90-day period.
- 2.7 Employment Discrimination:**
- A. By submitting their bids or proposals, Offerors certify to UOSA that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, and where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4310 of the Virginia Public Procurement Act.
 - B. During the performance of this Contract, the Contractor agrees as follows:
 - 1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - 2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - 3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
 - 4. The Contractor will include the provisions of the foregoing paragraphs 1, 2 and 3 in every SubContract or purchase order over \$10,000.00, so that the provision will be binding upon each SubContractor or vendor.
- 2.8 Employment of Aliens:** It shall be the responsibility of the Contractor to comply and to require compliance by others on the Project with all federal, state and local laws dealing with employment of aliens, including, but not limited to, the requirements and prohibitions provided in the Immigration and Nationality Act (INA) of 1952, as amended, and the Immigration Reform and Control Act (IRCA) of 1986, as amended, which control employment of unauthorized aliens. By entering into a Contract with UOSA,

Contractor represents that it does not, and shall not during the performance of the Contract, knowingly employ an unauthorized alien.

- 2.9 Ethics in Public Contracting:** Contractor hereby certifies that it has familiarized itself with the following provisions of the Virginia Code, and that all amounts received by it pursuant to any Contract or Task Order Awarded to it are proper and in compliance therewith: Section 2.2-3100 et. seq., the State and Local Government Conflict of Interests Act; Section 2.2-4367 et seq., Ethics in Public Contracting; Section 18.2-498.1 et seq., Virginia Governmental Frauds Act; and Articles 2 (Section 18.2-438 et seq.) and 3 (Section 18.2-446 et seq.) of Chapter 10 of Title 18.2.
- 2.10 Examination of Records:** The Offeror agrees that in any resulting Contract, either UOSA or its duly authorized representative shall have access to and the right to examine and copy any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to any resulting Contract. This obligation shall expire five years after the final payment for the final service performed as a result of any and all Contract(s), Task Order(s) or Purchase Orders awarded pursuant to this solicitation, or until audited by UOSA, whichever is sooner. Contractor will provide reasonable access to any and all necessary documents and upon demand provide copies of documents if so required by UOSA or its representative(s). UOSA will reimburse the Contractor for any reasonable expenses it incurs as a result of such a request.
- 2.11 Independent Contractor:** The Contractor shall perform or cause to be performed all Work under the Contract as an independent Contractor and shall not be considered either an agent or employee of the Owner or of the Engineer.
- 2.12 Permits and Inspections (where applicable):**
- A. The Contractor shall obtain and provide any and all required permits from the appropriate local authority.
 - B. The Contractor shall be responsible for scheduling all inspections and performing all work necessary for testing and inspections as required by any and all authorities having jurisdiction during the course of Work.
- 2.13 Safety Program and Contractor's Compliance (where applicable):** If applicable to this Contract:
- A. The Contractor shall comply with all applicable Federal, State, and local safety programs, regulations, standards, and codes, to include though not limited to:
 - 1. The Virginia Uniform Statewide Building Code;
 - 2. Building Officials & Code Administrators (BOCA) codes (together with adopted International Codes);
 - 3. Virginia Department of Health (VDH) regulations;
 - 4. Virginia Department of Environmental Quality (DEQ) regulations;
 - 5. Virginia-OSH (VOSH) regulations, and
 - 6. National Electric Code (NEC).
 - B. The Contractor shall have a current written safety program, that complies with all applicable OSHA and VOSH standards for General Industry regulations, and if required, a written Permit Required Confined Space Entry Program that complies with VOSH Standard Confined Space Entry Standard 1910.146. A copy of these programs shall be provided to the Purchasing Manager with the Contractor's general safety program not later than seven days after Contract award and before beginning Work.
 - C. If the Work requires working in a confined space, the Contractor shall utilize only personnel trained for confined space entry and shall provide all entry equipment including atmospheric test equipment.
 - D. Contractor's employees shall wear hard hats and steel toe shoes while working in all applicable areas.
- 2.14 Superintendence by Contractor (where applicable):**
- A. The Contractor shall have a competent Superintendent, satisfactory to UOSA, to oversee the progress of the Work. The Contractor shall be responsible for coordinating all portions of the Work except where otherwise specified in the Contract Documents, and for all safety and worker health programs and practices. The Contractor shall notify the Contract Manager, in writing, of any proposed change in Superintendent including the reason therefore prior to making such change.
 - B. The Contractor shall at all times enforce strict discipline and good order among the workers on the project. The Contractor shall not employ on the Project any unfit person, anyone not skilled in the work assigned to him, or anyone who will not work in harmony with those employed by the Contractor, subContractors, UOSA or UOSA's separate Contractors and their subContractors.
 - C. UOSA may, in writing, require the Contractor to remove from UOSA property, any employee UOSA deems to be incompetent, careless, not working in harmony with others on the site, or otherwise objectionable.
- 2.15 UOSA Drug and Alcohol Policy:** The Contractor shall be subject to follow this UOSA Policy at all times while on UOSA premises.
- A. Drugs or Alcohol and the Job:

The nature of the Work of UOSA requires that the highest standards of safety be maintained for the public, employees and Contractors working at UOSA. The use of drugs, i.e., controlled substances or alcohol while on the job or working while under their influence poses a threat to that health and safety.

B. Guidelines for Drugs and Alcohol:

All employees and Contractors are required to work with faculties unimpaired. Therefore, the use or possession of drugs or alcohol while on UOSA premises is strictly prohibited. Working or reporting to work in a condition that would prevent the employee or Contractor from performing his duties in a safe or effective manner for any reason also is prohibited. Any illegal substances will be turned over to the appropriate law enforcement agency and may result in criminal prosecution. Employees or Contractors undergoing prescribed medical treatment with a controlled substance are required to advise their supervisor, Contract administrator and/or the UOSA safety officer of such treatment. Prescribed use of controlled substances as a part of a medical treatment is not necessarily grounds for disciplinary action. However, where such use adversely affects an employee or Contractor's ability to perform his or her job safely and effectively, alternative work assignment or other appropriate action will be employed.

C. Detection of Drugs or Alcohol:

As a part of its program to prevent the use of controlled substances and alcohol that affect the workplace and in the event of an accident or any incident where safety rules have been or appear to have been violated, employees or Contractors involved or responsible may be required to undergo a urine test or other method for the purpose of detecting the use or presence of controlled substances or alcohol. In addition, where a supervisor, Contract administrator or safety officer has reason to believe that an employee or Contractor may be drug or alcohol impaired, he or she may require the employee or Contractor to submit to such testing. The cost of any such testing required for a Contractor will be charged to that Contractor or deducted from payments to the Contractor. An employee's or Contractor's refusal to submit to a urine or other test or to cooperate with UOSA's effort to eliminate drugs or alcohol in the workplace may be grounds for disciplinary action, including termination of employment or Contract.

2.16 UOSA Smoking Policy: The Contractor shall be subject to follow this UOSA Policy at all times while on UOSA premises.

Purpose:

The purpose of the UOSA smoking policy is to maintain UOSA as a safe and smoke-free environment for everyone.

Policy:

Because of the numerous potentially flammable solids, liquids, and gases encountered in UOSA operations. With limited exceptions smoking must be prohibited in the UOSA workplace.

Smoking is prohibited inside the security fence of the Plant and all Pump Stations except in the following Plant locations:

- patio area on the east side of the Laboratory Building;
 - patio area north of Building H/1;
 - the immediate area at the south entrance to Building S/2;
 - the east side of X/1;
 - the north side of D/2; and
 - the east balcony off the 2nd floor of Building U.
- Employees may smoke in the patio area on the east side of Building F.
The public will be allowed to smoke on the west side of Building F.

The users must keep all smoking areas clean. Failure to do so may result in the loss of the smoking privileges. Trash receptacles and cigarette disposal receptacles will be provided at each approved location. The responsibility of emptying the receptacles rests with the users.

Other Non-UOSA Sites:

Contractor shall obey all nonsmoking rules and regulations when performing work for UOSA on non-UOSA premises. It is the responsibility of the Contractor to identify these prohibited areas and inform its employees that smoking is not allowed in specified restricted areas.

2.17 Vehicle Operation Compliance: Vehicles being driven on UOSA property must comply with the posted speed limit, stop and yield signs. Operators found in non-compliance will be asked to leave UOSA property. The Contractor may be required to replace the offenders with new personnel if deemed to be in the best interest of the Authority by UOSA's Safety Officer.

**ARTICLE III
CONTRACT TERMS**

3.0 Contract Changes / Change Orders: No verbal agreement or conversation with any officer, agent or employee of UOSA either before or after the execution of any Contract resulting from this solicitation or follow-on negotiations, shall affect or modify any of the terms, conditions, specifications, or obligations contained in the solicitation, or resulting Contract. No alterations to the Terms and Conditions or any other change affecting Contract Price or Contract Time, or both, shall be valid or binding upon UOSA unless made in writing in the form of a Change Order and signed by UOSA's Executive Director or Deputy Executive Director, or designee.

In any event and in all circumstances, the Contractor shall be solely liable and responsible for, and UOSA shall be under no obligation to pay for, any Contract changes or deviations made without first receiving a Written Change Order to deviate from the Contract. Changes can be made to the Contract in any of the following ways:

1. By mutual agreement between the parties in a written Change Order.
2. By UOSA issuing a Unilateral Change Order ordering the Contractor to proceed with the work. Any claim for an adjustment in Contract Price under this provision must be asserted by Notice to the UOSA Contract Manager. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this Contract shall excuse the Contractor from promptly complying with the changes ordered by the Unilateral Change Order or with the performance of the Contract generally.

3.1 Contract Documents Precedence: The Contract to be entered into as a result of this solicitation shall be by and between the Offeror as Contractor and UOSA. The Contract Documents shall include the following items, which are listed in order of precedence:

1. Supplemental Agreements, with the most recent having precedence,
2. Fully executed Task Orders, (if applicable)
3. The fully executed Contract
4. The Terms and Conditions
5. The RFP or IFB and any Addenda to the IFB or RFP,
6. The Offeror's Bid or Proposal (including any drawings and submittals), and excluding terms and conditions that are not expressly agreed to in writing by UOSA in a Supplemental Agreement.

Anything called for by one of the Contract Documents and not called for by the others shall be of like effect as if required or called for by all, except that a provision clearly designed to negate or alter a provision contained in one or more of the other Contract Documents shall have the intended effect.

The intent of the Contract Documents is to describe a functionally complete Project to be performed in accordance with the Contract Documents. Any services, material, labor, equipment, tools, Equipment, appliances, machinery, transportation, appurtenances, bonds, insurance, and all related costs that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be deemed to be part of the Work whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe any portion of the Work, such words shall be interpreted in accordance with that meaning. The words "will" or "shall" are used interchangeably and denote mandatory, non-discretionary conduct or intent.

By submitting an Offer or Bid in response to this solicitation, the Offeror agrees to all Terms and Conditions and to the Specifications contained in the RFP or IFB, unless and except as otherwise noted as an exception in the Offeror's Bid or Proposal. Any terms and conditions that the Offeror proposes to use must be submitted as part of the Bid or Proposal (unless otherwise specifically noted in this solicitation or otherwise required in accordance with Virginia law) but shall not be deemed accepted terms agreed to by the Owner unless and until those terms are incorporated expressly into the Contract by Supplemental Agreement or by Change Order signed by both parties. Terms and conditions submitted by an Offeror after the required submission date will not be considered for incorporation into the terms of the awarded Contract.

Terms and conditions submitted by an Offeror after the required submission date will not be considered for incorporation into the terms of the awarded Contract.

All time limits stated in the Contract Documents, including but not limited to the time for completion of the Work, are of the essence.

3.2 Default: The Contractor may be deemed by the Owner to be in default of the Contract if the Contractor:

1. abandons the Work or a defined portion thereof; or
2. persistently or repeatedly fails or refuses to perform the Work or a defined portion thereof; or
3. persistently or repeatedly fails to make prompt payment to SubContractors for material or labor; or
4. persistently or repeatedly disregards laws, ordinances, or regulations; or
5. fails to prosecute the Work either in a timely manner or in conformance with the Contract Documents; or
6. neglects or refuses to remove and replace at its own cost Work rejected by the ; or
7. is otherwise in breach of the Contract.

3.3 Delays:

- A. The Contractor shall not be responsible for delays caused by UOSA, its agents, or other Contractors under Contract with UOSA. To the extent that the Contractor is unable to proceed with timely performance due solely to the actions or inactions of UOSA, its agents, employees or such other Contractors, the Contractor shall be granted an extension to the performance schedule equal to the documented amount of time the Contractor was prevented from performing work, so long as the Contractor submits a Notice of Claim to UOSA at the time the delay begins or within seven (7) days thereafter if the resulting delay was not reasonably foreseeable. This Notice is condition precedent to the assertion of any claim for additional time or compensation.

- B. Any claim for an extension of time for a delay for any cause, shall be made by filing a Notice of claim with the Owner at the time the delay begins or within seven (7) days thereafter if the resulting delay was not reasonably foreseeable. The Notice of claim for any delay shall be submitted in duplicate, in writing, and shall state the circumstances of the occurrence, the justification for the delay and for the extension of time, and provide the estimated duration of the delay and of the time extension requested.
- C. Within seven (7) days after the delay has ceased, the Contractor shall give written Notice to the Owner of the actual date of the cessation of the delay and the anticipated time extension. Within twenty (20) days after the delay has ceased, the Contractor shall submit a written statement of the actual time extension requested as a result of the claimed delay which shall include all documentation and supporting information for such claimed delay required by the Contract Documents.
- D. The Contractor shall be entitled to an extension of time for delay caused by any act or any neglect of the Owner, the Engineer or by any separate Contractor employed by the Owner; or by strikes, lockouts, fire, insurrection, war, acts of public authorities, lightning, hurricane, tornado, flood, abnormal and unusually severe weather as defined above, or for any delays arising as a result of the occurrence of any physical conditions, subsurface conditions or soil conditions which may be encountered in the prosecution of the Work and which, in the exercise of reasonable care and due diligence in the investigation and analysis of all information available, should not have been foreseeable, anticipated, or indicated; or by any other cause which in the opinion of the Owner is entirely beyond the expectation and control of and arises without the fault or negligence of the Contractor. Entitlement to such extension of time shall, however, be subject to all limitations on claims for delay set forth in the Contract, and shall be conditioned upon strict compliance with all Notice and submission requirements imposed by therein. The Contractor shall be entitled to an extension of time for such causes only for the number of days of delay which the Owner may determine to be due solely to such causes and then only to the extent that such occurrences actually delay the Acceptance of the Project or defined portions thereof. ***If the delay is not due solely to such causes but also is due concurrently to causes for which the Contractor is not entitled to an extension of time, the Contractor shall not be entitled to an extension of time for such period of concurrent delay.*** Any request for extension of time shall, to the extent that such information has not been included in any previously submitted Time Impact Analysis, as may be required by the Specifications, be accompanied by detailed documentation of what specific schedule activities were affected, when they were affected and for what duration, as well as what actions the Contractor took to eliminate or mitigate the extent of the delay. Provided, however, compliance with this requirement shall not be in lieu of, nor result in any extension of, the submittal requirements for a Time Impact Analysis as required by Specifications.

3.4 Disputes:

- A. In any case where the Contractor deems it is due additional compensation beyond the Contract Price, the Contractor shall give written Notice of such claim to the Owner at the time of the discovery of the occurrence of the event giving rise to the claim and before beginning any Work on which the claim is based. Such Notice shall identify itself as a Notice of claim, shall state the circumstances of the occurrence, shall specify the additional work contemplated as being required, shall state why such work is not already included within the scope of the Contract Documents, and to the extent reasonably foreseeable shall estimate the anticipated amount of the claim. If the Owner declines to consent to a Change Order and directs the Contractor to proceed with such Work, then the Contractor shall so proceed and within ten (10) days after completion of the Work for which additional compensation is claimed shall submit in writing to the Owner an itemization of the actual additional compensation claimed. Strict compliance with these provisions shall be a condition precedent to the assertion of any claim, and any claim for additional compensation not presented as required in this provision shall be barred. Compliance with such requirements, however, shall not create any presumption of the validity of such claim.
- B. The Owner will make the final decision on all requests for additional compensation or an extension of Contract Time. Within ninety (90) days after the Contractor files its itemization of the actual amount of additional compensation claimed, the Owner shall present the Owner's final written decision to the Contractor as to whether any additional compensation should be paid. A written decision by the Owner within the stated time shall be a condition precedent to the institution of any judicial claim for relief by the Contractor. The Owner's written decision shall be final and conclusive unless the Contractor institutes appropriate judicial appeal within six (6) months of the date of the decision by the Owner. In the event the Owner has not rendered a decision on a claim for additional compensation or extension of Contract Time within the specified time frame after submission of such claim as provided herein, the claim shall be deemed denied and the Owner's final decision shall be deemed to have been issued on the last day of the specified time frame after submission of the claim. In the interest of compromise, the Owner may, but is not required to, consider further submissions by the Contractor related to a claim after a final decision on a claim, but no such actions by the Owner shall in any way affect or extend the effective date of the Owner's final decision on the claim.
- C. If the Owner agrees to pay additional compensation in response to such claim, payment shall be made in accordance with or pursuant to such Supplemental Agreement as may be reached between the Owner and the Contractor.
- D. The Contractor shall comply with all directions and decisions of the Owner or Owner's agent (if applicable) and shall proceed diligently with performance of the Contract and with any disputed work pending final resolution of any claim or dispute, whether for additional compensation or extension of time. "Final resolution" as used throughout the Contract Documents shall mean the conclusion or exhaustion of all judicial proceedings.
- E. If the Contractor at any time determines the Owner to be in material breach of the Contract, the Contractor shall provide Notice of claim thereof to the Owner within seven (7) days of the occurrence the Contractor deems to constitute such material breach. Such Notice shall specify the precise occurrence(s) of such material breach. The Contractor's continuing performance under

the Contract, after giving such Notice of claim, including but not limited to receiving moneys thereunder, shall constitute an election to waive such material breach and to confirm the continued existence of the Contract.

- F. No payment or partial payment on any claim shall be made prior to final resolution of such claim.
- G. All matters of dispute must be resolved either to the mutual satisfaction of the Owner and the Contractor or by final resolution as a condition precedent to the Owner's obligation to make final payment for the Work to the Contractor.
- H. The Contractor shall make no claim against any officer, agent, or employee of the Owner for, or on account of, any act or omission to act in connection with the Contract, and hereby waives any and all rights to make any such claim or claims.
- I. If additional compensation and/or extension of time is granted as to any claim, the same shall be incorporated in a Change Order to the Contract. The Contractor shall not be entitled to recover interest on any amounts claimed to be due from the Owner which are the subject of a good faith dispute by the Owner which are paid by the Owner within thirty (30) days following the final resolution of such dispute.
- J. The terms "claim" and "dispute" are used interchangeably in the Contract Documents and either shall mean any request by the Contractor for compensation in excess of that to which the Owner agrees, for a time extension in excess of that to which the Owner agrees, or for any other relief beyond that to which the Owner agrees.
- K. For any judicial proceedings arising from or related to the Contract Documents, the Contractor and the Owner hereby consent to exclusive venue and jurisdiction in the Circuit Court of Fairfax County, Virginia, or the United States District Court for the Eastern District of Virginia (Alexandria Division).
- L. Failure of the Owner to require compliance with any term or condition of this Contract shall not be deemed a waiver of such term or condition, or a waiver of the subsequent enforcement thereof, including but not limited to the Owner's claim for a subsequent material breach of Contract.
- M. Failure by the Contractor to comply with any condition precedent to a claim provided by the Contract Documents shall be an absolute bar to such claim.

3.5 Examination and Verification of Contract Documents: By executing the Contract, the Contractor confirms that it has thoroughly examined and become familiar with all of the Contract Documents; that it has determined the nature and location of the Work; the general and local conditions; the availability and competence of labor; the availability of equipment, materials, supplies, and Equipment, and all other matters which can in any way affect the Work under the Contract. Failure to have made any examination necessary for these determinations shall not release the Contractor from any of the obligations of the Contract nor be grounds for any claim based upon unforeseen conditions. No verbal agreement or conversation with any officer, agent, or employee of the Owner, either before or after the execution of the Contract, shall affect or modify any of the terms or obligations of the Contract Documents.

3.6 Indemnity:

- A. To the maximum extent permitted by law, the Contractor shall indemnify, save harmless and defend UOSA, or any employee of UOSA, against liability for any suits, actions, or claims of any character whatsoever, whether in tort, Contract or other remedy, arising from or relating to the performance of the Contractor or its SubContractors under this Contract. This indemnification obligation shall include but not be limited to attorneys' fees and other costs or fees commonly associated with litigation.
- B. UOSA does not agree to indemnify the Contractor for any reason, or to "hold harmless" the Contractor or others for any matters relating to this Contract or for performance or non-performance of work hereunder.
- C. The Contractor shall be responsible for its Work and every part thereof, and for all materials, equipment, and property of any and all description used in connection therewith. The Contractor assumes all risks of direct and indirect damage or injury to any person or property wherever located, resulting from any action, omission, commission, or operation under the Contract, or in connection in any way whatsoever with the Contract work.
- D. The Contractor shall immediately notify the Contract Manager of any claim or suit made or filed against the Contractor or its SubContractors regarding any matter resulting from or related to the Contractor's obligations under the Contract, and shall keep UOSA reasonably informed of the status of such claim. The Contractor will cooperate, assist, and consult with UOSA in the defense or investigation of any suit or action made or filed against UOSA as a result of or relating to the Contractor's performance under this Contract.

3.7 Insurance: The Contractor shall, during the continuance of all work under the Contract provide and agree to maintain the following:

- A. General Insurance Requirements: Before commencing work, the Contractor shall procure and maintain at its own expense, minimum insurance in forms and with insurance companies acceptable to UOSA to cover loss or liability arising out of the Work. All insurance policies must be from insurers authorized to conduct business within Commonwealth of Virginia and must have a Best's rating of at least A- and a financial size of class VIII or better in the latest edition of Best's Insurance Reports.

- B. **Workers' Compensation and Employers' Liability Insurance:** The Contractor shall obtain Statutory Workers' Compensation Insurance covering injury to employees of the Contractor while performing work within the scope of their employment and Employers' Liability Insurance with limits of at least \$100,000/\$500,000/\$100,000.
- C. **Required Commercial General Liability Insurance:** This insurance must be written on an "occurrence" basis and shall be endorsed to include UOSA as an additional insured and shall provide at a minimum the following:
- | | |
|---|-------------|
| General Aggregate Limit
(Other than Products-Completed Operations) | \$1,000,000 |
| Products-Completed Operations Aggregate Limit | \$ 500,000 |
| Personal & Advertising Injury Limit | \$ 500,000 |
| Each Occurrence Limit | \$ 500,000 |
- D. **Business Automobile Liability Insurance:** This insurance shall apply to any auto, including all owned, hired and non-owned vehicles, covering Bodily Injury and Property Damage with a combined single limit of at least \$500,000 each accident.
- E. **Professional Liability Insurance, Errors & Omissions:** This insurance shall be written on a "claims made" basis, and shall be provided to UOSA during the course of the Project and continuing for at least three (3) years after completion of construction. Minimum coverage amount \$1,000,000.
- F. **Certificates of Insurance:** The Contractor shall provide UOSA with a certificate of insurance evidencing the required coverage before commencing with the work. Insurance certificates shall provide that UOSA be notified at least 30 days prior to any change or cancellation of the said insurance policies.

- 3.8 Latent Defects:** No failure on the part of either the Owner to discover and either to condemn or reject Work which does not comply with the intent and requirements of the Contract Documents shall be construed to imply acceptance thereof. The Owner reserves and retains all of its rights and remedies at law or in equity against the Contractor for correction of any and all defective or nonconforming Work whenever discovered, whether before, during or after the Warranty Period.

No tests or inspections conducted by the Owner or others shall relieve the Contractor of its obligations to execute the Work in strict compliance with the requirements of the Contract Documents and to correct defective or nonconforming Work not initially identified by the Owner or others at the time of tests or inspections but discovered subsequently.

- 3.9 Liquidated Damages:** Should the Contractor fail to achieve Acceptance or Final Acceptance of the Work within the periods of time required by the Contract Documents, the Contractor shall reimburse the Owner for the additional expense and damage incurred by the Owner as a result thereof for each calendar day that the Work, or any defined portion thereof, remains uncompleted. The parties hereby agree that the damages to the Owner for the continued expense of completion of the Work and on account of the value of the operation of the facilities which are dependent upon such completion are anticipated to be substantial but are not readily ascertainable. It therefore is agreed that the amount of such additional expense and damage incurred by the Owner by reason of a failure to complete the Work within the required times shall be the per diem rates stipulated in the Contract Documents. It is expressly understood and agreed that these amounts are not to be considered in the nature of a penalty, but as Liquidated Damages. The Contractor hereby waives any defense as to the validity of any Liquidated Damages under the Contract as they may appear on the grounds that such Liquidated Damages are void as penalties or are not reasonably related to actual damage. The Owner shall deduct from funds otherwise due the Contractor Liquidated Damages which have been assessed. In the event more than one ground for assessment of Liquidated Damages as provided by the Contract Documents exists concurrently, such grounds shall be deemed to be independent and all applicable Liquidated Damages shall be deducted cumulatively.

- 3.10 Ownership of the Work:** Upon Final Acceptance, UOSA shall own all the Work, including, but not limited to, all technologies, materials, software and processes provided under this Contract, except as specifically agreed to by the parties in a Supplemental Agreement prior to the performance of that portion of the Work that the Contractor does not intend to turn over ownership to UOSA. The presumption is that all Work will become UOSA's property with UOSA's ability to exercise control and access to all portions of the Work.

The Contractor, shall indemnify and hold harmless UOSA, its employees and officers from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or un-patented invention, process or article provided by the Contractor. If the Contractor uses any design, device, or materials covered by letters, patent, copyright, or licenses, all royalties and/or costs arising from the use of such design, device or materials in any way involved in the work are included in the Contract Price.

- 3.11 Right to Accept Defective or Nonconforming Performance:** If any part or portion of the Work shall prove defective or nonconforming or otherwise not in accordance with the intent and requirements of the Contract Documents, the Owner, at its sole discretion, shall have the right and authority to accept such Work and make such deductions in the payment therefore as may be just and reasonable. The Owner shall be under no obligation to accept any defective or nonconforming Work.

3.12 Site Safety and Access:

- A. UOSA shall have the right to deny access to the Site, or require the Contractor to remove from the Site, any individual who has exhibited violent, abusive, threatening, negligent, careless, or dangerous behavior or conduct.
- B. UOSA may limit, restrict, or prohibit access to areas of the Site on a permanent or temporary basis. When access to such restricted areas is required by the Contractor to perform the Work, the Contractor shall obtain permission from the UOSA

Contract Manager and shall comply with such conditions or limitations to access as may be imposed by the UOSA Contract Manager.

- C. UOSA may restrict parking or require parking permits for vehicles to be brought onto the plant. The Contractor shall be responsible for arranging transportation for its personnel to reach the job sites from whatever parking area is provided by UOSA.

3.13 Termination:

For Convenience:

The Owner may terminate performance of the Work under the Contract for its convenience in whole, or from time to time in part, whenever the Owner determines that such termination is in the best interest of the Owner.

Upon receipt of such Notice of Termination, the Contractor shall immediately, to the extent of the termination: stop Work;

place no further subContracts or orders for materials or services;

transfer title and deliver to the Owner all materials and Equipment for which the Owner has made payment or will make payment pursuant to this Article, and turn over to the Owner all complete or partial Drawings, releases, information, manuals and other such documentation related to such materials and Equipment;

assign to Owner all SubContracts as designated by Owner to be assigned and terminate all other subContracts; and commence demobilization and removal of operations from the Site (if applicable).

The Owner will pay all reasonable costs associated with the Contract that the Contractor had incurred up to the date of Termination and reasonable demobilization costs. However, the Contractor shall not be reimbursed for any profit and/or overhead that had not been earned up to the date of termination.

For Cause:

If the Contractor is in default, written Notice of such default shall be given to the Contractor. If the Contractor does not cure such default within ten (10) days following such Notice, the Owner may:

1. terminate the Contract by written Notice;
2. withhold further payment to the Contractor until satisfactory performance has resumed;
3. transfer the obligation to perform the Contract from the Contractor to the Surety (if any);
4. take over the Work as a whole or that portion of the Work which has been improperly performed or not timely executed, and make good the deficiencies and deduct the cost thereof from the payments then or thereafter due the Contractor. Any such action by the Owner shall not prejudice any warranty rights of the Owner nor any rights of the Owner under the Contractor's Payment Bond or Performance Bond (if any) or general Virginia law. Provided, however, the Owner may so proceed without such Notice if an emergency or danger to the Work or the public exists; and/or
5. all finished or unfinished Work provided by the Contractor shall, at the Owner's option, become the Owner's property.

Upon determination of the damages resulting to the Owner as a result of Contractor's default, if the amount due Contractor for Work properly performed prior to Contractor's receipt of Notice of Termination exceeds the Owner's damages, the Owner shall pay such excess to the Contractor. If the damages to the Owner exceed the amount due Contractor for Work properly performed prior to Contractor's receipt of Notice of Termination, the Contractor shall pay such excess to the Owner.

The Owner may avail itself of any other legal remedy to protect its interests and recoup its damages.

If the Contractor is sold, bought, goes bankrupt, or goes into receivership, the Owner reserves the right to terminate for cause.

The Owner may cancel this solicitation at any time and for any reason prior to execution of the Contract

- 3.14 Time is of the Essence:** All time limits stated in the Contract Documents, including but not limited to the time for completion of the Work, are of the essence.

- 3.15 Virginia Freedom of Information Act- Disclosure of Information:** As a public body, the Owner is subject to the Virginia Freedom of Information Act and its records are public records except as defined in that statute. Any information which the Contractor deems to be confidential or proprietary shall be marked by the Contractor in accordance with the Virginia Freedom of Information Act. No separate non-disclosure agreement will be provided.

- 3.16 Warranty:** The Contractor shall warrant that, unless otherwise specified, all Materials and Equipment incorporated in the Work under the Contract shall be new, in first class condition, and in strict accordance with the Contract Documents. The Contractor further shall warrant that all Workmanship shall be of the highest quality and in strict accordance with Contract Documents and shall be performed by persons qualified at their respective trades.

Warranty Period. All warranties and guarantees against any defect in the Work, including materials, equipment and parts, shall apply from the date of Acceptance of the Work and shall continue for a period of one (1) year thereafter.

All warranties set forth in the IFB or RFP or in any other Contract Document are separate and independent from and in addition to any of the Contractor's other guarantees or obligations in any Contract awarded as a result of this solicitation.

In addition to the foregoing warranties, Contractor shall warrant that (1) the Work performed and materials to be supplied are fit and sufficient for the purpose intended; (2) the Work performed and the materials supplied are merchantable, of good quality and free from defects, whether patent or latent, in material or workmanship; and (3) the Work performed and the materials provided conform to the Specifications of the solicitation. To the extent that Contractor engages SubContractors or Vendors, Contractor shall ensure that all SubContractors and Vendors provide these same warranties to the Owner. Such SubContractor or Vendor warranties shall not be in lieu of or otherwise relieve Contractor of its warranty obligations as stated in this solicitation or in any Contract Document.

Any implied warranties, including but not limited to the warranty for "Merchantability and Fitness for A Particular Purpose" are not waived and are a mandatory part of this solicitation and any ensuing Contract.

Work not conforming to any warranty shall be considered defective.

The Contractor hereby agrees to make at its expense, all repairs or replacements necessitated by defects or non-conformities in the Work, including Materials, Equipment and Parts, and to pay for any damage to other work resulting from such defects or non-conformities which become evident at any time prior to the expiration of any applicable Warranty Period or such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents or otherwise provided. Defects or non-conformities which are remedied as a result of obligations of the warranty shall subject the remedied portion of the Work to an extended Warranty Period of one (1) year from the date upon which such defect or nonconformity was fully remedied or from the date of Final Acceptance, whichever is later. The Contractor must submit to the Owner a written certification that the item of defective or nonconforming Work has been corrected. Un-remedied defects or non-conformities identified for correction during the Warranty Period but remaining after its expiration shall be considered as part of the obligations of the warranty.

No tests or inspections conducted by the Owner, its Engineer or others shall relieve the Contractor of its obligations to execute the Work in strict compliance with the requirements of the Contract Documents and to correct defective or nonconforming Work not initially identified by the Owner, the Engineer or others at the time of tests or inspections, but discovered subsequently.

The Contractor further shall assume responsibility for a similar warranty for all Work provided by SubContractors, Manufacturers or Manufacturers/Suppliers.

The Contractor shall agree to hold the Owner harmless from liability of any kind arising from damage due to said defects or non-conformities.

The Contractor shall make all repairs and replacements promptly upon receipt of written order for same from the Owner. If the Contractor after receipt of written demand for repair from Owner fails to make or complete the repairs and replacements within fourteen (14) days, or within such lesser time as in the opinion of the Owner may be necessary to avoid serious impairment to the operation of the facilities or to prevent a threat to health or safety, or if the Owner otherwise has a reasonable grounds to determine that the Contractor will not perform the Work in question, the Owner may perform such repairs or replacements and the Contractor shall be liable for the cost thereof. Any condition of such urgency that in the opinion of the Owner immediate corrective action is required may be remedied by the Owner without prior Notice to the Contractor, and the Contractor shall be liable for the cost thereof. Any such corrective action taken by the Owner shall be without prejudice to the Contractor's warranty obligations as set forth herein, which shall remain in full force and effect as if such corrective measures had been taken by the Contractor. In addition to the extension of the Warranty Period otherwise provided in this Article, the Warranty Period of any Work item requiring repair shall be extended by the number of days in excess of fourteen (14) days following written demand for correction required to accomplish the repairs to the satisfaction of the Owner. Any repetitive Equipment malfunction identified within the Warranty Period shall remain under warranty until it has been fully corrected and has performed without malfunction for one full year.

ARTICLE IV **PAYMENT**

- 4.0 Acceptance of Final Payment Constitutes Release:** The acceptance by the Contractor of final payment shall release the Owner and the Engineer, as representative of the Owner, from all claims and all liability to the Contractor for all things done or furnished in connection with the Work, and from every act of the Owner and others relating to or arising out of the Work. No payment, however, final or otherwise, shall operate to release the Contractor or its Sureties from obligations under the Contract Documents.

4.1 Payment:

A. Invoices:

Invoices for completed Work shall be submitted by the Contractor directly to the payment address shown on the Purchase Order/Contract. Invoices shall show the Owner's Purchase Order or Contract number and either the social security number (for individual Contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations) and are subject to review and approval by the Owner's Contract Manager.

B. Partial Payments:

Requests for partial payments or advance payments must be submitted as part of the Bid or Proposal along with a justification. The Owner reserves the right to accept, reject or negotiate requests for partial payments. If the request is rejected, the Bidder/Offeror must waive the requirement in order to remain in consideration.

C. Refunds:

If the Contractor is declared to be in default, the Owner will be eligible for a full and immediate refund for payments made to the Contractor.

4.2 Price Firm Period and Cost Increases (if applicable):

A. Bid/Proposal Prices:

Pricing shall be firm and fixed as originally bid/proposed and accepted. Contract pricing for additional materials, options, accessories, labor (including subContractors), etc., will be firm and fixed for the initial 12-month Contract period. Surcharges (i.e. fuel surcharges) shall NOT be allowed to be added to invoices as an additional line item. All charges shall be included in the price bid on the Bid Summary Sheet or provided as a Cost Proposal in response to an RFP. Any provision of the Contract Documents which imposes any responsibility or performance obligation upon the Contractor shall be deemed to include the phrase 'within the Contract price'.

B. Annual Increases for Labor, Materials and Maintenance:

1. After the first year (and any year thereafter), Contract prices may not be increased by more than the Cost of Living as indicated in the Consumer Price Index – Urban (i.e., “CPI-U”) for the calendar month ending two months before the expiration month of the then current Contract year.
2. Increases based upon factors other than the CPI (e.g., Force Majeure, etc.) may be submitted when and, as they occur providing that sufficient detailed supporting documentation is included with the request. The Owner reserves the right to reject any such request or negotiate a mutually agreeable price.
3. The Owner reserves the right to periodically check market pricing for similar services. Based upon those findings the Owner reserves the right to require the Contractor to enter into negotiations to arrive at pricing consistent the competitive marketplace. Failure to arrive at acceptable Contract pricing may result in cancellation and rebid the Contract.

4.3 Prompt Payment:

- A. The Contractor shall take one of the two following actions within seven days after receipt of amounts paid to the Contractor by the Owner for work performed by any SubContractor(s) under the Contract:
1. The Contractor shall pay its SubContractor(s) or for the proportionate share of the total payment received from the Owner attributable to the work performed by the SubContractor under that Contract; or
 2. Notify the Owner and any SubContractor(s), in writing, of his intention to withhold all or a part of the SubContractor's payment with the reason for nonpayment.
- B. Bidders shall include in their bid submissions either: (i) if an individual Contractor, their social security numbers; and (ii) proprietorships, partnerships, and corporations to provide their federal employer identification numbers.
- C. The Contractor shall pay interest to the SubContractor(s), on all amounts owed by the Contractor that remain unpaid after seven days following receipt by the Contractor of payment from the Owner for work performed by the SubContractor under the Contract, except for amounts withheld as allowed under A above.
- D. Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of .10% percent per month.
- E. The Contractor shall include in each of its SubContracts a provision requiring each SubContractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier SubContractor.
- F. A Contractor's obligation to pay an interest charge to a SubContractor pursuant to the payment clause in this section shall not be construed to be an obligation of the Owner. A Contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

4.4 Release of Liens and Claims (where applicable): The Contractor hereby acknowledges and agrees that the Owner is an agency of the Government and as such its property is immune from mechanic's liens. The Contractor hereby waives any and all mechanics' rights it may purport to have, and agrees that it shall neither file nor assert any such lien claim.

As a condition precedent to final payment for the Work, the Contractor shall sign and deliver to the Owner a release of liens and claims sworn to under oath and duly notarized. The release shall state that the Contractor has satisfied all claims and indebtedness of every nature in any way connected with the Work, including, but not limiting the generality of the foregoing, all payrolls, amounts due to subContractors, accounts for labor performed and materials and equipment furnished, incidental services liens, and judgments.

ARTICLE V
DELIVERY

5.0 Default: In case of default by the Contractor, or failure to deliver the supplies or services ordered by the time specified, the Owner, after due notice (oral or in writing), will cure the failure by procuring the items ordered from other sources and hold Contractor responsible for any excess cost occasioned thereby.

5.1 Discounts: If discount for prompt payment is allowed, the discount period will begin on the date of receipt of proper invoice, or material/service, whichever is later.

5.2 Strict Adherence to Contract Documents:

- A. Goods or Services delivered must be strictly in accordance with the Contract Documents and shall not deviate in any way therefrom. Equipment, materials and/or supplies delivered on this order shall be subject to inspection and test upon receipt. If rejected, they shall remain the property of the vendor and the order shall be considered as not received.
- B. Contractor shall provide the exact quantities specified on this order. The Owner will not pay for overages and if delivered the Owner will – at its sole option and discretion – either return the additional quantities to the seller, at the seller’s risk and expense, or accept the additional quantities at no additional cost to the Owner.

5.3 Taxes and Freight:

- A. Deliveries against this order must be free of excise or transportation taxes.
- B. All prices unless otherwise specified are F.O.B. Destination, Freight Prepaid and Allowed.

ARTICLE VI
MISCELLANEOUS TERMS

6.0 Assignment of Interest: The Contractor shall not assign any interest in the Contract and shall not transfer any interest in the same.

6.1 Cooperative Procurement: Subject to the mutual agreement between the parties, any Contract awarded on the basis of this solicitation may be used by any public entity to enter into a Contract for the services described and defined herein, with the successful Bidder/Offeree.

Except for Contracts for professional services, a public body may purchase from another public body’s Contract even if it did not participate in the procurement process if the procurement was designated as a cooperative procurement to which other public bodies may participate. This is such a cooperative procurement. However, the Contractor is under no obligation to participate with other public bodies.

6.2 Equal Opportunity: The Upper Occoquan Service Authority does not discriminate against any bidder or Offeror in the solicitation or awarding of Contracts because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment

6.3 Governing Law: Notwithstanding Offeror’s submitted terms and conditions to the contrary and without regard to conflicts of law principles, the solicitation and any resulting Contract shall be governed in all respects by the laws of the Commonwealth of Virginia.

6.4 Hard Hat Area: Contractor’s employees shall wear hard hats while working in areas designated as hard hat areas by the Owner’s Safety Officer.

6.5 Hours of Operation and Holidays: The Owner’s typical work schedule is 8:00 a.m. through 4:30 p.m. Monday through Friday excluding the Owner’s holidays. Contractor’s access to work sites and work areas shall be limited to these same days and hours, but may be modified with the prior written approval of the Owner’s Contract Manager. In any event and under all circumstances, the unilateral decision of the Owner’s Contract Manager regarding access to the Owner’s facilities shall be final. The following list identifies the twelve (12) Owner’s Holidays that are normally taken and should be included by the Contractor in its planned Work schedule as non-Work days:

New Year’s Day
Martin Luther King Day
President’s Day
Memorial Day
Independence Day
Labor Day
Veterans Day
Thanksgiving Day
Friday after Thanksgiving Day
Christmas Day
Christmas Eve or Day after Christmas
New Year’s Eve

6.6 Partial Invalidity/Waiver: Neither any payment for, nor acceptance of, the whole or any part of the services by the Owner, nor any extension of time, shall operate as a waiver of any provision of any Contract resulting from this IFB/RFP, nor of any power herein reserved to the Owner, or any right to damages herein provided, nor shall any waiver of any breach of any Contract be held to be a waiver of any other or subsequent breach. Failure of the Owner to require compliance with any term or condition of any Contract shall not be deemed a waiver of such term or condition or a waiver of the subsequent enforcement thereof.

6.7 Taxes: The Owner is exempt from Federal Excise Taxes, Virginia State Sales and Use Taxes, and the District of Columbia Sales Taxes and Transportation Taxes. The Owner’s federal tax identification number is 54-0902952.

ATTACHMENT A- CLIENT LIST/REFERENCES

OFFERORS' NAME: _____

1. COMPANY NAME: _____

ADDRESS: _____

CONTACT PERSON: _____

TELEPHONE: (_____) - _____ - _____

FAX: (_____) - _____ - _____

E-MAIL: _____

2. COMPANY NAME: _____

ADDRESS: _____

CONTACT PERSON: _____

TELEPHONE: (_____) - _____ - _____

FAX: (_____) - _____ - _____

E-MAIL: _____

3. COMPANY NAME: _____

ADDRESS: _____

CONTACT PERSON: _____

TELEPHONE: (_____) - _____ - _____

FAX: (_____) - _____ - _____

E-MAIL: _____

OFFERORS' NAME: _____

4. COMPANY NAME: _____

ADDRESS: _____

CONTACT PERSON: _____

TELEPHONE: (_____) - _____ - _____

FAX: (_____) - _____ - _____

E-MAIL: _____

5. COMPANY NAME: _____

ADDRESS: _____

CONTACT PERSON: _____

TELEPHONE: (_____) - _____ - _____

FAX: (_____) - _____ - _____

E-MAIL: _____

**This form must be included with your submission.
End of Attachment A**

RFP #22-06
Professional Engineering Services
Basic Ordering Agreement

ATTACHMENT B: SAMPLE CONTRACT



UOSA CONTRACT #22-06xxx

**BASIC ORDERING AGREEMENT FOR
PROFESSIONAL ENGINEERING SERVICES**

This Contract is by and between _____, with its principal place of business located at _____, hereinafter called “ENGINEER”, and the Upper Occoquan Service Authority, “UOSA,” with its principal place of business at 14631 Compton Rd., Centreville, Virginia 20121-2506, hereinafter called “UOSA”. The parties hereby agree to be bound by and are subject to the terms and conditions contained herein and any attachments thereto.

1. SERVICES TO BE PROVIDED

The Work to be performed by the ENGINEER shall be on-call/as needed services that will consist of:

- B. Engineering study, surveying, and design services related to treatment plant, piping systems, dam and reservoir, storm water system and pump station operations and improvements projects. Projects will likely include some or all of the following engineering disciplines: civil, mechanical, electrical, geotechnical, instrumentation, and process controls design.
- C. Technical support for UOSA’s operations;
- C. Bidding and Award services, which may include attendance at the Pre-Bid Conference, preparation of meeting minutes from the Pre-Bid Conference, develop responses to questions from the bidders, preparation of addenda to the Contract Documents, review of Bids and qualifications of the lowest Bidder, and recommendation to the Owner regarding Notice of Award.
- D. Attendance and possible presentations at public meetings and UOSA’s monthly Board meeting;
- E. Meet with affected landowners and assist UOSA in obtaining regulatory approvals from the state and local agencies;
- F. Surveying work including, but not limited to, easement, plat, and deed review, research, and preparation; property boundary stakeout; and construction project stakeout including horizontal and vertical control;
- G. Preparation of construction cost estimates and preliminary construction schedules; and
- H. Services during construction, which may include attendance at the pre-construction conference; project management; submittal review, preparation of responses to Contractor requests for information (RFIs) and review of other Contractor correspondence such as

payment applications, monthly project schedule updates, change orders, etc.; field activities to include: field inspection to ensure Contract compliance; oversight of geotechnical testing to ensure Contract compliance and compliance with local codes and ordinances; review of Manufacturers' services, including owner training; start-up support to the Owner if necessary; post construction activities to include operation and maintenance manuals and preparation of record documentation (provide electronic file (disk) copies of documents with hard-copy submittals).

- I. Electrical system safety and health evaluations and reports.
- J. Preparation of Operations & Maintenance manuals and/or Standard Operating Procedures.
- K. Support to UOSA for evaluating regulatory issues and making recommendations on the same;

and may consist of other studies and reports, designs, bidding services, negotiation services, construction services and any other professional engineering services consistent with the above list and with RFP #22-06 and as requested by UOSA. All Work shall be performed in accordance with the terms and conditions contained in RFP # 22-06. All Work shall be authorized and assigned by a written Task Order that defines the scope of services to be performed. Task Orders will require an estimate of hours for all staff positions involved. The ENGINEER shall provide key staff members as identified in the ENGINEER's Offer in response to RFP #22-06. Any changes in key staff members must be approved in advance by UOSA.

2. EXTENT OF AGREEMENT AND CONTRACT DOCUMENTS

- A. The Contract shall include the following items, which are listed in order of precedence:
 - 1. This Agreement as fully executed ("AGREEMENT");
 - 2. Any written Task Order(s) and amendments thereto;
 - 3. UOSA RFP #22-06, for the solicitation of proposals for Professional Engineering Services Basic Ordering Agreement, dated December 6, 2021 and all addenda thereto, including but not limited to the Standard Terms and Conditions set forth in Section 3 of that RFP; and
 - 4. Any Purchase Order issued pursuant to this AGREEMENT.
- B. Anything called for by one of the Contract Documents and not called for by the others shall be of like effect as if required or called for by all, except that a provision contained in one or more of the other Contract Documents shall have the intended effect.
- C. The use of the term ENGINEER in the AGREEMENT shall be treated as interchangeable and synonymous with the use of the term CONTRACTOR in RFP # 22-06.
- D. All time limits stated in the Contract Documents, including but not limited to, the time for completion of the Work and all Notice requirements, are of the essence.

3. TERM OF THE AGREEMENT

The term of this AGREEMENT shall commence on May 1, 2022 and unless terminated earlier in accordance with the provisions of this AGREEMENT, shall end on the one (1) year anniversary of such date. Notwithstanding the foregoing, this AGREEMENT may be renewed for up to four (4) successive one (1) year terms at the sole election of UOSA.

4. TASK ORDERS AND AUTHORIZATION TO PROCEED

- A. Individual Task Orders shall be issued by UOSA for each project. UOSA shall provide the ENGINEER with individual Task Orders describing the scope of services to be performed, desired time for completion, and the basis of payment.

The ENGINEER and UOSA shall negotiate an approved budget and schedule for completion prior to UOSA issuing Authorization to Proceed with services required by individual Task Orders. Each Task Order, after execution by both parties to this AGREEMENT, shall become a Supplement to and made part of this AGREEMENT.

The ENGINEER shall not be obligated to provide services, and UOSA shall not be obligated to compensate the ENGINEER for services, unless a written Authorization to Proceed, a written Task Order and a Purchase Order has been issued by UOSA.

- B. Authorization to Proceed shall be in a form of a Task Order, executed by both parties to this AGREEMENT, or by separate written authorization issued by UOSA. UOSA's Executive Director, or his designee, shall be designated as UOSA's contracting officer for services provided under this AGREEMENT and shall have the exclusive authority to execute all Task Orders and Authorization(s) to Proceed for amendments thereto.

5. COMPENSATION

Compensation for services provided under this AGREEMENT shall be provided under a Cost-Reimbursable method as negotiated for each individual Task Order. Any provisional multiplier rates provided herein are subject to audit and adjustment by UOSA at any time during the term of this agreement.

- A. Cost Reimbursable compensation shall be in the amount of the ENGINEER'S raw salary cost, multiplied by a not to exceed factor of , for services provided by ENGINEER.
- B. Cost reimbursable compensation for "Resident or Field Services" rates shall be applicable for long-term, full time (six (6) month minimum assignment at a UOSA facility) "Resident or Field Services" shall be based employee's raw salary cost, multiplied by a not to exceed factor of for services provided by ENGINEER'S employees.
- C. Payment for prior approved services of special consultants or subcontractors performed or furnished pursuant to this AGREEMENT shall be the amount billed to the ENGINEER therefore times a not to exceed factor of **1.0**. Costs are to include and cover all overhead, including payroll related taxes, payments, premiums, and benefits.
- D. Direct Reimbursable Expenses shall be reimbursed at cost with no markup in connection with all tasks as authorized by UOSA. Direct Reimbursable Expenses are costs other than salary costs incurred specifically for the assigned Work and do not include those incidental to the normal conduct of business. Direct Reimbursable Expenses include, but are not limited to authorized travel and subsistence (which shall be limited to common carrier, coach class, and reasonable per diem authorized in advance by UOSA), ground transportation, laboratory fees, outside computer charges, reproduction expenses, special courier costs, overnight delivery costs, mailing costs and other miscellaneous direct costs incurred specifically for the project.
- E. Labor and Expenses, which are considered part of overhead and not reimbursable, include but are not limited to general accounting labor, vacations, sick leave, holidays, payroll taxes,

insurance and pension plan, computer time, facsimile, internet, and general communications expenses.

- F. The ENGINEER's Direct Labor Hourly Rates shall be provided to UOSA. Changes to the Direct Labor Hourly Rates resulting from periodic review by the ENGINEER may be submitted to UOSA pursuant to UOSA's Standard Terms and Conditions as shown in RFP 17-06.
- G. The ENGINEER hereby acknowledges and agrees that the amounts payable to the ENGINEER under this AGREEMENT are solely for engineering services during any one (1) year period during which this AGREEMENT shall be in effect shall in no event exceed \$8,000,000. The ENGINEER further acknowledges and agrees that the amounts payable for engineering services for any single Task Order shall not exceed \$2,500,000. No unused amounts may be carried forward from one contract term to another.
- H. Billings for the Work, including all Direct Expenses, will not exceed the maximum estimated amount of each Task Order without the prior written approval of UOSA. If the parties to this AGREEMENT agree to any changes in the maximum estimated amounts, that change will then be included in an Amendment to the Task Order prior to the performance of the work which would exceed the original maximum amount for that Task Order.
- I. During the performance of the Work, invoices shall be submitted to UOSA on a monthly basis. Each monthly invoice shall be submitted in **hard copy format only** and shall include **all services** rendered for the 30 day period covered by that particular invoice. Each invoice shall also include detailed breakdown by Task to include names and position titles of staff who worked on service, dates worked (by day, not week), number of hours worked, rate of pay, subtotal of cost per person and total cost per person in a format as shown at Attachment D to RFP 22-06. The previously provided sample detail breakdown must be included with all invoices and include information for any/all Tasks being performed. Failure to provide detail will result in delay of payment. Failure to invoice for services within 120 days of the work being performed shall operate as a waiver of payment for such services. Final invoices shall be submitted to UOSA within one hundred twenty (120) days from the date of UOSA's final acceptance of services provided by the Contractor.

An invoice shall be considered in "acceptable form" when submitted as described above and provided in the form described below:

1 hard copy original (marked ORIGINAL) to UOSA Project Manager, CIS Section

1 hard copy duplicate (marked COPY) to UOSA Accounts Payable

Submission of invoices other than described herein is unacceptable and will not be paid.

UOSA will pay an approved Invoice within 45 days after its receipt. Unless withheld hereunder in accordance with the provisions of RFP 22-06, any amounts not paid when due shall accrue interest at the rate of one half of one percent (0.50%) per month.

- J. UOSA may withhold such amounts otherwise due the ENGINEER as may be necessary, in the opinion of the Project Manager, to protect UOSA against loss or damage due to:
 - i. Defective Work;
 - ii. Third party claims filed or reasonable evidence indicating probable filing of such claims as a result, in whole or in part, of the Work;

- iii. Failure of the ENGINEER to make payments properly to its special consultants or subcontractors;
 - iv. Persistent failure of the ENGINEER to carry out the Work in accordance with the AGREEMENT;
 - v. Liability, damage, loss or injury to persons caused by the act or neglect of the ENGINEER or any of its special consultants or subcontractors in connection with the Work;
 - vi. Damage to UOSA or to a contractor as a result, in whole or in part, of the Work; or
 - vii. Breach by the ENGINEER of any material term or provision of this AGREEMENT.
- K. In the event amounts are withheld hereunder, the ENGINEER may contest such withholding by notifying the Deputy Executive Director of the Technical Services Division in writing within ten (10) days after the date of notice to the ENGINEER of the withholding or of payment to the ENGINEER in an amount reflecting a withholding hereunder, and at the same time the ENGINEER shall provide the Deputy Executive Director of the Technical Services Division with all information that supports the ENGINEER's claim of entitlement to full payment hereunder. The Deputy Executive Director of the Technical Services Division shall render a decision regarding the withholding of amounts to protect UOSA against loss due to any one or more of the items identified in paragraphs "A" through "G" above within thirty (30) days after his receipt of this notice from the ENGINEER. Failure of the ENGINEER to timely contest payment withholdings shall be a waiver of any such claim.
- L. In the event that the ENGINEER believes it is entitled to any additional compensation for any reason, it shall notify the Project Manager in writing within seven (7) days after the event which gives rise to the additional compensation, and at the same time the ENGINEER shall provide the Project Manager with all information that supports the ENGINEER's claim of entitlement to additional compensation. The Project Manager shall render a decision regarding the additional compensation within thirty (30) days after his receipt of this notice from the ENGINEER.

6. TASK ORDER BUDGET AND SCHEDULE CHANGES

Services provided by the ENGINEER shall have an UOSA approved Task Order Budget and Schedule. The ENGINEER agrees to use its best efforts to perform the services provided under this AGREEMENT with such Budget(s) and Schedule(s).

The ENGINEER shall provide written notice to UOSA of any change in the scope of services to be provided under a Task Order and request an amendment to a Task Order if:

- A. The ENGINEER has reason to believe that the costs which it expects to incur in the performance of a Task Order in the next succeeding 60 days, when added to all costs previously incurred, will exceed 90 percent of the estimated Budget set forth or;
- B. The ENGINEER has reason to believe that the total cost for any budgeted Task Order work will be greater or substantially less than the estimated Budget cost, or;
- C. The ENGINEER has reason to believe that the estimated time for completion of the Task Order, or Task Order work element(s) will be substantially less or greater than the durations or dates set forth in the Task Order Schedule.

UOSA shall not be obligated to reimburse the ENGINEER for costs incurred in excess of the Budget set forth in a Task Order if UOSA, at its sole discretion, determines that such services required by a Task Order were not modified by UOSA or affected by unforeseen circumstances or conditions. Similarly, without changes in the nature or scope of services, UOSA reserves the right to direct the ENGINEER to accelerate particular work elements of a Task Order to meet the Schedule without an increase in the approved Budget.

7. STANDARD OF CARE

- A. UOSA relies upon the representations of the ENGINEER that the ENGINEER possesses the requisite skill, manpower, experience and expertise to provide Services required by this AGREEMENT. The Standard of Care required of the ENGINEER in performing and providing any Services shall be to exercise the degree of skill, competence and diligence consistent with that reasonably expected of professional engineers providing comparable services in UOSA's location at the time said Services are performed or provided.
- B. The ENGINEER shall be responsible to the level of the Standard of Care for the professional and technical soundness and accuracy of all reports, designs, drawings, specifications and other work and materials furnished under this AGREEMENT. In the event of defective or unsatisfactory performance by the ENGINEER, UOSA shall be entitled to recover from the ENGINEER all direct damages which may include the cost to correct the affected work. In addition, UOSA shall be entitled to recover consequential damages which are limited to the amount of each Task order.

8. OWNERSHIP OF DOCUMENTS

Upon completion, suspension, abatement, abandonment, or termination if this AGREEMENT, copies of all calculations, drawings and any relevant data accumulated and/or compiled by the ENGINEER shall be provided to UOSA, at UOSA's cost, and shall become the property of UOSA upon payment by UOSA for reasonable copying and shipping costs.

9. PERSONNEL AND SUBCONTRACTOR SELECTION AND REPLACEMENT

UOSA reserves the right to disapprove of any subcontractor the ENGINEER proposes to assign for services in connection with this AGREEMENT, and also reserves the right to contract separately for any Service covered under this AGREEMENT. Such services include, but are not limited to: the preparation of design information, assistance in obtaining regulatory permits, services during construction, construction inspections, control system programming, surveying, geotechnical, and hazardous materials consulting services.

UOSA reserves the right to demand the replacement of any of the ENGINEER's personnel or its subcontractors. UOSA also reserves the right to furnish personnel or subcontractors to provide, replace, or supplement required services of any Task Order.

10. OBLIGATIONS OF THE ENGINEER

A. Subsurface Investigations

In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent

uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect total Work, cost and/or execution. These conditions and cost/execution effects are not the responsibility of ENGINEER except to the extent due to failure on the part of the ENGINEER to perform in compliance with the Standard of Care.

B. ENGINEER's Services During Construction

Services provided by the ENGINEER during construction, including those activities listed in paragraph 2.1 H of the Request for Proposal, whether as onsite representatives or otherwise, do not make the ENGINEER or ENGINEER's personnel in any way responsible for those duties that belong to UOSA and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the construction Contract Documents and any health or safety precautions required by such construction work.

ENGINEER and ENGINEER's personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of the construction contractor(s) or other entity or any other persons at the site except ENGINEER's own personnel.

The ENGINEER's services during construction are for the purpose of providing to UOSA a greater degree of confidence that the completed construction work will conform generally to the construction documents and that the integrity of the design concepts, as reflected in the construction documents, has been implemented and preserved by the construction contractor(s). ENGINEER neither guarantees the performance of the construction contractor(s) nor assumes responsibility for construction contractor's failure to perform work in accordance with the construction documents.

For this AGREEMENT, construction sites also include places of manufacture for materials incorporated into the construction work, and construction contractors include manufacturers of materials incorporated into the construction work.

C. Opinions of Cost, Financial Considerations, and Schedules

In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the Work, the ENGINEER has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by operating personnel or third parties; and other economic and operational factors that may materially affect the ultimate project cost or schedule. Therefore, ENGINEER makes no warranty that UOSA's actual project costs, financial aspects, economic feasibility, or schedules will not vary from ENGINEER's opinions, analyses, projections, or estimates.

If UOSA wishes greater assurance as to any element of project cost, feasibility, or schedule, UOSA will employ an independent cost estimator, contractor, or other appropriate advisor.

D. Construction Progress Payments

Recommendations by ENGINEER to UOSA for periodic construction progress payments to the construction contractor(s) will be based on ENGINEER's knowledge, information, field inspection, and belief from selective sampling that the work has progressed to the point indicated. Such recommendations do not represent that continuous or detailed examinations have been made by ENGINEER to ascertain that the construction contractor(s) have completed the work in exact accordance with the construction documents; that the final work will be acceptable in all respects; that ENGINEER has made an examination to ascertain how or for what purpose the construction contractor(s) have used the moneys paid; that title to any of the work, materials, or equipment has passed to UOSA free and clear of liens, claims, security interests, or encumbrances; or that there are not other matters at issue between UOSA and the construction contractors that affect the amount that should be paid.

E. Record Drawings

Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the WORK was finally constructed. ENGINEER is not responsible for any errors or omissions in the information from others that are incorporated into the record drawings which in the exercise of the Standard of Care the ENGINEER should not have recognized.

11. OBLIGATIONS OF UOSA

A. UOSA-Furnished Data

UOSA will provide to ENGINEER all data in UOSA's possession relating to ENGINEER's services. ENGINEER will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by UOSA.

B. Access to Facilities and Property

UOSA will make its facilities accessible to ENGINEER as required for ENGINEER's performance of its services and will provide labor and safety equipment as required by ENGINEER for such access. UOSA will perform, at no cost to ENGINEER, such tests of equipment, machinery, pipelines, and other components of UOSA's facilities as may be required in connection with ENGINEER's services.

C. Advertisements and Permits

Unless otherwise agreed to in the Scope of Services, UOSA will obtain, arrange, and pay for all advertisements for bids; permits and licenses required by local, state, or federal authorities; and land, easements, and rights-of-way, necessary for ENGINEER's services or project construction.

D. Timely Review

UOSA will render decisions required of it in a timely manner.

E. Prompt Notice

UOSA will give prompt written notice to ENGINEER whenever UOSA observes or becomes aware of any development that affects the Scope of Work or timing of ENGINEER's Services, or of any defect in the Work of the ENGINEER or construction contractors. Notwithstanding, the

failure to give such Notice shall not operate as a waiver or relinquishment of UOSA's right to demand strict compliance with the Agreement whether or not such Notice is provided.

F. Asbestos or Hazardous Substances

If asbestos or hazardous substances in any form are encountered or suspected, ENGINEER will stop its own work in the affected portions of the project to permit testing and evaluation.

If asbestos is suspected, ENGINEER will, if requested, manage the asbestos remediation activities using a qualified subcontractor at an additional fee and contract terms to be negotiated.

If hazardous substances other than asbestos are suspected, ENGINEER will, if requested, conduct tests to determine the extent of the problem and will perform the necessary studies and recommend the necessary remedial measures at an additional fee and contract terms to be negotiated.

Client recognizes that ENGINEER assumes no risk and/or liability for a waste or hazardous waste site originated by other than ENGINEER.

G. Litigation Assistance

The Scope of Services does not include costs of ENGINEER for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by UOSA. All such Services required or requested of ENGINEER by UOSA, except for suits or claims between the parties to this AGREEMENT, will be reimbursed under a separate Task Order as mutually agreed.

12. GENERAL LEGAL PROVISIONS

A. Force Majeure

ENGINEER is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of ENGINEER. In any such event, ENGINEER'S contract price and schedule shall be equitably adjusted provided, however, in the event of any such occurrence the ENGINEER shall satisfy the Standard of Care in its efforts to mitigate the impact of such occurrence. Any such adjustment to price or schedule shall be subject to the condition precedent of complying with the Notice provisions for such a claim.

B. No Third-Party Beneficiaries

This AGREEMENT gives no rights or benefits to anyone other than UOSA and ENGINEER and has no third-party beneficiaries.

C. Waiver

UOSA waives all claims against ENGINEER, including those for latent defects, that are not brought within 5 years of substantial completion of the facility designed or final payment to ENGINEER, whichever is earlier.

D. Severability and Survival

If any of the Provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby.

Limitations of liability, indemnities, and other express representations shall survive termination of this AGREEMENT for any cause.

13. NOTICES

All communications, notices and disclosures required or permitted by this AGREEMENT shall be in writing and shall be deemed to have been given at the earlier of the date when actually delivered to the person indicated below or when sent by nationally recognized overnight carrier or certified or registered mail, postage prepaid, return receipt requested and addressed as follows, unless and until either party notifies the other in accordance with this section of a change of address:

Upper Occoquan Service Authority
14631 Compton Road
Centreville, Virginia 20121-2506
Attn: Robert J. Angelotti, Executive Director

14. COMPLETE AGREEMENT

This AGREEMENT and the Contract Documents identified in Section 2 represents the complete AGREEMENT between UOSA and the ENGINEER as to all matters referenced herein. No prior oral or written understanding except as set forth herein shall be of any force or effect with respect to those matters covered herein. This AGREEMENT may be modified only by written change order signed by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT which shall be effective on the day and year last executed below.

BY: _____
Upper Occoquan Service Authority
Robert J. Angelotti, Executive Director

Date: _____

BY: _____
Company Name:
Printed Name/Title:

Date: _____

ATTACHMENT C: SAMPLE INVOICE

INVOICE DETAIL REPORT

Engineering Firm: ABC Associates

Contract Number: UOSA 22-06

Task Order #: 001

Billing Period **From:** 6/1/2022 **To:** 6/30/2022

Task Description (including Task #):

Task Order #001; Task Item 2.1 - Site Visits

Name	Position	Date	# Hours Worked	Rate	Total Billed
John Doe	Technician	2-Jun	2	\$ 28.00	\$ 56.00
		5-Jun	4	\$ 28.00	\$ 112.00
		7-Jun	2	\$ 28.00	\$ 56.00
		15-Jun	6	\$ 28.00	\$ 168.00
		17-Jun	2	\$ 28.00	\$ 56.00
		20-Jun	2	\$ 28.00	\$ 56.00
		29-Jun	1	\$ 28.00	\$ 28.00

John Doe	TOTAL Task 2.1 June:	19	\$ 532.00
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Jane Smith	Analyst	5-Jun	1.5	\$ 35.00	\$ 52.50
		8-Jun	2	\$ 35.00	\$ 70.00
		22-Jun	3	\$ 35.00	\$ 105.00
		29-Jun	2	\$ 35.00	\$ 70.00

Jane Smith	TOTAL Task 2.1 June:	8.5	\$ 297.50
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TOTAL TASK 2.1 June	\$ 829.50
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Task Order #001; Task Item 1.6 - Document Preparation

Name	Position	Date	# Hours Worked	Rate	Total Billed
John Doe	Technician	2-Jun	1	\$ 28.00	\$ 28.00
		5-Jun	5	\$ 28.00	\$ 140.00
		7-Jun	2	\$ 28.00	\$ 56.00
		15-Jun	1	\$ 28.00	\$ 28.00
		17-Jun	1	\$ 28.00	\$ 28.00
		20-Jun	1	\$ 28.00	\$ 28.00
		29-Jun	1	\$ 28.00	\$ 28.00

John Doe	TOTAL Task 1.6 June:	12	\$ 336.00
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Jane Smith	Analyst	5-Dec	2	\$ 35.00	\$ 70.00
		8-Dec	1	\$ 35.00	\$ 35.00

		22-Dec	1	\$ 35.00	\$ 35.00
		29-Dec	1	\$ 35.00	\$ 35.00
Jane Smith	TOTAL Task 1.6 June:		5		\$ 175.00
TOTAL TASK 1.6 June					\$ 511.00