



UPPER OCCOQUAN SERVICE AUTHORITY

REQUEST FOR PROPOSALS #24-03

Provide Financial Audit and Consulting Services

Issued By:

**Purchasing Department
 UOSA
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Date Issued:	September 11, 2023 10:00 a.m.
Pre-proposal Conference:	September 19, 2023, 10:00 a.m. Sellman Meeting Center
Deadline For Questions:	September 21, 2023, 5:00 p.m.
Proposals Must be Received On Or Before:	October 11, 2023 2:00 p.m.

NOTICE: Firms who have received this solicitation package from a source other than UOSA's Purchasing Office or who have downloaded the solicitation from www.uosa.org are encouraged to contact UOSA's Purchasing Department to provide their name and mailing address in order that amendments to this solicitation or other communications can be sent directly 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: 24-04

Title: Provide Financial Audit and Consulting Services

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 2.11

Table with 2 columns: Document Name, Status (checkbox). Rows include Solicitation Response Form (this form), Technical Proposal, and other unspecified items.

1 SUMMARY INFORMATION

1.1 Introduction

The Upper Occoquan Sewage Authority, also doing business as 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 are 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 186 individuals. UOSA currently owns and operates an advanced water reclamation plant with a permitted capacity of 54 million gallons per day (“mgd”) and a regional system of interceptor sewer lines, pump stations and force mains that deliver wastewater from the four member jurisdictions to the treatment plant.

UOSA plans to engage the services of a qualified firm to perform financial audit and consulting services as described in Section 2 of this RFP. Of those responding firms qualified to provide these services to UOSA, the selected firm will be the one best able to demonstrate capabilities to fulfill UOSA’s requirements under this Request for Proposal (RFP).

1.2 Period of Contract

The initial Contract will be for three (3) years, with options to extend annually thereafter for up to two (2) additional one-year periods. Renewal will be at the sole option and discretion of UOSA.

Unit pricing shall be firm and fixed as originally offered and accepted for the first 12 months of the Contract.

Annual Increases: 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.

1.3 Hours of Operation And Holidays

The Administration Building hours of operation are 7:30 am through 4:00 pm; Monday through Friday excluding UOSA holidays. UOSA normally observes Virginia bank holidays.

End Section 1

2 SCOPE OF WORK

2.1 Objective and Summary Requirements

The successful Contractor (Audit Firm) will provide to UOSA professional financial and audit services related to the annual audit and other special requirements. UOSA is a municipal organization that utilizes the accrual basis of accounting. Its accounting and reporting policies conform to accounting principles generally accepted in the United States of America and adhere to the requirements established by the Governmental Accounting Standards Board (GASB). UOSA uses a single enterprise fund.

The successful Contractor, upon notification of award of contract, shall commence and complete communication with and review of the working papers of previous auditors. Contractor will notify Authority promptly of anything during that communication or review which results in not being able to continue this engagement.

2.1.1 Responsibilities

- a. The Authority is ultimately responsible for 1) the preparation of Authority's financial statements, 2) establishing and maintaining effective internal control over financial reporting and safeguarding assets and internal control over compliance, including monitoring ongoing activities, and for informing the Contractor of all significant deficiencies in the design or operation of such controls of which it has knowledge, 3) properly recording transactions in the records, 4) identifying and ensuring that Authority complies with the laws and regulations applicable to its activities, and for informing the Contractor about all known material violations of such laws or regulations, 5) the design and implementation of programs and controls to prevent and detect fraud, and for informing the Contractor about all known or suspected fraud affecting the entity involving management, employees who have significant roles in internal control and others where the fraud could have a material effect on the financial statements, 6) informing the Contractor of its knowledge of any allegations of fraud or suspected fraud affecting the entity received in communications from employees, regulators, or others, 7) making all financial records and related information available to the Contractor, 8) for adjusting the financial statements to correct material misstatements 9) following up and taking corrective action on audit findings, including the preparation of a summary schedule of prior audit findings, and a corrective action plan, and 10) report distribution including submitting the reporting packages.
- b. At the conclusion of the audit, the Contractor will request certain written representations from the Authority about the financial statements and matters related thereto.
- c. The Contractor will require that the Authority to affirm that the effects of any uncorrected misstatements aggregated by the Contractor during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

- d. The Audit Committee is responsible for informing the Contractor of its views about the risks of fraud within the entity, and its knowledge of any fraud or suspected fraud affecting the Authority.
- e. The Contractor will determine that certain matters related to the conduct of the audit are communicated to the audit committee including 1) fraud involving senior management and fraud (whether caused by senior management or other employees) that causes a material misstatement of the financial statements, 2) illegal acts that come to our attention (unless they are clearly inconsequential), 3) disagreements with management and other serious difficulties encountered in performing the audit, and 4) various matters related to the entity's accounting policies and financial statements.
- f. No portion of the Contract shall be subcontracted or otherwise performed by any party other than the Contractor, except with the prior consent of the Authority. From time to time and depending upon the circumstances, the Contractor may seek permission to use third-party service providers to assist in providing professional services to the Authority. In such circumstances, it may be necessary for the Contractor to disclose confidential client information to them. The Contractor shall enter into confidentiality agreements with all third-party service providers and shall make certain that they have appropriate procedures in place to prevent the unauthorized release of Authority confidential information to others.
- g. The Contractor's professional standards shall require that they perform certain additional procedures, on current and previous year's engagements, whenever a partner or professional employee leaves the firm and is subsequently employed by or associated with a client.
- h. Professional standards and Contractor policies shall require that they perform certain additional procedures whenever their reports are included, or they are named as accountants, auditors, or "experts" in a document used in a public offering of debt securities.
- i. Contractor's report on the financial statements is not to be included in an official statement or other document involved with the sale of debt instruments without the prior consent of the Contractor, which shall not be unreasonably withheld.
- j. Additionally, if the Authority intends to publish or otherwise reproduce the financial statements and/or make reference to Contractor or their audit, Authority agrees to provide Contractor with printer's proofs or master for their review and consent before reproduction and/or release occurs. Contractor shall complete their review of the preliminary draft within 5 calendar days. If desired by the Contractor, the Authority will provide interim draft copies of the offering documents. Authority also agrees to provide Contractor with a copy of the final reproduced material for their consent before it is distributed or released. As long as interim draft copies of the offering documents are available to the Contractor, the Contractor agrees to complete its review and comments on the final offering documents within one day.

- k. Any Contractor's fees for additional services that may be required under our quality assurance system as a result of the above will be established with Authority at the time such services are determined to be necessary.
- l. In accordance with Government Auditing Standards, a copy of Contractor's most recent peer review report and applicable letter of comment shall be provided to the Authority.

2.2 Mandatory Requirements

2.2.1 Auditing Standards to be Followed

The auditor shall conduct its audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and the *Specifications for Audit of Authorities, Boards and Commissions*, issued by the Auditor of Public Accounts of the Commonwealth of Virginia.

2.2.2 Annual Comprehensive Financial Report (ACFR)

- a. The auditor shall express an opinion of the fair presentation of the Authority's Basic Financial Statements and Supplementary Information in conformity with GAAP.
- b. The auditor shall be responsible for performing certain limited procedures involving Management's Discussion and Analysis (MD&A) and Required Supplementary Information (RSI) required by GASB as mandated by Generally Accepted Auditing Standards (GAAS).
- c. The auditor shall review the reported findings from previous audit reports and determine the extent to which the auditor's recommendations have been implemented.
- d. The report on compliance and internal control shall include all material instances of noncompliance. All nonmaterial instances of noncompliance shall be reported in a separate management letter, which shall be referred to in the report on compliance and internal control.
- e. The auditor shall present a written report and provide a briefing of its findings to the UOSA Board of Directors (BOD) annually each November at the BOD meeting.

2.2.3 Reports and Submittals to be Issued

In addition to the auditor's report on the Authority's financial statements, the auditor shall also issue the following types of reports:

- a. Issue a report on the fair presentation of the Basic Financial Statements as presented in the Authority's ACFR in conformity with GAAP.
- b. Issue a report on internal control over financial reporting and other compliance matters based on an audit of financial statements performed in

accordance with Government Auditing Standards. This report shall describe the scope of testing of internal control and the results of the test.

- c. Issue a separate opinion on the Basic Financial Statements to be used by the Authority as part of its Official Statements in subsequent debt offerings.
 - d. Issue a "Letter of Reportable Conditions", addressed to the Director of Finance and the Board of Directors, that shall state the existence or non-existence of material weaknesses or significant deficiencies in the design or operation of the internal control structure or an operational procedure that significantly varies with existing policy, industry practice or literature which could adversely affect the organization's ability to record, process, summarize and report financial data consistent with the assertions of management in the financial statements.
 - e. Issue a "Management Letter", along with an electronic copy suitable for printing, addressed to the Director of Finance that shall state the existence or non-existence of situations that lack the significance to be designated as reportable conditions as well as opportunities to improve revenues, decrease costs, improve efficiency, improve management information, etc.
- 2.2.4 The Auditor shall provide initial drafts of all findings to the Authority's Director of Finance or his/her designee at the conclusion of the interim fieldwork phase of the audit, but not later than June 30 of the audit year. Final drafts of the findings shall be provided to the Director of Finance or his/her designee at the conclusion of the audit fieldwork, but not later than October 1. A draft of the letters shall be provided to the Director of Finance or his/her designee by October 15. The letters shall be issued in final form no later than October 31.
- 2.2.5 The Auditor shall provide a written report of all irregularities and illegal acts or indications of illegal acts of which the auditor becomes aware shall be made immediately to the Audit Committee.

2.3 Additional Services to be Performed

2.3.1 GFOA Certificate of Achievement

The Authority has been awarded the GFOA Certificate of Achievement for Excellence in Financial Reporting every year since fiscal year ended June 30, 1990.

The Authority will continue to send their ACFR to the GFOA for review in its "Certificate of Achievement for Excellence in Financial Reporting" program. The auditor will be required to provide special assistance to the Authority to meet the requirements of that program. This includes the following:

- a. Review the Authority's disposition of the comments generated from the GFOA's review of the prior year's ACFR.
 - b. Review the ACFR for compliance with GFOA's requirements.
 - c. Review the GFOA checklist prior to the ACFR submission to GFOA and prior to the issuance of audit opinions.
- 2.3.2 Arbitrage

The Auditor shall review the computation and compliance with the applicable rules and regulations with respect to the annual municipal revenue bonds and related arbitrage rebate computation performed by UOSA or another party designated by UOSA in performance of such computation. In the IRS reporting year, the Auditor will be required to certify the cumulative calculation performed by UOSA or UOSA's designee.

2.4 GASB/FASB Pronouncements

The auditor will undertake to keep the Authority fully informed as to new GASB and FASB pronouncements. If the Authority encounters any difficulties in implementing and complying with the specific reporting requirements mandated by the GASB or FASB, the Authority may request the auditor's assistance to enable it to comply with these reporting requirements.

2.5 Board Audit Committee Meetings

The Authority's Audit Committee meets two (2) times yearly to discuss the status of the annual audit and other audit related matters. The auditor will be requested to meet with the Audit Committee at least two (2) times during the course of the audit. Such meetings will be prescheduled at the beginning of the audit cycle. The auditors shall attend and will be asked to participate in presentations at such meetings.

2.6 Schedule for the Fiscal Year Audits

The schedule provided below is estimated dates for completion. Final specific dates and times will be provided by the Authority to the Contractor after award.

1. Detailed Auditor's work - The auditor will provide the Authority with a detailed work plan and list of required "Prepared By Client" (PBC) schedules, system generated reports and confirmation letters necessary for both interim and final field work.	Provide by May 15.
2. Entrance conference and Letter of Engagement	Provide by COB 1st day of interim field work.
3. Preliminary Audit Committee Meeting	Complete by June 21
4. Interim Field Work - The auditor will conduct interim field work.	Complete by June 30
5. Final Field Work - The auditor will conduct final field work.	Complete by September 30
6. Reports - The auditor will have reports available for review as follows:	
Draft Reportable Conditions and Management Letter Findings - The auditor will provide Draft Reportable Conditions (if applicable) and Management Letter Findings resulting from interim field work to the Director of Finance.	Provide by June 30
ACFR - The auditor will provide the Authority with final review comments on the final draft ACFR.	Provide by October 15
ACFR - The auditor will provide the Authority with signed Independent Auditor's Report and Report on Internal Controls over Financial Reporting and on Compliance and Other Matters.	Provide by October 31
Reportable Conditions and Management Letter Findings -The auditor will provide the Authority with draft	Provide by October 1

reportable conditions (if applicable) and management letter findings resulting from final field work to the Director of Finance.	
Reportable Conditions and Management Letter Findings -The auditor will provide a draft of the reportable conditions letter (if applicable) and management letter to the Director of Finance.	Provide by October 15
Reportable Conditions and Management Letter Findings -The auditor will provide the final reportable conditions letter (if applicable) and management letter.	Provide by October 31
7. The auditor will provide the Authority with a copy of the Representation Letter.	Provide by October 31
8. Board of Director's presentation - the auditor will present a detailed oral report to the Audit Committee and a summary oral report to the Authority's governing body at public session.	Provide by November 21
9. Exit conference - The auditor will conduct an exit conference with the Authority.	Provide by November 30

End Section 2

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.

- A. A transmittal letter prepared on the Offeror's business stationery must accompany the proposal.
- B. 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.
- C. 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

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 UOSA Purchasing Department, by the deadline 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.

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 Addenda to the RFP

UOSA reserves the right to amend this solicitation at any time prior to the deadline for submitting proposals. If it becomes necessary to revise any part of this solicitation, notice of the revision will be given in the form of a written Addendum that will be provided to all prospective Offerors who are on record with the Purchasing Department as having received this solicitation. 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 Manager, the deadline for receipt of proposals does not allow sufficient time; the deadline shall be extended. Acknowledge your receipt and compliance with the Addenda by noting it in the space provided on the Transmittal Form (Attachment "B"). Failure to acknowledge receipt of an Addendum may result in rejection of the proposal.

3.4 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.

3.5 Proposal Organization

Failure to include any of the below listed Proposal elements may be considered grounds to deem the proposal non-responsive.

A. Technical Proposal:

Offerors are requested to submit six (6) sets of a written Technical Proposal plus **one original set with an original signature uniquely identified as “original” on the cover of the volume**. In order to enhance this process and provide each firm an equal opportunity for consideration, adherence to a standardized proposal format is required. Failure to adhere to the prescribed format may result in finding the proposal non-responsive. Proposals shall be **limited to thirty (30) pages**, excluding cover letters, resumes, required forms, and appendices. The format of each proposal must contain the following elements organized into separate chapters and sections in the following order:

1. Required Forms:
 - i. Cover Letter
 - ii. Transmittal Form
 - iii. Disclosure Form
 - iv. SCC ID Form
 - v. Any Addenda to the RFP
2. Company History/Qualifications and Local Presence in the Northern Virginia Area: The Offeror will briefly describe its company history, sales history, and history of performing work as described herein. This section shall also provide information on office location relative to the UOSA site, services provided from this office, and other information to demonstrate ability to respond quickly to UOSA site.
3. 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. Include any special qualifications, experience, awards, etc. This section may also include any resumes as well.
4. Client List: This shall include a list of not less than five (5) current clients. Emphasis should be given to current clients in the Local Government sector. Please highlight any specific wastewater or other public utility experience as well. Provide the following for each client listed:
 - i. Organization name
 - ii. Address
 - iii. Phone number
 - iv. Direct contact
 - v. Last audit date provided by your firm for the organization

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.

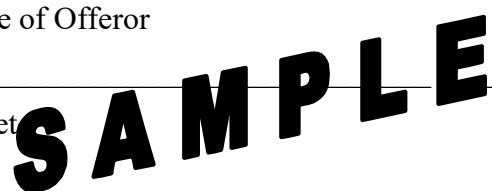
3.6 Instructions for Submitting Proposals

- 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 Transmittal Form (Attachment B) 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 Offerors' firm to all items in the proposal including products, services, etc., and prices, contained in the proposal. A transmittal letter may be substituted for the attached form. If used, the transmittal letter must include an affirmative statement that the person signing the transmittal letter is authorized to bind his/her firm and include all of the information contained on the Transmittal Form.
- C. Submit one (1) original and six (6) copied sets of your Proposal. *An additional electronic copy of each volume shall be submitted.* The electronic copy shall be submitted on a physical format, either USB flash drive or optical media, along with the printed hard copies. The set of originally signed documents must be uniquely identified on the cover of each volume.

All Proposals shall be submitted as hard copies in sealed envelopes or packages. **No electronic submissions will be accepted.** All packages shall be sent to the UOSA Purchasing Department at the address identified on the cover sheet of this RFP. Packages shall be labeled as follows:

From: _____

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



3.7 Contractor Identification

All Offerors must provide all information required by UOSA RFP Disclosure Form (page# 1 of this RFP) applicable to the Offeror; failure to comply shall make the Proposal nonresponsive. All Offerors also shall include the following in their Transmittal Form (Attachment B). Failure to include the required information in the Transmittal Form shall make the Proposal nonresponsive and the Proposal will not be opened or considered:

- A. Individual Offerors must provide their social security numbers.
- B. Proprietorships, partnerships, corporations, limited liability companies, business trusts, limited partnerships or limited liability partnerships must provide their Federal Employer Identification Numbers.

3.8 Qualifications of Offerors

UOSA may make such reasonable investigations as deemed proper and necessary to determine the ability of the Bidder/Offeror to perform the services/furnish the goods and the Bidder/Offeror

shall furnish to UOSA all such information and data for this purpose as may be requested. UOSA reserves the right to inspect Bidder's/Offeree's physical facilities prior to award to satisfy questions regarding the Bidder's/Offeree's capabilities. UOSA further reserves the right to reject any bid if the evidence submitted by, or investigations of, such Bidder/Offeree fails to satisfy UOSA that such Bidder/Offeree is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

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.

Proposals may only be canceled by submitting written notice at least 15 days before the expiration of the then current 120-day period.

3.10 Proprietary Information

It shall be the responsibility of each Offeror to clearly mark any part of his proposal considered to be of PROPRIETARY OR CONFIDENTIAL NATURE. Offerors shall not mark sections of their proposal PROPRIETARY OR CONFIDENTIAL if such section is to be part of the award of the contract and are of "Material" nature, (i.e., Prices, company information currently available to the public).

3.11 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 UOSA's Audit committee and 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 of Article II, Paragraph 2.5 of the Standard Terms and Conditions of this RFP regarding SCC ID validation. Any Offeror who does not comply with this requirement may 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. Written narrative, responsiveness and completeness of the proposal 25%
- ii. Company history, qualifications, capabilities and past performance 25%
- iii. Project team qualifications and experience 25%
- iv. List of current Clients and relevant Point(s) of Contact (*Offeror should highlight any clients that are local government and/or experience with water and wastewater clients*) 15%
- v. Local presence in the northern Virginia area 10%

3.12 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.

3.13 Award

Award of this Contract shall be made pursuant to the Virginia Public Procurement Act § 2.2-4302.2 process for competitive negotiation for professional services. 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. 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 herein, on the basis of evaluation factors published in the Request for Proposal 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.

Negotiations shall then be conducted, beginning with the Offeror ranked first. If a contract satisfactory and advantageous to the public body can be negotiated at a price considered fair and reasonable and pursuant to contractual terms and conditions acceptable to the public body, the award shall be made to that Offeror. Otherwise, negotiations with the Offeror ranked first shall be formally terminated and negotiations conducted with the Offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.

Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the Request for Proposal, UOSA may award contracts to more than one Offeror.

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.

3.14 Acceptable and Unacceptable Proposals and Rejection of Offers

UOSA reserves the right to reject any or all proposals received. Proposals must meet or exceed the mandatory requirements of the Specification 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,” if the Offeror does not have the capabilities in all respects to perform the Work required. The Committee may determine that a proposal meets the Specification but does not raise itself to the competitive level of some or all of the other offers. In such instances, the Committee shall issue a determination that any and all such proposals are “not reasonably susceptible of being selected.” Offerors 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.

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. An example of the executed Contract is provided as Attachment C. 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

- 2.3 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.
- 2.4 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 Disclosure Form that is included at the beginning of the Solicitation document. (Disclosure form must be filled out in its entirety.)
- 2.5 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.

- 2.6 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.
- 2.7 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.
- 2.8 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.
- 2.9 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.
- 2.10 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.
- 2.11 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.
- 2.12 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.
- 2.13 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.
- 2.14 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.
- 2.15 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.

2.16 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.

2.17 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.

2.18 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.

2.19 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.

- 2.20 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**

- 3.3 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.

- 3.4 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.

3.5 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.

3.6 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.

3.7 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.

3.8 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.

3.9 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 contracted 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.

3.10 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.

3.11 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.

3.12 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.

3.13 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.

3.14 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.

3.15 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.

3.16 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

3.17 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.

3.18 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.

3.19 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

4.3 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.

4.4 Payment: 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.

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.

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.

4.5 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.

4.6 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.

- 4.7 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

- 5.3 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.

- 5.4 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.

5.5 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.

5.6 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 thirteen (13) 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
Juneteenth
Independence Day
Labor Day
Indigenous Peoples Day
Veterans Day
Thanksgiving Day
Friday after Thanksgiving Day
Christmas Day
Christmas Eve or Day after Christmas
New Year's Eve*

**Depending on the day of the week, the typical closure is EITHER for New Year's Eve or New Year's Day. Occasionally, both may be given depending on the year. UOSA will notify Contractors if hours of operation are impacted by changes to or additions of any other holiday time.*

- 6.6 Partial Invalidation/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 – PROPOSED CONTRACT

Contract No. _____

This Contract is made and entered into as of the date of UOSA’s signature appearing below, by and between Upper Occoquan Sewage Authority, trading as the Upper Occoquan Service Authority (“UOSA”) and _____ of _____, hereinafter called the “Contractor”.

The Contractor, in consideration of the sum to be paid it by UOSA and of the covenants and agreements herein and in the Contract Documents (as defined in the Terms and Conditions of the RFP or IFB), hereby agrees at its own cost and expenses to do all the Work required by Contract Documents for UOSA Contract _____. All Contract Documents shall be deemed a part of the Contract as if fully set forth herein.

In consideration of the performance of the Work as set forth in the Contract Documents, UOSA agrees to pay the Contractor in accordance with the attached rate schedule (Exhibit xx to this agreement) as may be adjusted in accordance with the Contract Documents and to make payments in satisfaction of such in the manner and at the times set forth in the Contract Documents.

The Contractor agrees to complete the Work within the Contract Time of _____ days and to accept as full payment therefor the Contract Price.

The Contractor shall be held to a standard of strict compliance with the requirements of the Contract Documents in the performance of the Work, for giving Notice of any type to UOSA, and for making any submittal required for any purpose. The Contractor acknowledges that all time requirements set forth in the Contract Documents for any purpose are of the essence.

The Contractor hereby consents to the deduction of, and authorizes UOSA to deduct from any amount otherwise payable to the Contractor, any charge, cost or fee identified by the Contract Documents as payable by the Contractor to UOSA for any reason.

UOSA designates _____ as the Contract Manager and _____ as the Technical Representative for this Contract.

The Contractor designates _____ as its project Superintendent.

Notices under the Contract shall be delivered to:

UOSA:

Name:

Title:

Address:

CONTRACTOR:

Witness the following signatures and seals:

UPPER OCCOQUAN SEWAGE AUTHORITY	Contractor: _____
By: _____	By: _____
Robert W. Angelotti	Printed Name: _____
Executive Director	Title: _____
Date: _____	Date: _____

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