

COMMONWEALTH OF VIRGINIA

STANDARD CONTRACT

Contract Number: VTS-2107-2024

This contract entered into this 1st day of September 2023 by Riggs, Counselman, Michaels & Downes, Inc. d/b/a RCM&D, Inc. hereinafter called the "Contractor" and Commonwealth of Virginia, Virginia Polytechnic Institute and State University called "Virginia Tech."

WITNESSETH that the Contractor and Virginia Tech, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

SCOPE OF CONTRACT: The Contractor shall provide construction insurance consulting services to Virginia Tech as set forth in the Contract Documents.

PERIOD OF CONTRACT: From September 1, 2023 through August 30, 2025 with the option for two (2) two year renewals.

COMPENSATION AND METHOD OF PAYMENT: The Contractor shall be paid by Virginia Tech in accordance with the Contract Documents.

CONTRACT DOCUMENTS: The Contract Documents shall consist of this signed contract, Request for Proposal (RFP) number 154542303 dated May 5, 2023, together with Addendum Number 1 To RFP dated May 25, 2023, the proposal submitted by the Contractor dated June 12, 2023 and the negotiation summary, all of which Contract Documents are incorporated herein.

ELECTRONIC TRANSACTIONS: If this paragraph is initialed by both parties, to the fullest extent permitted by Code of Virginia, Title 59.1, Chapter 42.1, the parties do hereby expressly authorize and consent to the use of electronic signatures as an additional method of signing and/or initialing this contract and agree electronic signatures (for example, the delivery of a PDF copy of the signature of either party via facsimile or electronic mail or signing electronically by utilizing an electronic signature service) are the same as manual executed handwritten signatures for the purposes of validity, enforceability and admissibility.

JS MH
(Initials)

In WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

Contractor DocuSigned by:
By: James Shewey
(Signature)
378BA12F55484A9...
James Shewey
Name and Title

Virginia Tech DocuSigned by:
By: Mary Helmick
(Signature)
5943314F5CD3478...
Mary W. Helmick
Director of Procurement

Virginia Market Leader



Request for Proposal #154542303

For

Construction Insurance Consulting Services

May 5, 2023

Note: This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

RFP #154542303, Construction Insurance Consulting Services

INCLUDE THIS PAGE WITH YOUR PROPOSAL, SIGNATURE AT SUBMISSION IS REQUIRED

DUE DATE: Proposals will be received until June 5, 2023 at 3:00 PM. Failure to submit proposals to the correct location by the designated date and hour will result in disqualification.

INQUIRIES: All inquiries for information regarding this solicitation should be directed to John Spence, Phone: (540) 231- 3333; e-mail: jspenc@vt.edu. All inquiries will be answered in the form of an addendum. Inquiries must be submitted by 5:00pm on May 26, 2023 Inquiries must be submitted to the procurement officer identified in this solicitation.

PRE-PROPOSAL CONFERENCE: A pre-proposal conference will be held on May 16, 2023 at 2:00 PM. See RFP Section IX, Pre-proposal Conference for additional information.

PROPOSAL SUBMISSION:

****Please note, proposal submission procedures have changed effective March 2023**

Proposals may NOT be hand delivered to the Procurement Office.

Proposals shall be submitted electronically through Virginia Tech’s procurement portal. This portal allows you to access to view business opportunities and submit bids and proposals to Virginia Tech digitally.

Proposals must be submitted electronically at:

<https://bids.scquest.com/apps/Router/PublicEvent?CustomerOrg=VATech>

Vendors will need to register through this procurement portal, hosted by Jaggaer. **It is encouraged for all vendors to register prior to the proposal submission deadline to avoid late submissions.** Registration is easy and free. If you have any challenges with the registration process, please contact Jaggaer Support at 1-800-233-1121 or procurement@vt.edu.

Click on the opportunity and log in to your vendor account to begin preparing your submission. Upon completion, you will receive a submission receipt email confirmation. Virginia Tech will not confirm receipt of proposals. It is the responsibility of the offeror to make sure their proposal is delivered on time.

Hard copy or email proposals will not be accepted. Late proposals will not be accepted, nor will additional time be granted to any individual Vendor.

Attachments must be smaller than 50MB in order to be received by the University.

In compliance with this Request For Proposal and to all the conditions imposed therein and hereby incorporated by reference, the undersigned offers and agrees to furnish the goods or services in accordance with the attached signed proposal and as mutually agreed upon by subsequent negotiation.

AUTHORIZED SIGNATURE: _____ Date: _____

06/27/2022

[INCLUDE THIS PAGE]

I. PURPOSE:

This Request for Proposal (“RFP”) seeks to solicit proposals to establish a contract through competitive negotiations by Virginia Polytechnic Institute and State University (“Virginia Tech”), an agency of the Commonwealth of Virginia.

Virginia Tech currently manages a capital project portfolio that exceeds \$1 billion located across the Commonwealth of Virginia and managed by various contractors. Virginia Tech is seeking proposals from qualified insurance brokerage firms with expertise in reviewing and assessing the effectiveness and value of various risk financing and transfer models within the construction industry. This includes traditional insurance, Contractor Controlled Insurance Programs (“CCIP”) proposals as well as other alternative risk financing solutions, including Owner Controlled Insurance Programs (“OCIP”). The services provided would be on an as-needed basis. Virginia Tech intends to select multiple Firms for an award and establish those Firms as “Contract Vendors” who are pre-qualified to provide Services to Virginia Tech on an as-need-basis, at various points throughout the project contracting process, to provide expertise related to construction risk financing.

II. SMALL, WOMAN-OWNED AND MINORITY (SWAM) BUSINESS PARTICIPATION:

The mission of the Virginia Tech supplier opportunity program is to foster inclusion in the university supply chain and accelerate economic growth in our local communities through the engagement and empowerment of high quality and cost competitive small, minority-owned, women-owned, and local suppliers. Virginia Tech encourages prime suppliers, contractors, and service providers to facilitate the participation of small businesses, and businesses owned by women and minorities through partnerships, joint ventures, subcontracts, and other inclusive and innovative relationships.

For more information, please visit: <https://www.sbsd.virginia.gov/>

III. CONTRACT PERIOD:

The term of this contract is for two (2) year(s), or as negotiated. There will be an option for two (2) two (2) year renewals, or as negotiated.

IV. EVA BUSINESS-TO-GOVERNMENT ELECTRONIC PROCUREMENT SYSTEM:

The eVA Internet electronic procurement solution streamlines and automates government purchasing activities within the Commonwealth of Virginia. Virginia Tech, and other state agencies and institutions, have been directed by the Governor to maximize the use of this system in the procurement of goods and services. *We are, therefore, requesting that your firm register as a vendor within the eVA system.*

There are transaction fees involved with the use of eVA. These fees must be considered in the provision of quotes, bids and price proposals offered to Virginia Tech. Failure to register within the eVA system may result in the quote, bid or proposal from your firm being rejected and the award made to another vendor who is registered in the eVA system.

Registration in the eVA system is accomplished on-line. Your firm must provide the necessary information. Please visit the eVA website portal at <http://www.eva.virginia.gov/pages/eva-registration-buyer-vendor.htm> and **register both with eVA and Ariba**. *This process needs to be completed before Virginia Tech can issue your firm a Purchase Order or contract.* If your firm conducts business from multiple geographic locations, please register these locations in your initial registration.

For registration and technical assistance, reference the eVA website at: <https://eva.virginia.gov/>, or call 866-289-7367 or 804-371-2525.

V. CONTRACT PARTICIPATION:



This cooperative procurement is being conducted by Virginia Tech in conjunction with, and on behalf of, the Department of General Services, Division of Engineering and Buildings (“DEB”) and other public agencies of the Commonwealth of Virginia. It is the intent of this solicitation and resulting contract to allow for cooperative procurement which will be utilized by Virginia Tech, DEB as well as other state agencies. Accordingly, any public body, public or private health or educational institutions, or Virginia Tech’s affiliated corporations and/or partnerships may access any resulting contract if authorized by the Offeror.

Participation in this cooperative procurement is strictly voluntary. If authorized by the Offeror, the resultant contract may be extended to the entities indicated above to purchase at contract prices in accordance with contract terms. The Offeror shall notify Virginia Tech in writing of any such entities accessing the contract, if requested. No modification of this contract or execution of a separate contract is required to participate. The Offeror will provide semi-annual usage reports for all entities accessing the Contract, as requested. Participating entities shall place their own orders directly with the Offeror and shall fully and independently administer their use of the contract to include contractual disputes, invoicing and payments without direct administration from Virginia Tech. Virginia Tech shall not be held liable for any costs or damages incurred by any other participating entity as a result of any authorization by the Offeror to extend the contract. It is understood and agreed that Virginia Tech is not responsible for the acts or omissions of any entity, and will not be considered in default of the contract no matter the circumstances.

Use of this contract does not preclude any participating entity from using other contracts or competitive processes as the need may be.

VI. STATEMENT OF NEEDS/SCOPE OF WORK:

Under this RFP, Virginia Tech intends to procure construction insurance consulting services under two related scopes, with services to be provided for Virginia Tech on an as-needed basis. Note: this RFP does *not* constitute approval to procure insurance on behalf of Virginia Tech or its subsidiaries, programs, or affiliates, and is not a solicitation for insurance coverage. This RFP is also *not* for general insurance brokerage services for Virginia Tech.

A. Services: Upon request, Offeror shall provide the following construction insurance consulting services:

1. General Construction Industry Insurance Services

- a. Meeting with and collecting information from Virginia Tech to fully understand the institution’s risk appetite and tolerance, both as they related to risk financing and construction management.

- b. Identify appropriate parameters for proposed CCIPs, including recommended coverage terms and exclusions, risk retention or self-insurance levels, approximate premiums and deductibles.
- c. Advise Virginia Tech regarding insurance in its form contracts and during contract negotiations with third parties, including identifying potentially significant hazards, assisting in risk transfer to third parties where appropriate, and making recommendations related to risk financing.
- d. Provide periodic and technical information related to construction insurance, assistance and information to Virginia Tech on market changes, capacity and constraints; new insurance coverages and coverage changes; and industry trends including but not limited to CCIP and OCIP.
- e. Provide or assist in preparing educational and advisory resources for Virginia Tech.
- f. Provide guidance, technical information, and assistance to Virginia Tech on reviewing insurance certificates, policies and related questions.
- g. Provide any additional services related to construction insurance requested by Virginia Tech.

2. On-demand Insurance Program Analysis for Capital Projects

- a. Prepare analysis for capital construction projects--individually, in the aggregate, or both—comparing the value of a proposed CCIP to a traditional insurance model as outlined in DGS CO-7 General Conditions (or applicable Virginia Tech specific insurance provisions) including Section 11, Contractors and Subcontractors Insurance information, and Section 12, All Risk Builder's Insurance), or other risk financing solutions, including a CCIP.
- b. Attend virtual meetings with Virginia Tech:
 - 1) Prior to each analysis to obtain a clear understanding as to project details; and
 - 2) To present the results of their analysis and associated recommendations to Virginia Tech. Based on information provided by Virginia Tech, the coverages included in a CCIP may vary, but may include workers' compensation, general liability, builder's risk, and excess liability.

Provide Virginia Tech with a written report detailing the analysis, findings, and recommendations.

VII. PROPOSAL PREPARATION AND SUBMISSION:

A. Specific Requirements

Proposals should be as thorough and detailed as possible so that Virginia Tech may properly evaluate your capabilities to provide the required goods or services. Offerors are required to submit the following information/items as a complete proposal:

- 1. **Statement of Understanding.** Offeror shall provide a written statement of understanding of the scope identified herein stating in clear and concise manner the Offeror's understanding of the scope and nature of required services.

2. **Work Plan Summary** – Include a narrative description of the proposed effort and a list of items to be delivered or services to be provided when completing work under Section VI.A. above. Use the task descriptions in Section VI.A. of this RFP as your reference point. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. The following documentation should also be provided:
 - a. Exposure collection or project information collection templates used to collect information to assess insurance programs (or samples of the same).
 - b. Offeror’s approach to insurance program analysis. Discuss briefly any distinguishing characteristics of program review where Offeror’s clients have realized significant savings and how else they benefited from your services.
 - c. Examples of analysis and/or reports that could be generated as part of your services.
3. **Offeror Organizational Capabilities.** Offeror must provide a brief description of its business including:
 - a. Business locations;
 - b. Areas of specialization and expertise;
 - c. Client base;
 - d. Offeror must provide curriculum vitae, resume or capabilities statement for all personnel that may be assigned to Virginia Tech; this should include relevant experience and certifications and detail the personnel’s experience with public entity insurance program design, administration, and analysis, particularly with OCIPs and/or CCIPs;
 - 1) Offeror shall designate and name, in writing, a service team that will be available at any time upon reasonable notice regarding any and all matters relating to the services contemplated in this RFP.
 - e. Offeror shall identify any affiliated or unaffiliated entities or services providers that may be used to provide the service outlined in this RFP. Offeror shall submit curriculum vitae, resume, or capabilities statement for all personnel that may be assigned to Virginia Tech; this should include relevant experience and certifications and detail the personnel’s experience with public entity insurance program design, administration, and analysis, particularly with traditional construction project insurance, OCIPs and/or CCIPs; and
 - f. Any other pertinent information that would aid Virginia Tech in formulating a determination about the stability and strength of the business, including the Offeror’s organizational experience and history with development of the requirements within this RFP.
4. **Client References.** Offeror shall provide as references the names, addresses, telephone numbers, email addresses, and contract person for at least (3) representative customers, preferably within public institutions. References must be for work that is of a similar size and scope as the scope anticipated in this RFP, or closely related, such as Offeror-managed OCIPs or CCIPs. Reference must not be from a person, company or organization with any special interest, financial or otherwise, in the Offeror.
5. **Cost Proposal.** Offeror shall submit cost proposal that outlines job titles, responsibilities and corresponding hourly rates. Provide an overview of the methodology of providing consulting services and identify all costs associated, broken down by activity, with providing services.
6. **Participation of Small, Women-owned and Minority-owned Business (“SWAM”) Business.** If your business cannot be classified as SWaM, describe your plan for utilizing

SWaM subcontractors if awarded a contract. Describe your ability to provide reporting on SWaM subcontracting spend when requested. If Offeror or any business that Offeror plans to subcontract with can be classified as SWaM, but has not been certified by the Virginia Department of Small Business and Supplier Diversity (“SBSD”), it is expected that the certification process will be initiated no later than the time of the award. If Offeror is currently certified, Offeror agrees to maintain its certification for the life of the contract. For assistance with SWaM certification, visit the SBSB website at <http://www.sbsd.virginia.gov/>

7. The return of the General Information Form and addenda, if any, signed and filled out as required.

D. General Requirements

1. RFP Response: In order to be considered for selection, Offerors shall submit a complete response to this RFP to include;

- a. **One (1) electronic document** in WORD format or searchable PDF of the entire proposal as one document, INCLUDING ALL ATTACHMENTS must be uploaded through the Bonfire online submission portal. Refer to page 2 for instructions.

Any proprietary information should be clearly marked in accordance with 2.d. below.

- b. Should the proposal contain **proprietary information**, provide **one (1) redacted electronic copy** of the proposal and attachments **with proprietary portions removed or blacked out**. This redacted copy should follow the same upload procedures as described on Page 1 of this RFP. This redacted copy should be clearly marked “Redacted Copy” within the name of the document. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable. Virginia Tech shall not be responsible for the Contractor’s failure to exclude proprietary information from this redacted copy.

No other distribution of the proposals shall be made by the Offeror.

2. Proposal Preparation:

- a. Proposals shall be signed by an authorized representative of the Offeror. All information requested should be submitted. Failure to submit all information requested may result in Virginia Tech requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals which are substantially incomplete or lack key information may be rejected by Virginia Tech at its discretion. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
- b. Proposals should be prepared simply and economically providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.
- c. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number, subletter, and repeat the text of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and subletter should be repeated at the top of the next page. The proposal should contain a table of contents which cross references the RFP

requirements. Information which the offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.

- d. Ownership of all data, material and documentation originated and prepared for Virginia Tech pursuant to the RFP shall belong exclusively to Virginia Tech and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act. However, to prevent disclosure the Offeror must invoke the protections of Section 2.2-4342F of the Code of Virginia, in writing, either before or at the time the data or other materials is submitted. The written request must specifically identify the data or other materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable and may result in rejection of the proposal.

- 3. Oral Presentation: Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to Virginia Tech. This will provide an opportunity for the Offeror to clarify or elaborate on the proposal but will in no way change the original proposal. Virginia Tech will schedule the time and location of these presentations. Oral presentations are an option of Virginia Tech and may not be conducted. Therefore, proposals should be complete.

VIII. SELECTION CRITERIA AND AWARD:

A. Selection Criteria

Proposals will be evaluated by Virginia Tech using the following:

<u>Criteria</u>	<u>Maximum Point Value</u>
1. Quality of products/services offered and suitability for the intended purposes	30
2. Qualifications, experiences, and demonstrated efficacy of Offeror in providing the goods/services	30
3. Specific plans or methodology to be used to provide the Services	15
4. Cost (or Price)	15
5. Participation of Small, Women-Owned and Minority (SWAM) Business	10
Total	100

B. Award

Selection shall be made of two or more Offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposal, including price, if so stated in the Request for Proposal. Negotiations shall then be conducted with the Offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each Offeror so selected, Virginia Tech shall select the Offeror which, in its opinion, has made the best proposal, and shall award the contract to that Offeror. Virginia Tech may cancel this Request for Proposal or reject proposals at any time prior to an award. Should Virginia Tech determine in writing and in its sole discretion that only one offeror has made the best proposal, a contract may be negotiated and awarded to that Offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of this solicitation and the Offeror's proposal as negotiated.

Virginia Tech reserves the right to award multiple contracts as a result of this solicitation.

IX. OPTIONAL PRE-PROPOSAL CONFERENCE:

An optional pre-proposal conference will be held on May 16, 2023 at 2:00 PM via Zoom Conference. Please contact John Spence directly via email: jspenc@vt.edu for an invitation to the Zoom Conference. The purpose of this conference is to allow potential Offerors an opportunity to present questions and obtain clarification relative to any facet of this solicitation.

While attendance at this conference will not be a prerequisite to submitting a proposal, Offerors who intend to submit a proposal are encouraged to attend.

Bring a copy of this solicitation with you. Any changes resulting from this conference will be issued in a written addendum to this solicitation.

X. INVOICES:

Invoices for goods or services provided under any contract resulting from this solicitation shall be submitted by email to vtinvoices@vt.edu or by mail to:

Virginia Polytechnic Institute and State University (Virginia Tech)
Accounts Payable
North End Center, Suite 3300
300 Turner Street NW
Blacksburg, Virginia 24061

XI. METHOD OF PAYMENT:

Virginia Tech will authorize payment to the Offeror as negotiated in any resulting contract from the aforementioned Request for Proposal.

Payment can be expedited through the use of the Wells One AP Control Payment System. Virginia Tech strongly encourages participation in this program. For more information on this program please refer to Virginia Tech's Procurement website: <http://www.procurement.vt.edu/vendor/wellsone.html> or contact the procurement officer identified in the RFP.

XII. ADDENDUM:

Any **ADDENDUM** issued for this solicitation may be accessed at <http://www.apps.vpfin.vt.edu/html.docs/bids.php>. Since a paper copy of the addendum will not be mailed to Offeror, we encourage you to check the web site regularly.

XIII. COMMUNICATIONS:

Communications regarding this solicitation shall be formal from the date of issue, until either a Offeror has been selected or the Procurement Department rejects all proposals. Formal communications will be directed to the procurement officer listed on this solicitation. Informal communications, including but not limited to request for information, comments or speculations regarding this solicitation to any Virginia Tech employee other than a Procurement Department representative may result in the offending Offeror's proposal being rejected.

XIV. CONTROLLING VERSION OF SOLICITATION:

The posted version of the solicitation and any addenda issued by Virginia Tech Procurement is the mandatory controlling version of the document. Any modification of/or additions to the solicitation by the Offeror shall not modify the official version of the solicitation issued by Virginia Tech Procurement. Such modifications or additions to the solicitation by the Offeror may be cause for rejection of the proposal; however, Virginia Tech reserves the right to decide, on a case-by-case basis, in its sole discretion, whether to reject such a proposal.

XV. TERMS AND CONDITIONS:

This solicitation and any resulting contract/purchase order shall be governed by the attached terms and conditions, see **Attachment A**. The awarded contract is cooperative and eligible for centralized state agencies to use. For centralized state agencies, within the Commonwealth of Virginia, utilizing this contract, specific general terms and conditions will be provided that may vary from the link included in **Attachment A**. Use of the resulting contract by centralized agencies will require DPS and the Offerors to sign a cooperative addendum incorporating the centralized state agencies terms and conditions. The current revision of these terms and conditions are included in the Virginia Cooperative Contract Addendum, see **Attachment B**.

XVI. CONTRACT ADMINISTRATION:

- A. Rebecca Folmar, Director of Risk Management and Insurance Programs, Office of Risk Management, at Virginia Tech, shall be identified as the Contractor Administrator and shall use all powers under the contract to enforce its faithful performance.
- B. The Contract Administrators in each user departments shall determine the amount, quantity, acceptability, fitness of all aspects of the services and shall decide all other questions in connection with the services. Contract Administrators, or designees, shall not have authority to approve changes in the services which alter the concept or which call for an extension of time for this contract. Any modifications made must be authorized by the Virginia Tech Procurement Department through a written amendment to the contract.
- C. John Spence, Senior Buyer, Procurement, shall oversee the contract in its entirety and will serve as the point of contact for issues involving this contract.

XVII. ATTACHMENTS:

Attachment A – Terms and Conditions

Attachment B – Centralized State Agencies Cooperative Contract Addendum

ATTACHMENT A

TERMS AND CONDITIONS

RFP GENERAL TERMS AND CONDITIONS

See:

https://www.procurement.vt.edu/content/dam/procurement_vt_edu/docs/terms/GTC_RFP_02182022.pdf

NOTE: For centralized state agencies within the Commonwealth of Virginia utilizing this contract, specific general terms and conditions will be provided that may vary from the link above. The awarded contract is cooperative and eligible for centralized state agencies to utilize. (See Attachment B)

ADDITIONAL TERMS AND CONDITIONS

- 1. ADDITIONAL GOODS AND SERVICES:** The University may acquire other goods or services that the supplier provides other than those specifically solicited. The University reserves the right, subject to mutual agreement, for the Contractor to provide additional goods and/or services under the same pricing, terms and conditions and to make modifications or enhancements to the existing goods and services. Such additional goods and services may include other products, components, accessories, subsystems, or related services newly introduced during the term of the Agreement.
- 2. AUDIT:** The Contractor hereby agrees to retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. Virginia Tech, its authorized agents, and/or the State auditors shall have full access and the right to examine any of said materials during said period.
- 3. AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that Virginia Tech shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.
- 4. CANCELLATION OF CONTRACT:** Virginia Tech reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the Contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.
- 5. CONTRACT DOCUMENTS:** The contract entered into by the parties shall consist of the Request for Proposal including all modifications thereof, the proposal submitted by the Contractor, the written results of negotiations, the Commonwealth Standard Contract Form, all of which shall be referred to collectively as the Contract Documents.
- 6. IDENTIFICATION OF PROPOSAL EMAIL:** Virginia Tech will only be accepting electronic submission of proposals. All submissions must be submitted to <https://procurement-vt.bonfirehub.com/>. Upon completion you will be directed to your Submission Receipt. Virginia Tech will not confirm receipt of proposals. It is the responsibility of the offeror to make sure their proposal is delivered on time. **Attachments must be smaller than 1000MB in order to be received by the University.** Proposals may **NOT** be hand delivered to the Procurement Office.
- 7. NOTICES:** Any notices to be given by either party to the other pursuant to any contract resulting from this solicitation shall be in writing via email.

8. SEVERAL LIABILITY: Virginia Tech will be severally liable to the extent of its purchases made against any contract resulting from this solicitation. Applicable entities described herein will be severally liable to the extent of their purchases made against any contract resulting from this solicitation.

9. CLOUD OR WEB HOSTED SOFTWARE SOLUTIONS: For agreements involving Cloud-based Web-hosted software/applications refer to link for additional terms and conditions: http://www.ita.vt.edu/purchasing/VT_Cloud_Data_Protection_Addendum_final03102017.pdf

ADVERTISING: In the event a contract is awarded for supplies, equipment, or services resulting from this solicitation, no indication of such sales or services to Virginia Tech will be used in product literature or advertising. The contractor shall not state in any of the advertising or product literature that the Commonwealth of Virginia or any agency or institution of the Commonwealth has purchased or uses its products or services.

10. CONTRACTOR/SUBCONTRACTOR LICENSE REQUIREMENT: By my signature on this solicitation, I certify that this firm/individual and/or subcontractor is properly licensed for providing the goods/services specified

Contractor Name: _____ Subcontractor Name: _____

License #: _____ Type: _____

11. CRIMINAL CONVICTION CHECKS: All criminal conviction checks must be concluded prior to the Contractor's employees gaining access to the Virginia Tech Campus. Employees who have separated employment from Contractor shall undergo another background check prior to re-gaining access to the Virginia Tech campus. Contractor shall ensure subcontractors conduct similar background checks. Virginia Tech reserves the right to audit a contractor's background check process at any time. All employees have a duty to self-disclose any criminal conviction(s) occurring while assigned to the Virginia Tech campus. Such disclosure shall be made to Contractor, which in turn shall notify the designated Virginia Tech contract administrator within 5 days. If at any time during the term of the contract Virginia Tech discovers an employee has a conviction which raises concerns about university buildings, property, systems, or security, the contractor shall remove that employee's access to the Virginia Tech campus, unless Virginia Tech consents to such access in writing. Failure to comply with the terms of this provision may result in the termination of the contract.

12. INSURANCE: By signing and submitting a Proposal/Bid under this solicitation, the Offeror/bidder certifies that if awarded the contract, it will have the following insurance coverages at the time the work commences. Additionally, it will maintain these during the entire term of the contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

During the period of the contract, Virginia Tech reserves the right to require the contractor to furnish certificates of insurance for the coverage required.

INSURANCE COVERAGES AND LIMITS REQUIRED:

- A. Worker's Compensation - Statutory requirements and benefits.
- B. Employers Liability - \$100,000.00
- C. General Liability - \$1,000,000.00 per occurrence, \$2,000,000 aggregate. Virginia Tech and the Commonwealth of Virginia shall be named as an additional insured with respect to goods/services being procured. This coverage is to include Premises/Operations Liability, Products and Completed Operations Coverage, Independent Contractor's Liability, Owner's and Contractor's Protective Liability and Personal Injury Liability.
- D. Automobile Liability - \$500,000.00

- E. Builders Risk – For all renovation and new construction projects under \$100,000 Virginia Tech will provide All Risk – Builders Risk Insurance. For all renovation contracts, and new construction from \$100,000 up to \$500,000 the contractor will be required to provide All Risk – Builders Risk Insurance in the amount of the contract and name Virginia Tech as additional insured. All insurance verifications of insurance will be through a valid insurance certificate.
- F. The contractor agrees to be responsible for, indemnify, defend and hold harmless Virginia Tech, its officers, agents and employees from the payment of all sums of money by reason of any claim against them arising out of any and all occurrences resulting in bodily or mental injury or property damage that may happen to occur in connection with and during the performance of the contract, including but not limited to claims under the Worker's Compensation Act. The contractor agrees that it will, at all times, after the completion of the work, be responsible for, indemnify, defend and hold harmless Virginia Tech, its officers, agents and employees from all liabilities resulting from bodily or mental injury or property damage directly or indirectly arising out of the performance or nonperformance of the contract.

13. PROPOSAL/BID ACCEPTANCE PERIOD: Any Proposal/Bid received in response to this solicitation shall be valid for 120 days. At the end of the 120 days the Proposal/Bid may be withdrawn at the written request of the offeror/bidder. If the Proposal/Bid is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.

14. PRIME CONTRACTOR RESPONSIBILITIES: The contractor shall be responsible for completely supervising and directing the work under this contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime Contractor. The contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.

15. SUBCONTRACTS: No portion of the work shall be subcontracted without prior written consent of Virginia Tech. In the event that the contractor desires to subcontract some part of the work specified herein, the contractor shall furnish Virginia Tech the names, qualifications and experience of their proposed subcontractors. The contractor shall, however, remain fully liable and responsible for the work to be done by his subcontractor(s) and shall assure compliance with all requirements of the contract.

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VIRGINIA COOPERATIVE CONTRACT ADDENDUM

This Cooperative Contract Addendum ("**Addendum**") is an agreement between the Commonwealth of Virginia, through its Department of General Services' Division of Purchases and Supply ("**DGS**") and [REDACTED] ("**Contractor**"), having its principal office at [REDACTED]. This Addendum relates to contract # [REDACTED] dated [REDACTED], between the Contractor and the Commonwealth of Virginia, [REDACTED] ("**Lead Entity**"), including any future amendments that may be made to it (the "**Cooperative Contract**").

Pursuant to Va. Code §§ 2.2-4304(B), 2.2-1110, and 2.2-1111, authorities, departments, agencies, and institutions of the Commonwealth of Virginia can purchase non-technology goods and services under cooperative contracts only when authorized by DGS or statutorily exempted from the above Code provisions. Contractor wishes to make the Cooperative Contract available for use by such entities. DGS is willing to permit such use only if certain contractual provisions apply to such purchases, as required by Virginia state law or policy. In consideration of the convenience of using the Cooperative Contract and this Addendum without having to identify and negotiate revisions to all the particular provisions of the Cooperative Contract that may be affected, and in consideration of the resulting purchases, the Contractor and DGS agree as follows:

- Purchases Subject to this Addendum.** This Addendum shall apply automatically to every purchase that any authority, department, agency, or institution of the Commonwealth of Virginia makes under the Cooperative Contract. (No specific reference to this Addendum is required.) However, this Addendum shall not apply to purchases made by the College of William and Mary, George Mason University, James Madison University, Longwood University, Old Dominion University, Radford University, University of Virginia, Virginia Commonwealth University, Virginia Polytechnic Institute and State University, Virginia Military Institute, or other State entities that are exempt from Va. Code § 2.2-4304(B), § 2.2-1110, and § 2.2-1111. Counties, cities, towns, and other political subdivisions in Virginia may elect to have this Addendum apply to their purchases under the Cooperative Contract by placing their purchase order through the Commonwealth's electronic procurement system known as "eVA." In this Addendum, "**Purchasing Agency**" means any entity that makes a purchase that is subject to this Addendum.
- Virginia Terms and Conditions for Covered Purchases.** The attached "Virginia General Terms and Conditions" and attached "Cooperative Special Terms and Conditions" are hereby incorporated in this Addendum. This Addendum shall be deemed a part of the contract governing any purchase that a Purchasing Agency makes under the Cooperative Contract. To the extent necessary to give full effect to this Addendum, the provisions of this Addendum shall supersede any provision of the Cooperative Contract that limits or is inconsistent with this Addendum.
- Supervisory Role of DGS.** The provisions of this Addendum cannot be waived or modified by any Purchasing Agency. This Addendum is for the benefit of, and is enforceable by, each Purchasing Agency and DGS, or either of them. Any payment or other obligation for orders or purchases shall be solely the responsibility of the Purchasing Agency and not DGS. Nothing in this Addendum shall limit DGS's right and authority to approve or disapprove future use of the Cooperative Contract by Purchasing Agencies.
- Adjustments to Cooperative Contract.** This Addendum does not prevent the Contractor and a Purchasing Agency from supplementing or altering the Cooperative Contract solely for that Purchasing Agency's order; however, any adjustments must be within the general scope of what is included in the contract. In addition, this Addendum does not prevent the Contractor and Lead Entity from supplementing or altering the Cooperative Contract for orders placed after the Purchasing

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Agency has notice of such amendment. However, in both cases, if any such additional or different provision or modification is inconsistent with a provision of this Addendum, the inconsistent provision shall not apply to Purchasing Agencies and shall be superseded by the Addendum provision. The Contractor shall promptly notify DGS of any amendments to the Cooperative Contract made by the Contractor and Lead Entity.

- 5. **Overlapping Terminology.** This Addendum uses Virginia provisions, which include words or phrases that may also appear in the Cooperative Contract or other documents originating with the Contractor or Lead Entity, and may even be given specific definitions in the Cooperative Contract. Any such overlapping terminology is coincidental and not intended to alter the meaning of the words as used in the Virginia provisions. Similarly, the fact that the Contractor and DGS have agreed to certain definitions in this Addendum shall not be deemed to affect the meaning of those words as used in the Cooperative Contract, unless the intention to do so is clearly stated.
- 6. **Notices.** Unless either Party provides the other Party with written notice of a different name and address for notices, any notices between DGS and the Contractor shall be sent to the representative who signed this Addendum, at the physical or electronic address shown below such signature.
- 7. **Applicable Law and Venue.** This Addendum shall be governed solely and in all respects by the laws of the Commonwealth of Virginia without regard to its choice-of-law rules, and any litigation with respect thereto shall be brought solely in the courts of the Commonwealth.
- 8. **Complete Agreement; Modification.** This two-page document, together with the attached “Virginia General Terms And Conditions” and attached “Cooperative Special Terms and Conditions,” constitute the complete and final expression of the agreement between DGS and the Contractor regarding any purchase that a Purchasing Agency makes under the Cooperative Contract. This Addendum can be modified only in a writing signed by DGS and the Contractor.

IN WITNESS WHEREOF, the parties hereby execute this Addendum, intending to be bound.

COMMONWEALTH OF VIRGINIA
Through its Department of General Services

[Redacted Signature Line]

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address for Notices:

Address for Notices:

Division of Purchases and Supply
Department of General Services
Patrick Henry Building, 6th Floor
1111 E. Broad St.
Richmond, VA 23219

[Redacted Address Line 1]
[Redacted Address Line 2]
[Redacted Address Line 3]

Email: [Redacted Email Address]

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VIRGINIA GENERAL TERMS AND CONDITIONS

- A. **VENDORS MANUAL:** The Addendum, Cooperative Contract, and every related purchase order by a Purchasing Agency (all of the foregoing being referred to collectively and individually in this Addendum as the “**contract**”) are subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The process for filing a complaint about this solicitation is in section 7.13 of the Vendors Manual. (Note section 7.13 does not apply to protests of awards or formal contractual claims.) The procedure for filing contractual claims is in section 7.19 of the Vendors Manual. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.eva.virginia.gov under “I Sell To Virginia”.
- B. **APPLICABLE LAWS AND COURTS:** The contract shall be governed solely and in all respects by the laws of the Commonwealth of Virginia, without regard to its choice of law provisions, and any litigation with respect thereto shall be brought in the circuit courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. **ANTI-DISCRIMINATION:** Contractor certifies to the Commonwealth 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, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act (VPPA). If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender sexual orientation, gender identity, or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, 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.
 - b. 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.
 - c. 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.
 - d. If the contractor employs more than five employees, the contractor shall (i) provide annual training on the contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the contractor owns or leases for business purposes and (b) the contractor's employee handbook.

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- e. The requirements of these provisions 1. and 2. are a material part of the contract. If the Contractor violates one of these provisions, the Commonwealth may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment from State contracting regardless of whether the specific contract is terminated.
 - f. In accordance with Executive Order 61 (2017), a prohibition on discrimination by the contractor, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, is hereby incorporated in this contract.
2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- D. **ETHICS IN PUBLIC CONTRACTING:** The Contractor certifies that its proposal underlying the contract was made without collusion or fraud and that it did not offer or receive any kickbacks or inducements from any other supplier, manufacturer or subcontractor in connection with such bid or proposal, and it has not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** The Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- F. **DEBARMENT STATUS:** Contractor certifies that it is not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by the contract, nor is it an agent of any person or entity that is currently so debarred.
- If a vendor is created or used for the purpose of circumventing a debarment decision against another vendor, the non-debarred vendor will be debarred for the same time period as the debarred vendor.
- G. **ANTITRUST:** By acceptance of the Purchasing Agency's payment for a purchase order under the contract, the Contractor conveys, sells, assigns, and transfers to the Purchasing Agency all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Purchasing Agency under that purchase order.
- H. **PAYMENT:**
1. **To Prime Contractor:**
 - a. Invoices for items ordered, delivered, and accepted shall be billed to the Purchasing Agency and submitted by the Contractor directly to the payment address shown on the purchase order. All invoices shall show the state contract number and/or purchase order number, social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations). Any payment or other obligation for orders or purchases shall be solely the responsibility of the Purchasing Agency that placed the order and shall not be an obligation of the Department of General Services.

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- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
 - c. All goods or services provided under the contract or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the contract price, regardless of which public agency is being billed.
 - d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
 - e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be resolved in accordance with *Code of Virginia*, § 2.2-4363 and -4364. Upon determining that invoiced charges are not reasonable, the Commonwealth shall notify the contractor of defects or improprieties in invoices within fifteen (15) days as required in *Code of Virginia*, § 2.2-4351.,. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).
2. To Subcontractors:
- a. Within seven (7) days of the contractor's receipt of payment from the Commonwealth, a contractor awarded a contract under this solicitation is hereby obligated:
 - (1) To pay the subcontractor(s) for the proportionate share of the payment received for work performed by the subcontractor(s) under the purchase order; or
 - (2) To notify the Purchasing Agency and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
 - b. The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Purchasing Agency, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth or Purchasing Agency.
3. Each prime contractor who wins an award in which provision of a SWaM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWaM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.
4. The Commonwealth of Virginia encourages Contractors and subcontractors to accept electronic and credit card payments.
- I. **DRUG-FREE WORKPLACE:** During the performance of the contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to

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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.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a purchase order issued by a Purchasing Agency to the Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- J. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION:** The eVA Internet electronic procurement solution, website portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet procurement solution by completing the free eVA Vendor Registration. All contractors must register in eVA and pay the Vendor Transaction Fees specified below.

Vendor transaction fees are determined by the date the original purchase order is issued and are as follows:

- a. For orders issued July 1, 2014 and after, the Vendor Transaction Fee is:
- (i) DSBSD-certified Small Businesses: 1%, capped at \$500 per order.
 - (ii) Businesses that are not DSBSD-certified Small Businesses: 1%, capped at \$1,500 per order.

For order issued prior to July 1, 2014 the vendor transaction fees can be found at www.eVA.virginia.gov.

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, approximately 30 days after the corresponding purchase order is issued and payable 30 days after the invoice date. Any adjustments (increases/decreases) will be handled through purchase order changes.

- K. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the Purchasing Agency shall be bound under the contract only to the extent of the funds legally available or which may hereafter become legally available for the purpose of the contract.
- L. **AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:** If the Contractor is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, the Contractor shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. If the Contractor is described above, it shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. The Purchasing Agency may void any purchase order if the Contractor is described above and fails to remain in compliance with the provisions of this section.
- M. **UNAUTHORIZED TERMS:** Any provision of the contract that purports to do the following shall be of no effect and shall not be deemed a part of the contract even if specifically agreed to by the Purchasing Agency: (1) requiring the Commonwealth or Purchasing Agency to indemnify or hold the Contractor, its subcontractors, suppliers, or any of their officers, agents, or employees harmless; (2) imposing interest charges contrary to that specified by the Code of Virginia, § 2.2-4347 through 2.2-4354; binding the Commonwealth or Purchasing Agency to any arbitration process; (3) obligating the Commonwealth or Purchasing Agency to pay costs of collection or attorney's fees; (4) granting the Contractor a security interest in property of the Commonwealth or Purchasing Agency; (5) prohibiting the Commonwealth or

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Purchasing Agency from disclosing prices; (6) prohibiting the Commonwealth or Purchasing Agency from complying with any law applicable to them; or (7) bestowing any right or incurring any obligation that is beyond the legal authority of the Purchasing Agency's representative to bestow or incur on behalf of the Commonwealth or Purchasing Agency.

- N. **PRECEDENCE OF TERMS; COOPERATIVE SPECIAL TERMS AND CONDITIONS:** If there is any inconsistency within this Addendum, such inconsistency shall be resolved in the following order of precedence: (1) Pages 1 and 2 of this Addendum; (2) Virginia General Terms and Conditions "A" through "N"; (3) the attached Cooperative Special Terms and Conditions; and (4) Virginia General Terms and Conditions "O" through "W."
- O. **QUALIFICATIONS OF CONTRACTOR:** The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the Contractor to perform the services/furnish the goods, and the Contractor shall furnish to the Commonwealth all such information and data for this purpose as may be requested.
- P. **TESTING AND INSPECTION:** The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- Q. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the Contractor in whole or in part without the written consent of the Commonwealth.
- R. **CHANGES TO THE PURCHASE ORDER:** Changes can be made in connection with a purchase order from a Purchasing Agency in any of the following ways:
1. The parties (Purchasing Agency and Contractor) may agree in writing to modify the scope of the purchase order. An increase or decrease in the price of the purchase order resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the purchase order.
 2. The Purchasing Agency may order changes within the general scope of the purchase order at any time by written notice to the Contractor. Changes within the scope of the purchase order include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Purchasing Agency shall compensate the Contractor for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:
 - a. By mutual agreement between the parties in writing; or
 - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the Contractor's records and/or to determine the correct number of units independently; or
 - c. By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present the Purchasing Agency with all vouchers and expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the Contractor as it deems necessary to determine costs or savings. Any adjustment in price under this provision must be asserted by written notice to the Agency within thirty (30) days from the date of receipt of the written order from the Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the disputes provisions of the

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Commonwealth of Virginia *Vendors Manual*. 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 Purchasing Agency or with the performance of the contract generally.

- S. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Purchasing Agency, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.
- T. **TAXES:** Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against the contract to any Purchasing Agency shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

If sales or deliveries against the contract are not exempt, the contractor shall be responsible for the payment of such taxes unless the tax law specifically imposes the tax upon the buying entity and prohibits the contractor from offering a tax-included price.

- U. **TRANSPORTATION AND PACKAGING:** Contractor certifies and warrants that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.
- V. **INSURANCE:** Contractor certifies that it will have the following insurance coverage at the time the cooperative contract addendum is signed. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The Contractor further certifies that the Contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverage will be provided by companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
 2. Employer's Liability - \$100,000.
 3. Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia shall be added as an additional insured to the policy by an endorsement.
 4. Automobile Liability - \$1,000,000 combined single limit. (Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Contractor must assure that the required coverage is maintained by the Contractor (or third party owner of such motor vehicle.)
- W. **NONDISCRIMINATION OF CONTRACTORS:** A contractor shall not be discriminated against in the award of this cooperative addendum because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the contractor employs ex-offenders unless

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the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this cooperative addendum is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

- X. **CURRENCY**: The Contractor shall state prices in US dollars.
- Y. **CIVILITY IN STATE WORKPLACES**: The contractor shall take all reasonable steps to ensure that no individual, while performing work on behalf of the contractor or any subcontractor in connection with this agreement (each, a "Contract Worker"), shall engage in 1) harassment (including sexual harassment), bullying, cyber-bullying, or threatening or violent conduct, or 2) discriminatory behavior on the basis of race, sex, color, national origin, religious belief, sexual orientation, gender identity or expression, age, political affiliation, veteran status, or disability.

The contractor shall provide each Contract Worker with a copy of this Section and will require Contract Workers to participate in agency training on civility in the State workplace if contractor's (and any subcontractor's) regular mandatory training programs do not already encompass equivalent or greater expectations. Upon request, the contractor shall provide documentation that each Contract Worker has received such training.

For purposes of this Section, "State workplace" includes any location, permanent or temporary, where a Commonwealth employee performs any work-related duty or is representing his or her agency, as well as surrounding perimeters, parking lots, outside meeting locations, and means of travel to and from these locations. Communications are deemed to occur in a State workplace if the Contract Worker reasonably should know that the phone number, email, or other method of communication is associated with a State workplace or is associated with a person who is a State employee.

The Commonwealth of Virginia may require, at its sole discretion, the removal and replacement of any Contract Worker who the Commonwealth reasonably believes to have violated this Section.

This Section creates obligations solely on the part of the contractor. Employees or other third parties may benefit incidentally from this Section and from training materials or other communications distributed on this topic, but the Parties to this agreement intend this Section to be enforceable solely by the Commonwealth and not by employees or other third parties.

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COOPERATIVE SPECIAL TERMS AND CONDITIONS

No Cooperative Special Terms and Conditions are agreed to for this Addendum.

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VIRGINIA COOPERATIVE CONTRACT ADDENDUM

This Cooperative Contract Addendum ("**Addendum**") is an agreement between the Commonwealth of Virginia, through its Department of General Services' Division of Purchases and Supply ("**DGS**") and [REDACTED] ("**Contractor**"), having its principal office at [REDACTED]. This Addendum relates to contract # [REDACTED] dated [REDACTED], between the Contractor and the Commonwealth of Virginia, [REDACTED] ("**Lead Entity**"), including any future amendments that may be made to it (the "**Cooperative Contract**").

Pursuant to Va. Code §§ 2.2-4304(B), 2.2-1110, and 2.2-1111, authorities, departments, agencies, and institutions of the Commonwealth of Virginia can purchase non-technology goods and services under cooperative contracts only when authorized by DGS or statutorily exempted from the above Code provisions. Contractor wishes to make the Cooperative Contract available for use by such entities. DGS is willing to permit such use only if certain contractual provisions apply to such purchases, as required by Virginia state law or policy. In consideration of the convenience of using the Cooperative Contract and this Addendum without having to identify and negotiate revisions to all the particular provisions of the Cooperative Contract that may be affected, and in consideration of the resulting purchases, the Contractor and DGS agree as follows:

- Purchases Subject to this Addendum.** This Addendum shall apply automatically to every purchase that any authority, department, agency, or institution of the Commonwealth of Virginia makes under the Cooperative Contract. (No specific reference to this Addendum is required.) However, this Addendum shall not apply to purchases made by the College of William and Mary, George Mason University, James Madison University, Longwood University, Old Dominion University, Radford University, University of Virginia, Virginia Commonwealth University, Virginia Polytechnic Institute and State University, Virginia Military Institute, or other State entities that are exempt from Va. Code § 2.2-4304(B), § 2.2-1110, and § 2.2-1111. Counties, cities, towns, and other political subdivisions in Virginia may elect to have this Addendum apply to their purchases under the Cooperative Contract by placing their purchase order through the Commonwealth's electronic procurement system known as "eVA." In this Addendum, "**Purchasing Agency**" means any entity that makes a purchase that is subject to this Addendum.
- Virginia Terms and Conditions for Covered Purchases.** The attached "Virginia General Terms and Conditions" and attached "Cooperative Special Terms and Conditions" are hereby incorporated in this Addendum. This Addendum shall be deemed a part of the contract governing any purchase that a Purchasing Agency makes under the Cooperative Contract. To the extent necessary to give full effect to this Addendum, the provisions of this Addendum shall supersede any provision of the Cooperative Contract that limits or is inconsistent with this Addendum.
- Supervisory Role of DGS.** The provisions of this Addendum cannot be waived or modified by any Purchasing Agency. This Addendum is for the benefit of, and is enforceable by, each Purchasing Agency and DGS, or either of them. Any payment or other obligation for orders or purchases shall be solely the responsibility of the Purchasing Agency and not DGS. Nothing in this Addendum shall limit DGS's right and authority to approve or disapprove future use of the Cooperative Contract by Purchasing Agencies.
- Adjustments to Cooperative Contract.** This Addendum does not prevent the Contractor and a Purchasing Agency from supplementing or altering the Cooperative Contract solely for that Purchasing Agency's order; however, any adjustments must be within the general scope of what is included in the contract. In addition, this Addendum does not prevent the Contractor and Lead Entity from supplementing or altering the Cooperative Contract for orders placed after the Purchasing

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Agency has notice of such amendment. However, in both cases, if any such additional or different provision or modification is inconsistent with a provision of this Addendum, the inconsistent provision shall not apply to Purchasing Agencies and shall be superseded by the Addendum provision. The Contractor shall promptly notify DGS of any amendments to the Cooperative Contract made by the Contractor and Lead Entity.

- 5. **Overlapping Terminology.** This Addendum uses Virginia provisions, which include words or phrases that may also appear in the Cooperative Contract or other documents originating with the Contractor or Lead Entity, and may even be given specific definitions in the Cooperative Contract. Any such overlapping terminology is coincidental and not intended to alter the meaning of the words as used in the Virginia provisions. Similarly, the fact that the Contractor and DGS have agreed to certain definitions in this Addendum shall not be deemed to affect the meaning of those words as used in the Cooperative Contract, unless the intention to do so is clearly stated.
- 6. **Notices.** Unless either Party provides the other Party with written notice of a different name and address for notices, any notices between DGS and the Contractor shall be sent to the representative who signed this Addendum, at the physical or electronic address shown below such signature.
- 7. **Applicable Law and Venue.** This Addendum shall be governed solely and in all respects by the laws of the Commonwealth of Virginia without regard to its choice-of-law rules, and any litigation with respect thereto shall be brought solely in the courts of the Commonwealth.
- 8. **Complete Agreement; Modification.** This two-page document, together with the attached “Virginia General Terms And Conditions” and attached “Cooperative Special Terms and Conditions,” constitute the complete and final expression of the agreement between DGS and the Contractor regarding any purchase that a Purchasing Agency makes under the Cooperative Contract. This Addendum can be modified only in a writing signed by DGS and the Contractor.

IN WITNESS WHEREOF, the parties hereby execute this Addendum, intending to be bound.

COMMONWEALTH OF VIRGINIA
Through its Department of General Services

[Redacted Signature Line]

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address for Notices:

Address for Notices:

Division of Purchases and Supply
Department of General Services
Patrick Henry Building, 6th Floor
1111 E. Broad St.
Richmond, VA 23219

[Redacted Address Line 1]
[Redacted Address Line 2]
[Redacted Address Line 3]

Email: [Redacted Email Address]

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VIRGINIA GENERAL TERMS AND CONDITIONS

- A. **VENDORS MANUAL:** The Addendum, Cooperative Contract, and every related purchase order by a Purchasing Agency (all of the foregoing being referred to collectively and individually in this Addendum as the “**contract**”) are subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The process for filing a complaint about this solicitation is in section 7.13 of the Vendors Manual. (Note section 7.13 does not apply to protests of awards or formal contractual claims.) The procedure for filing contractual claims is in section 7.19 of the Vendors Manual. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.eva.virginia.gov under “I Sell To Virginia”.
- B. **APPLICABLE LAWS AND COURTS:** The contract shall be governed solely and in all respects by the laws of the Commonwealth of Virginia, without regard to its choice of law provisions, and any litigation with respect thereto shall be brought in the circuit courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. **ANTI-DISCRIMINATION:** Contractor certifies to the Commonwealth 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, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act (VPPA). If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender sexual orientation, gender identity, or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, 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.
 - b. 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.
 - c. 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.
 - d. If the contractor employs more than five employees, the contractor shall (i) provide annual training on the contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the contractor owns or leases for business purposes and (b) the contractor's employee handbook.

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- e. The requirements of these provisions 1. and 2. are a material part of the contract. If the Contractor violates one of these provisions, the Commonwealth may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment from State contracting regardless of whether the specific contract is terminated.
 - f. In accordance with Executive Order 61 (2017), a prohibition on discrimination by the contractor, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, is hereby incorporated in this contract.
2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- D. **ETHICS IN PUBLIC CONTRACTING:** The Contractor certifies that its proposal underlying the contract was made without collusion or fraud and that it did not offer or receive any kickbacks or inducements from any other supplier, manufacturer or subcontractor in connection with such bid or proposal, and it has not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** The Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- F. **DEBARMENT STATUS:** Contractor certifies that it is not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by the contract, nor is it an agent of any person or entity that is currently so debarred.
- If a vendor is created or used for the purpose of circumventing a debarment decision against another vendor, the non-debarred vendor will be debarred for the same time period as the debarred vendor.
- G. **ANTITRUST:** By acceptance of the Purchasing Agency's payment for a purchase order under the contract, the Contractor conveys, sells, assigns, and transfers to the Purchasing Agency all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Purchasing Agency under that purchase order.
- H. **PAYMENT:**
1. **To Prime Contractor:**
 - a. Invoices for items ordered, delivered, and accepted shall be billed to the Purchasing Agency and submitted by the Contractor directly to the payment address shown on the purchase order. All invoices shall show the state contract number and/or purchase order number, social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations). Any payment or other obligation for orders or purchases shall be solely the responsibility of the Purchasing Agency that placed the order and shall not be an obligation of the Department of General Services.

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- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
 - c. All goods or services provided under the contract or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the contract price, regardless of which public agency is being billed.
 - d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
 - e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be resolved in accordance with *Code of Virginia*, § 2.2-4363 and -4364. Upon determining that invoiced charges are not reasonable, the Commonwealth shall notify the contractor of defects or improprieties in invoices within fifteen (15) days as required in *Code of Virginia*, § 2.2-4351.,. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).
2. To Subcontractors:
- a. Within seven (7) days of the contractor's receipt of payment from the Commonwealth, a contractor awarded a contract under this solicitation is hereby obligated:
 - (1) To pay the subcontractor(s) for the proportionate share of the payment received for work performed by the subcontractor(s) under the purchase order; or
 - (2) To notify the Purchasing Agency and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
 - b. The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Purchasing Agency, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth or Purchasing Agency.
3. Each prime contractor who wins an award in which provision of a SWaM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWaM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.
4. The Commonwealth of Virginia encourages Contractors and subcontractors to accept electronic and credit card payments.
- I. **DRUG-FREE WORKPLACE:** During the performance of the contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to

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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.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a purchase order issued by a Purchasing Agency to the Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- J. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION:** The eVA Internet electronic procurement solution, website portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet eprocurement solution by completing the free eVA Vendor Registration. All contractors must register in eVA and pay the Vendor Transaction Fees specified below.

Vendor transaction fees are determined by the date the original purchase order is issued and are as follows:

- a. For orders issued July 1, 2014 and after, the Vendor Transaction Fee is:
- (i) DSBSD-certified Small Businesses: 1%, capped at \$500 per order.
 - (ii) Businesses that are not DSBSD-certified Small Businesses: 1%, capped at \$1,500 per order.

For order issued prior to July 1, 2014 the vendor transaction fees can be found at www.eVA.virginia.gov.

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, approximately 30 days after the corresponding purchase order is issued and payable 30 days after the invoice date. Any adjustments (increases/decreases) will be handled through purchase order changes.

- K. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the Purchasing Agency shall be bound under the contract only to the extent of the funds legally available or which may hereafter become legally available for the purpose of the contract.
- L. **AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:** If the Contractor is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, the Contractor shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. If the Contractor is described above, it shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. The Purchasing Agency may void any purchase order if the Contractor is described above and fails to remain in compliance with the provisions of this section.
- M. **UNAUTHORIZED TERMS:** Any provision of the contract that purports to do the following shall be of no effect and shall not be deemed a part of the contract even if specifically agreed to by the Purchasing Agency: (1) requiring the Commonwealth or Purchasing Agency to indemnify or hold the Contractor, its subcontractors, suppliers, or any of their officers, agents, or employees harmless; (2) imposing interest charges contrary to that specified by the Code of Virginia, § 2.2-4347 through 2.2-4354; binding the Commonwealth or Purchasing Agency to any arbitration process; (3) obligating the Commonwealth or Purchasing Agency to pay costs of collection or attorney's fees; (4) granting the Contractor a security interest in property of the Commonwealth or Purchasing Agency; (5) prohibiting the Commonwealth or

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Purchasing Agency from disclosing prices; (6) prohibiting the Commonwealth or Purchasing Agency from complying with any law applicable to them; or (7) bestowing any right or incurring any obligation that is beyond the legal authority of the Purchasing Agency's representative to bestow or incur on behalf of the Commonwealth or Purchasing Agency.

- N. **PRECEDENCE OF TERMS; COOPERATIVE SPECIAL TERMS AND CONDITIONS:** If there is any inconsistency within this Addendum, such inconsistency shall be resolved in the following order of precedence: (1) Pages 1 and 2 of this Addendum; (2) Virginia General Terms and Conditions "A" through "N"; (3) the attached Cooperative Special Terms and Conditions; and (4) Virginia General Terms and Conditions "O" through "W."
- O. **QUALIFICATIONS OF CONTRACTOR:** The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the Contractor to perform the services/furnish the goods, and the Contractor shall furnish to the Commonwealth all such information and data for this purpose as may be requested.
- P. **TESTING AND INSPECTION:** The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- Q. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the Contractor in whole or in part without the written consent of the Commonwealth.
- R. **CHANGES TO THE PURCHASE ORDER:** Changes can be made in connection with a purchase order from a Purchasing Agency in any of the following ways:
1. The parties (Purchasing Agency and Contractor) may agree in writing to modify the scope of the purchase order. An increase or decrease in the price of the purchase order resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the purchase order.
 2. The Purchasing Agency may order changes within the general scope of the purchase order at any time by written notice to the Contractor. Changes within the scope of the purchase order include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Purchasing Agency shall compensate the Contractor for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:
 - a. By mutual agreement between the parties in writing; or
 - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the Contractor's records and/or to determine the correct number of units independently; or
 - c. By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the Contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the disputes provisions of the Commonwealth of

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Virginia Vendors Manual. 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 Purchasing Agency or with the performance of the contract generally.

- S. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Purchasing Agency, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.
- T. **TAXES:** Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against the contract to any Purchasing Agency shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

If sales or deliveries against the contract are not exempt, the contractor shall be responsible for the payment of such taxes unless the tax law specifically imposes the tax upon the buying entity and prohibits the contractor from offering a tax-included price.

- U. **TRANSPORTATION AND PACKAGING:** Contractor certifies and warrants that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.
- V. **INSURANCE:** Contractor certifies that it will have the following insurance coverage at the time the cooperative contract addendum is signed. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The Contractor further certifies that the Contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverage will be provided by companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
 2. Employer's Liability - \$100,000.
 3. Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia shall be added as an additional insured to the policy by an endorsement.
 4. Automobile Liability - \$1,000,000 combined single limit. (Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Contractor must assure that the required coverage is maintained by the Contractor (or third party owner of such motor vehicle.)
- W. **NONDISCRIMINATION OF CONTRACTORS:** A contractor shall not be discriminated against in the award of this cooperative addendum because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the contractor employs ex-offenders unless

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the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this cooperative addendum is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

- X. **CURRENCY:** The Contractor shall state prices in US dollars.
- Y. **CIVILITY IN STATE WORKPLACES:** The contractor shall take all reasonable steps to ensure that no individual, while performing work on behalf of the contractor or any subcontractor in connection with this agreement (each, a "Contract Worker"), shall engage in 1) harassment (including sexual harassment), bullying, cyber-bullying, or threatening or violent conduct, or 2) discriminatory behavior on the basis of race, sex, color, national origin, religious belief, sexual orientation, gender identity or expression, age, political affiliation, veteran status, or disability.

The contractor shall provide each Contract Worker with a copy of this Section and will require Contract Workers to participate in agency training on civility in the State workplace if contractor's (and any subcontractor's) regular mandatory training programs do not already encompass equivalent or greater expectations. Upon request, the contractor shall provide documentation that each Contract Worker has received such training.

For purposes of this Section, "State workplace" includes any location, permanent or temporary, where a Commonwealth employee performs any work-related duty or is representing his or her agency, as well as surrounding perimeters, parking lots, outside meeting locations, and means of travel to and from these locations. Communications are deemed to occur in a State workplace if the Contract Worker reasonably should know that the phone number, email, or other method of communication is associated with a State workplace or is associated with a person who is a State employee.

The Commonwealth of Virginia may require, at its sole discretion, the removal and replacement of any Contract Worker who the Commonwealth reasonably believes to have violated this Section.

This Section creates obligations solely on the part of the contractor. Employees or other third parties may benefit incidentally from this Section and from training materials or other communications distributed on this topic, but the Parties to this agreement intend this Section to be enforceable solely by the Commonwealth and not by employees or other third parties.

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COOPERATIVE SPECIAL TERMS AND CONDITIONS

No Cooperative Special Terms and Conditions are agreed to for this Addendum.



VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY
PROCUREMENT DEPARTMENT

ADDENDUM NO. 1

DATE: June 2, 2023
TO: All Offerors
FROM: John Spence, Sr. Buyer
TOTAL PAGE(S): Two (2) pages (not including attachments)
SOLICITATION TITLE: Construction Insurance Consulting Services
SOLICITATION NUMBER: 154542303

I. CLARIFICATIONS AND ADDITIONAL INFORMATION

NONE

II. REQUESTS FOR INFORMATION

1. This solicitation is for consulting only?

Virginia Tech Response: Yes, the intent is to establish an as-needed, on-demand basis, term contract with a consultant to assist in analyzing the best insurance model on a project-by-project basis.

2. Will the selected Proposer be eligible to bid on insuring the work if they participate as a consultant in the determination of how it should be insured?

Virginia Tech Response: Yes. So long as the Offeror does not produce the associated Scope of Work that is being solicited, the Offeror would be eligible to participate. The University does not plan to utilize this contract to draft the Scope of Work.

3. Is there a current CIP program in place for VT?

Virginia Tech Response: No.

4. There is no brokerage of procurement of construction insurance planned currently?

Virginia Tech Response: Correct.

5. Is there an additional solicitation to be released for brokerage and placement of construction insurance, i.e., OCIP or CCIP insurance coverage?

Virginia Tech Response: There is no specific additional solicitation planned or anticipated at this time, but there may be future solicitation(s) of this nature. Participation in those solicitation(s) would be permitted as described in the response to Question #2.

6. Are feasibility studies a requirement of this solicitation?

Virginia Tech Response: Feasibility studies are not a requirement of this solicitation.

7. Can Lockton share this solicitation with strictly construction consulting firms for their review and consideration to respond?

Virginia Tech Response: This solicitation is public, you may share as you deem appropriate.

8. What is the most common way VT typically procures insurance for their projects? Traditional / CCIP?

Virginia Tech Response: Traditional.

9. Has VT ever performed an OCIP in the past?

Virginia Tech Response: No.

10. Are there specific educational/advisory resources VT is looking for?

Virginia Tech Response: Not at this time. The intent is to establish an as-needed term contract with Offeror to assist with 1) general construction insurance advice and guidance, when needed; and 2) analyzing proposed insurance products on capital projects a project-by-project basis. See Section VI.A.1-2 for more details on the type of support requested by Virginia Tech.

11. The Cost Proposal references hourly rates, approximately how many hours would you expect to receive from a partner?

Virginia Tech Response: This will vary depending on the amount of capital work upcoming. When services are required, Virginia Tech will engage the Offeror to obtain a proposal for the scope of work. The submitted proposals total effort and cost will be dependent on the scope of work. The submitted hourly rates (or pricing structure) will be required to be used for pricing and will be the basis of the proposed cost. Please submit your proposed rate structure. Virginia Tech will consider rate structures that are not hourly rate based.

12. For existing Virginia Tech Contractors, will these construction insurance consulting services require a new agreement? Or will they be included by addendum under an existing agreement?

Virginia Tech Response: The University intends to issue a new agreement for the services solicited.

13. In Section VI of the RFP, you state that general insurance brokerage services are out of scope. Will the selected "on call" construction insurance consultants be eliminated as candidates for general/transactional insurance brokerage services while under contract?

Virginia Tech Response: Please see response to Question #2.

14. Per Section VIII of the RFP, SWaM participation is scored at 10%. Is there a specific SWaM goal (% of compensation, etc.)? Is there a bonus for including specific SWaM subs upon contract award?

Virginia Tech Response: Registered SWaM proposers are awarded the full 10 points. Guaranteed compensation to registered SWaM subs awards partial points (3 points for under 50% of total contract value, 5 points for over 50% of total contract value).

15. You ask for a cost proposal that outlines job titles, responsibilities, and corresponding hourly rates. Are you open to alternative fee structures?

Virginia Tech Response: Yes, please submit your proposed fee structure.

2. All other terms, conditions and descriptions remain the same.
3. The due date and hour is now June 12, 2023 at 3:00 PM.

I acknowledge that I have read and understand this addendum in its entirety.

Signature

Date

The logo for RCM&D, with 'RCM' in white and '&D' in green, underlined with a white bar.

RCM&D

A UNISON RISK ADVISORS Company

RESPONSE TO REQUEST FOR PROPOSAL

**Virginia Polytechnic Institute and
State University**

June 12, 2023

rcmd.com | 800.346.4075

RESPONSE TO REQUEST FOR PROPOSAL

for

Virginia Polytechnic Institute and
State University

RFP #154542303 - REDACTED COPY

Presented by:
James Shewey, RCM&D
Tim Walsh, Oswald Companies

Submitted: June 12, 2023

4200 Innslake Drive Suite 303 | Glen Allen, VA 23060
800.346.4075 | rcmd.com

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A. Specific Requirements

Proposals should be as thorough and detailed as possible so that Virginia Tech may properly evaluate your capabilities to provide the required goods or services. Offerors are required to submit the following information/items as a complete proposal:

1. Statement of Understanding:

Offeror shall provide a written statement of understanding of the scope identified herein stating in clear and concise manner the Offeror's understanding of the scope and nature of required services.

RCM&D is proud to submit the proposal for construction risk management insurance consulting services to Virginia Polytechnic Institute and State University. RCM&D, a Unison Risk Advisors Company is submitting this proposal alongside our partner, Oswald Companies. Both companies will be referred to as "Unison Risk Advisors" or "URA" throughout the response. RCM&D and Oswald are ranked among the top independent insurance advisory firms in the country. Unison Risk Advisors was formed because we are committed to an independent brokerage service model. We believe clients are best served by professionally managed and well-resourced firms that can act independently upon the best interests of our clients. Together, RCM&D and Oswald have the local presence, history and construction expertise to be the perfect partner for Virginia Tech.

RCM&D has met with Virginia Tech a few times; we understand your goals, culture and dedication to the university and we want to honor that through our work with you. We are committed to working with Virginia Tech; our team would come to campus and work directly with your team onsite.

RCM&D values our longstanding relationship with Virginia Tech Foundation and it would be very meaningful if the URA construction and project team can work with Virginia Tech as well. Please let us know if you have any questions during your proposal evaluation process and we look forward to discussing our capabilities with you.

Best,

James Shewey

James Shewey, RCM&D
jshewey@rcmd.com | [REDACTED]

Tim Walsh

Tim Walsh, Oswald Companies
twalsh@oswaldcompanies.com | [REDACTED]



We confirm our understanding of the services requested under this RFP as follows.

Virginia Tech is seeking construction risk management insurance consulting services, on an as needed basis, to assist the university in evaluating risk transfer and risk financing options for its capital construction projects. The services require the expertise of an advisor who understands both the risks from an owner-perspective and be equally adept at advising on insurance alternatives available to contractors to insure project risks.

As your project risk advisor, we would partner with you in the following ways:

1. Serve as your agnostic advisor, providing you with the most objective advice in managing capital project insurance risks.
2. Meet with Virginia Tech stakeholders to understand your risk management strategies, risk appetite and goals. This will form the lens upon which each project is evaluated and recommendations are formed.
3. Perform a disciplined, comprehensive, formal review of the project, significant project risks, contractual risks and insurance coverage options.
4. Assist in negotiations with contractors regarding insurance contractual issues, financial pro-forma's, coverage terms and pricing to ensure Virginia Tech's interests are adequately protected at the most economical cost.
5. Quality control contractor-furnished insurance documents to ensure they meet the contractual requirements.
6. Serve as your ongoing advisor regarding trends in the construction insurance marketplace, construction risk management training and an ongoing resource.



2. Work Plan Summary

Include a narrative description of the proposed effort and a list of items to be delivered or services to be provided when completing work under Section VI.A. above. Use the task descriptions in Section VI.A. of this RFP as your reference point. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. The following documentation should also be provided:

Confidential information and not included in the redacted version. Please see the original proposal that includes this information.

a. Exposure collection or project information collection templates used to collect information to assess insurance programs (or samples of the same).

Confidential information and not included in the redacted version. Please see the original proposal that includes this information.

b. Offeror's approach to insurance program analysis. Discuss briefly any distinguishing characteristics of program review where Offeror's clients have realized significant savings and how else they benefited from your services.

Confidential information and not included in the redacted version. Please see the original proposal that includes this information.

c. Examples of analysis and/or reports that could be generated as part of your services.

Confidential information and not included in the redacted version. Please see the original proposal that includes this information.



3. Offeror Organizational Capabilities

a. Business locations:

RCM&D has offices throughout the mid-Atlantic region from Pennsylvania to Virginia. Our HQ are located in Baltimore, MD. The primary office supporting this response is located in Richmond, Virginia. Oswald has offices throughout the Midwest.

As a whole, Unison Risk Advisors serves more than 20,000 personal and business clients and has annual revenues of more than \$140 million. Our clients are regional, national and international in various industries, including construction, education, healthcare, hospitality, professional services (law firms, engineering, architecture, finance), real estate, and more. Unison Risk Advisors features a combined workforce of more than 650 employees in 13 office locations throughout the mid-Atlantic and Midwest.

Currently, Unison Risk Advisors is made up of two primary operating companies (RCM&D and The Oswald Companies) and all their existing subsidiaries and sub-brands. Additionally, Unison Risk Advisors is uniquely positioned to bring on other like-minded firms under its umbrella in the future.



b. Areas of specialization and expertise:

Unison Risk Advisors' Design | Construction is one of the most highly regarded insurance teams in the design and construction industry. With 31 professionals dedicated solely to this space, supported by over a dozen other professionals in safety, claims and specialized brokerage.

Our influence and visibility in this space occurs at a local, statewide and national level. Locally, we are active members of the Certified Financial Managers Association (CFMA) and COGENCE, an associated dedicated to delivering more collaborative project delivery for owners, design professionals and contractors. Statewide, we are frequent speakers and active members in over a dozen different associates (see below for related logos). In addition, we are consulting the Ohio Facilities Construction Commission on revisions to their standard form agreements and advisor to the Cleveland Employer's Association.



Nationally, we are frequent speakers at industry events - International Risk Management Institute (IRMI), Professional Liability Action Network (PLAN), American Institute of Architects (AIA), Certified Financial Managers Association (CFMA), Associated General Contractors (AGC) and various other industry events. We attend the annual AGC Surety Bonding and Construction Risk Management conference to stay current on trends and issues from some of the industry's leading construction companies. Lastly, we stay current with our formal engagement with one of the construction industries leading policyholder law firms that provide in-house training as well as provide notifications of relevant legal cases.

c. Client base:

As one of the largest independent insurance brokers in the United States (top 30 of all brokers, top 5 independent brokers), Unison Risk Advisors' client base is significant and includes more than 20,000 clients and in excess of \$140,000,000 in annual revenues. Our construction division is one of our largest industry verticals and includes brokerage and consulting work performed for large general contractors, owners, developers and trade contractors.

d. Offeror must provide curriculum vitae, resume or capabilities statement for all personnel that may be assigned to Virginia Tech; this should include relevant experience and certifications and detail the personnel's experience with public entity insurance program design, administration, and analysis, particularly with OCIPs and/or CCIPs;

Please see the proposed service team below. This includes members from the RCM&D and Oswald team. Every team member has experience working with public entities and OCIP and CCIP projects, except James as he is only serving as the relationship manager for Virginia Tech. For more information on each team member, see [Appendix D – Service Team Biographies](#).



James Shewey
Virginia Market Leader, RCM&D
[REDACTED]
jshewey@rcmd.com



Ryan Stabile
Client Manager | Project Risk Associate,
RCM&D
[REDACTED]
rstable@rcmd.com



Tim Walsh
Practice Leader – Design &
Construction, Oswald
[REDACTED]
twalsh@oswaldcompanies.com



Alex McMullen
Client Manager | Design &
Construction, Oswald
[REDACTED]
amcmullen@oswaldcompanies.com



Stephen Mainello
Construction & Surety Sales
Leader, RCM&D
[REDACTED]
smainello@rcmd.com



1) Offeror shall designate and name, in writing, a service team that will be available at any time upon reasonable notice regarding any and all matters relating to the services contemplated in this RFP.

- » James Shewey is the executive responsible for this engagement.
- » Tim Walsh will serve as the Principal for conducting the Project Risk Assessments, point of contact for contract issues and education.
- » Stephen Mainello will be the advisor on surety and SDI.
- » Alex McMullen & Ryan Stabile will be the Client Managers performing analytical assignments on the Project Risk Assessments.

e. Offeror shall identify any affiliated or unaffiliated entities or services providers that may be used to provide the service outlined in this RFP. Offeror shall submit curriculum vitae, resume, or capabilities statement for all personnel that may be assigned to Virginia Tech; this should include relevant experience and certifications and detail the personnel's experience with public entity insurance program design, administration, and analysis, particularly with traditional construction project insurance, OCIPs and/or CCIPs; and

RCM&D is leading the response to this RFP as a member of Unison Risk Advisors. Support will be provided jointly through RCM&D and Oswald, both Unison Risk Advisors companies, our combined qualifications are identified throughout this response.

f. Any other pertinent information that would aid Virginia Tech in formulating a determination about the stability and strength of the business, including the Offeror's organizational experience and history with development of the requirements within this RFP.

We dive deeper than the competition. For example, when negotiating a contract with a general contractor for a major project, we will take the time to not only require appropriate policies, limits, and additional insured language but also work to help Virginia Tech avoid even the most nuanced but potentially costly issues like horizontal exhaustion, employee over actions, and long-tail completed operations exposure.

- » **Horizontal exhaustion:** For example, Virginia Tech may not realize that often when a vendor lists Virginia Tech as an additional insured, it is only for that vendor's primary layer of coverage. The vendor's umbrella carrier will typically point the finger back at Virginia Tech and require Virginia Tech's carrier to pay (horizontal exhaustion) before it pays. We have a solution for this issue that can be achieved through effective insurance requirement drafting and negotiation.



- » **Employee over Actions:** If a contractor that has agreed to indemnify Virginia Tech and list Virginia Tech as an additional insured has an employee who is injured on Virginia Tech's premise, and that employee sues Virginia Tech, and Virginia Tech would look for protection from the contractor through the indemnification and additional insured requirements. However, in some cases, because of state law and/or insurance carrier exclusionary language, Virginia Tech could have to handle the claim through its own policy. We can identify situations where these issues are likely to arise and have solutions prepared to address them.

- » **Completed Operations:** To start, a review of the project statutory schemes is completed to understand the law of the jurisdiction that governs the contract. Then, a detailed review of the indemnification provisions is completed to determine areas where a client is required to indemnify for liability related to the project and areas where the client is expected to assume financial responsibility for certain exposures. Based on this, we will initiate a review, negotiation, and pricing of insurance terms and conditions that match the coverage of the indemnity provisions with the coverage of commercially available insurance. Completed operations can be a complicated exposure to properly transfer to a third party. Effective ECRM processes can combat these issues, but substantive expertise at the forefront of the contract negotiation is beneficial. To properly cover this exposure, we will help you evaluate the pros and cons of project-specific coverage vs. ongoing program coverage, the applicable statute of repose, tolling issues and the risk of contracting with parties with no assets.



4. Client References

Offeror shall provide as references the names, addresses, telephone numbers, email addresses, and contract person for at least (3) representative customers, preferably within public institutions. References must be for work that is of a similar size and scope as the scope anticipated in this RFP, or closely related, such as Offeror-managed OCIPs or CCIPs. Reference must not be from a person, company or organization with any special interest, financial or otherwise, in the Offeror.

The Port of Greater Cincinnati Development Authority



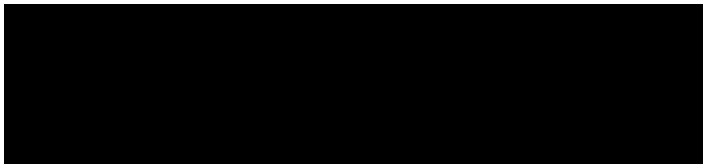
The Port was engaged in the demolition of a 32-story building. Oswald has hired to be their risk advisor on the project. We assisted in evaluating CCIP coverage, evaluating and negotiating coverages with the CM and demolition contractor and with the CM pre-construction services agreement.



The Max Collaborative



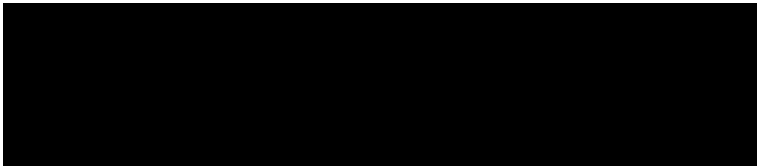
The Max Collaborative (developer) has engaged Oswald on several projects in CA, CO, OH to assist with risk evaluation, evaluation of owner vs. contractor provided builder's risk and OCIP/CCIP and pollution legal liability placements.



Meridian Group Holdings, L.P.



Meridian has utilized RCM&D on multiple projects to evaluate options for OCIP, Project-Specific Coverage, Owner's Interest, CCIP, Contractors Pollution Liability and Builder's Risk.



6. Participation of Small, Women-owned and Minority-owned Business (“SWaM”) Business.

If your business cannot be classified as SWaM, describe your plan for utilizing SWaM subcontractors if awarded a contract. Describe your ability to provide reporting on SWaM subcontracting spend when requested. If Offeror or any business that Offeror plans to subcontract with can be classified as SWaM, but has not been certified by the Virginia Department of Small Business and Supplier Diversity (“SBSD”), it is expected that the certification process will be initiated no later than the time of the award. If Offeror is currently certified, Offeror agrees to maintain its certification for the life of the contract. For assistance with SWaM certification, visit the SBSB website at <http://www.sbsd.virginia.gov/>

RCM&D and Oswald are not classified as SWaM businesses; however, we will engage our MBE partner (and subsidiary of Oswald) Taylor Oswald for brokerage work that may be associated with this engagement. We commit to initiating the certification process no later than the time of the award.

Taylor Oswald Culture

Taylor Oswald, a minority-owned firm, was formed in 2011 as a partnership with Oswald. At Taylor Oswald, we foster a culture passionate about collaboration and teamwork across all aspects of our business, including client service, internal employee engagement, and community outreach. Our team uses its strong sense of accountability, independence, intelligence, and pragmatism to provide quality client solutions, maintain a positive work environment and serve our local communities.



Appendix A

Sample of Relevant Projects

The samples of our relevant projects are confidential information and not included in the redacted version. Please see the original proposal that includes this information.



Appendix B

Signature Page

RFP #154542303, Construction Insurance Consulting Services

INCLUDE THIS PAGE WITH YOUR PROPOSAL, SIGNATURE AT SUBMISSION IS REQUIRED

DUE DATE: Proposals will be received until June 5, 2023 at 3:00 PM. Failure to submit proposals to the correct location by the designated date and hour will result in disqualification.

INQUIRIES: All inquiries for information regarding this solicitation should be directed to John Spence, Phone: (540) 231- 3333; e-mail: jspenc@vt.edu. All inquiries will be answered in the form of an addendum. Inquiries must be submitted by 5:00pm on May 26, 2023 Inquiries must be submitted to the procurement officer identified in this solicitation.

PRE-PROPOSAL CONFERENCE: A pre-proposal conference will be held on May 16, 2023 at 2:00 PM. See RFP Section IX, Pre-proposal Conference for additional information.

PROPOSAL SUBMISSION:

****Please note, proposal submission procedures have changed effective March 2023**

Proposals may NOT be hand delivered to the Procurement Office.

Proposals shall be submitted electronically through Virginia Tech's procurement portal. This portal allows you to access to view business opportunities and submit bids and proposals to Virginia Tech digitally.

Proposals must be submitted electronically at:

<https://bids.scquest.com/apps/Router/PublicEvent?CustomerOrg=VATech>

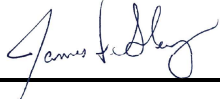
Vendors will need to register through this procurement portal, hosted by Jaggaer. **It is encouraged for all vendors to register prior to the proposal submission deadline to avoid late submissions.** Registration is easy and free. If you have any challenges with the registration process, please contact Jaggaer Support at 1-800-233-1121 or procurement@vt.edu.

Click on the opportunity and log in to your vendor account to begin preparing your submission. Upon completion, you will receive a submission receipt email confirmation. Virginia Tech will not confirm receipt of proposals. It is the responsibility of the offeror to make sure their proposal is delivered on time.

Hard copy or email proposals will not be accepted. Late proposals will not be accepted, nor will additional time be granted to any individual Vendor.

Attachments must be smaller than 50MB in order to be received by the University.

In compliance with this Request For Proposal and to all the conditions imposed therein and hereby incorporated by reference, the undersigned offers and agrees to furnish the goods or services in accordance with the attached signed proposal and as mutually agreed upon by subsequent negotiation.

AUTHORIZED SIGNATURE:  Date: 6/12/2023

06/27/2022

[INCLUDE THIS PAGE]

Appendix C

Addenda



VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY
PROCUREMENT DEPARTMENT

ADDENDUM NO. 1

DATE: June 2, 2023
TO: All Offerors
FROM: John Spence, Sr. Buyer
TOTAL PAGE(S): Two (2) pages (not including attachments)
SOLICITATION TITLE: Construction Insurance Consulting Services
SOLICITATION NUMBER: 154542303

I. CLARIFICATIONS AND ADDITIONAL INFORMATION

NONE

II. REQUESTS FOR INFORMATION

1. This solicitation is for consulting only?

Virginia Tech Response: Yes, the intent is to establish an as-needed, on-demand basis, term contract with a consultant to assist in analyzing the best insurance model on a project-by-project basis.

2. Will the selected Proposer be eligible to bid on insuring the work if they participate as a consultant in the determination of how it should be insured?

Virginia Tech Response: Yes. So long as the Offeror does not produce the associated Scope of Work that is being solicited, the Offeror would be eligible to participate. The University does not plan to utilize this contract to draft the Scope of Work.

3. Is there a current CIP program in place for VT?

Virginia Tech Response: No.

4. There is no brokerage of procurement of construction insurance planned currently?

Virginia Tech Response: Correct.

5. Is there an additional solicitation to be released for brokerage and placement of construction insurance, i.e., OCIP or CCIP insurance coverage?

Virginia Tech Response: There is no specific additional solicitation planned or anticipated at this time, but there may be future solicitation(s) of this nature. Participation in those solicitation(s) would be permitted as described in the response to Question #2.

6. Are feasibility studies a requirement of this solicitation?

Virginia Tech Response: Feasibility studies are not a requirement of this solicitation.

7. Can Lockton share this solicitation with strictly construction consulting firms for their review and consideration to respond?

Virginia Tech Response: This solicitation is public, you may share as you deem appropriate.

8. What is the most common way VT typically procures insurance for their projects? Traditional / CCIP?

Virginia Tech Response: Traditional.

9. Has VT ever performed an OCIP in the past?

Virginia Tech Response: No.

10. Are there specific educational/advisory resources VT is looking for?

Virginia Tech Response: Not at this time. The intent is to establish an as-needed term contract with Offeror to assist with 1) general construction insurance advice and guidance, when needed; and 2) analyzing proposed insurance products on capital projects a project-by-project basis. See Section VI.A.1-2 for more details on the type of support requested by Virginia Tech.

11. The Cost Proposal references hourly rates, approximately how many hours would you expect to receive from a partner?

Virginia Tech Response: This will vary depending on the amount of capital work upcoming. When services are required, Virginia Tech will engage the Offeror to obtain a proposal for the scope of work. The submitted proposals total effort and cost will be dependent on the scope of work. The submitted hourly rates (or pricing structure) will be required to be used for pricing and will be the basis of the proposed cost. Please submit your proposed rate structure. Virginia Tech will consider rate structures that are not hourly rate based.

12. For existing Virginia Tech Contractors, will these construction insurance consulting services require a new agreement? Or will they be included by addendum under an existing agreement?

Virginia Tech Response: The University intends to issue a new agreement for the services solicited.

13. In Section VI of the RFP, you state that general insurance brokerage services are out of scope. Will the selected "on call" construction insurance consultants be eliminated as candidates for general/transactional insurance brokerage services while under contract?

Virginia Tech Response: Please see response to Question #2.

14. Per Section VIII of the RFP, SWaM participation is scored at 10%. Is there a specific SWaM goal (% of compensation, etc.)? Is there a bonus for including specific SWaM subs upon contract award?

Virginia Tech Response: Registered SWaM proposers are awarded the full 10 points. Guaranteed compensation to registered SWaM subs awards partial points (3 points for under 50% of total contract value, 5 points for over 50% of total contract value).

15. You ask for a cost proposal that outlines job titles, responsibilities, and corresponding hourly rates. Are you open to alternative fee structures?

Virginia Tech Response: Yes, please submit your proposed fee structure.

2. All other terms, conditions and descriptions remain the same.
3. The due date and hour is now June 12, 2023 at 3:00 PM.

I acknowledge that I have read and understand this addendum in its entirety.


Signature

6/2/2023
Date

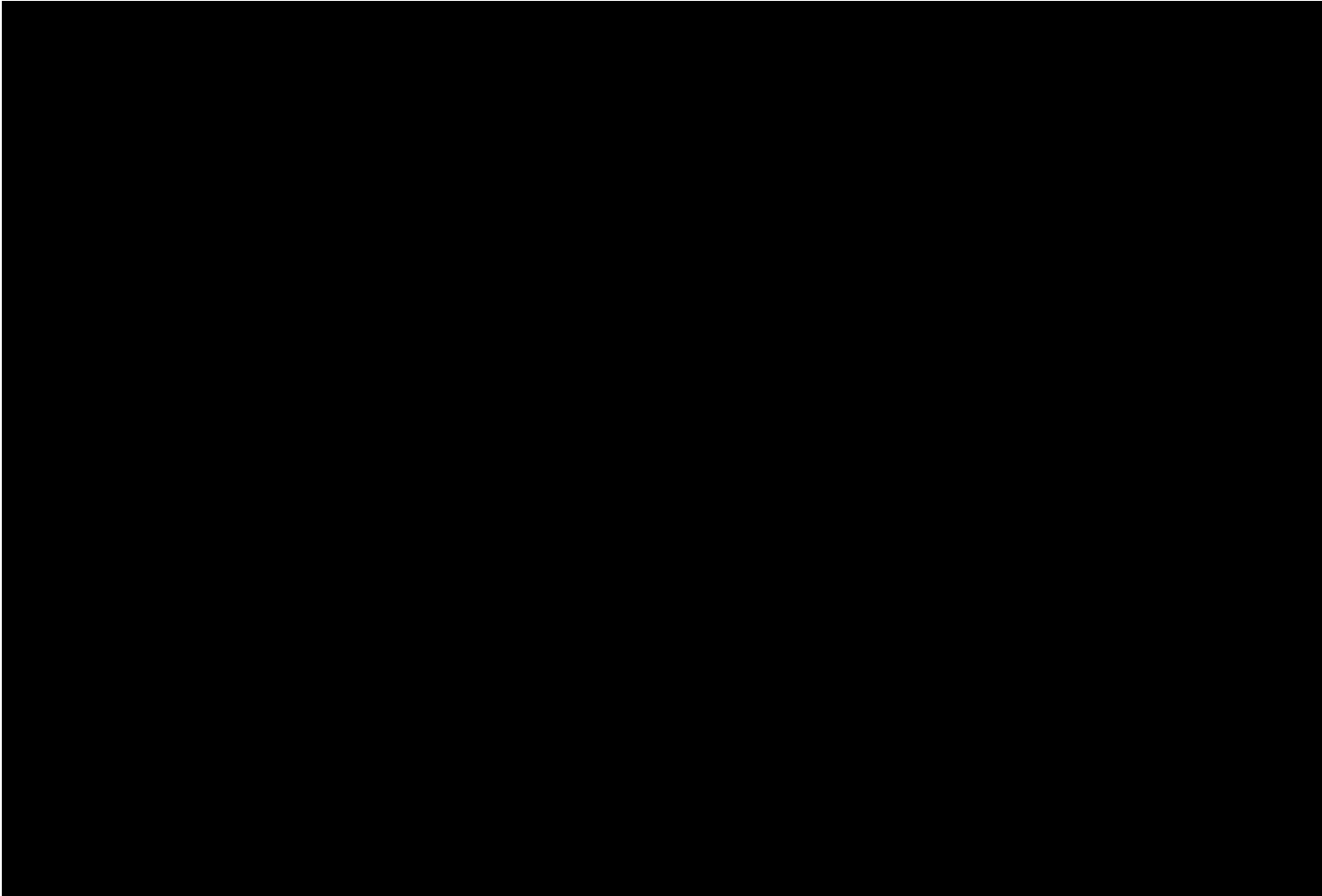
Appendix D

Service Team Biographies



James Shewey

*Market Leader, Richmond
Education Practice Leader
Commercial Service Team Leader, Virginia*



Let's Talk

jshewey@rcmd.com | 

UNISON
RISK ADVISORS



Tim Walsh, CRIS

Design and Construction - Senior Vice President, Director | Oswald Companies

Let's Talk:

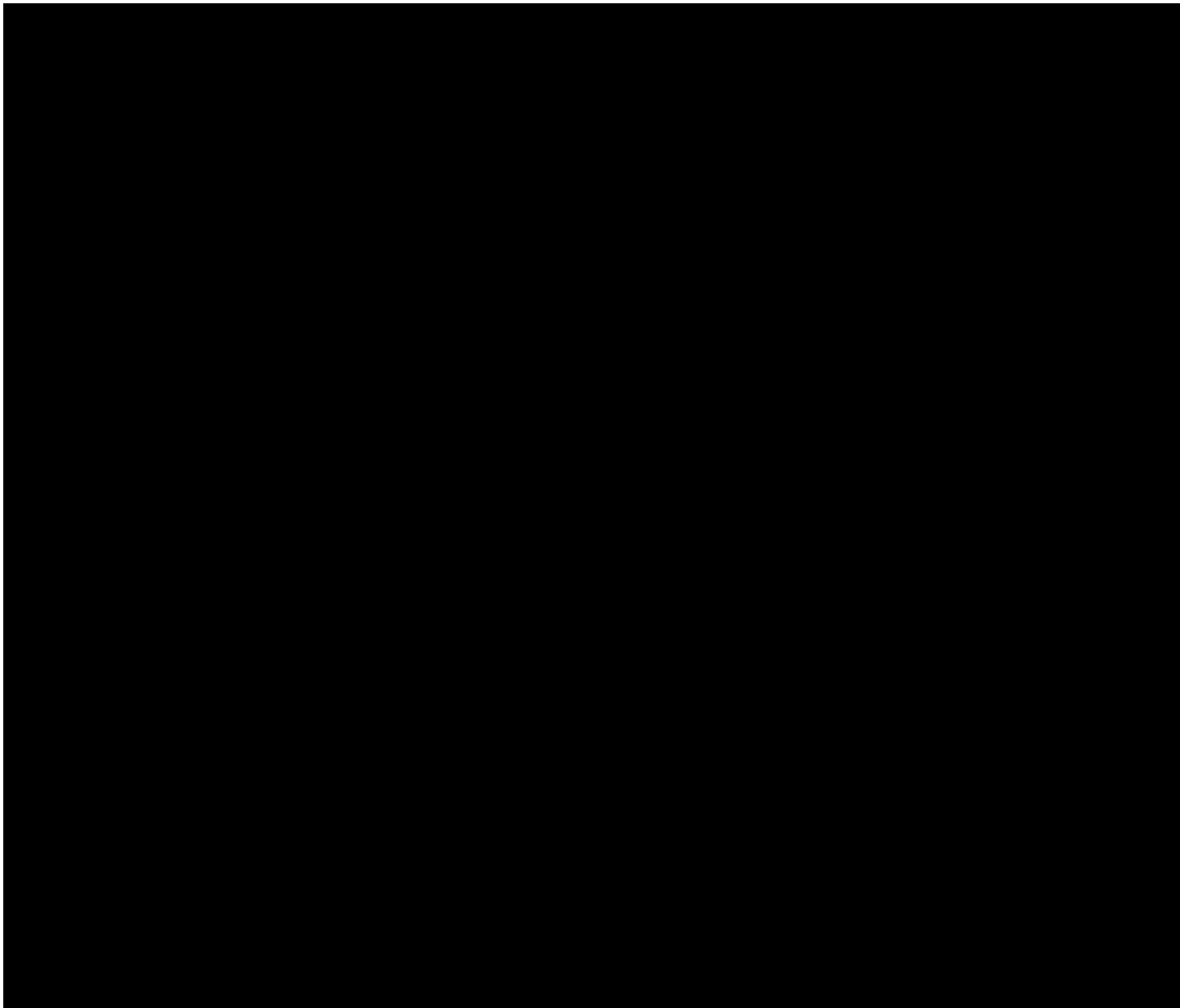
twalsh@oswaldcompanies.com | [REDACTED]

1100 Superior Avenue, Suite 1500. | Cleveland, OH 44114 | OswaldCompanies.com



Stephen Mainello

Surety & Construction Sales Leader

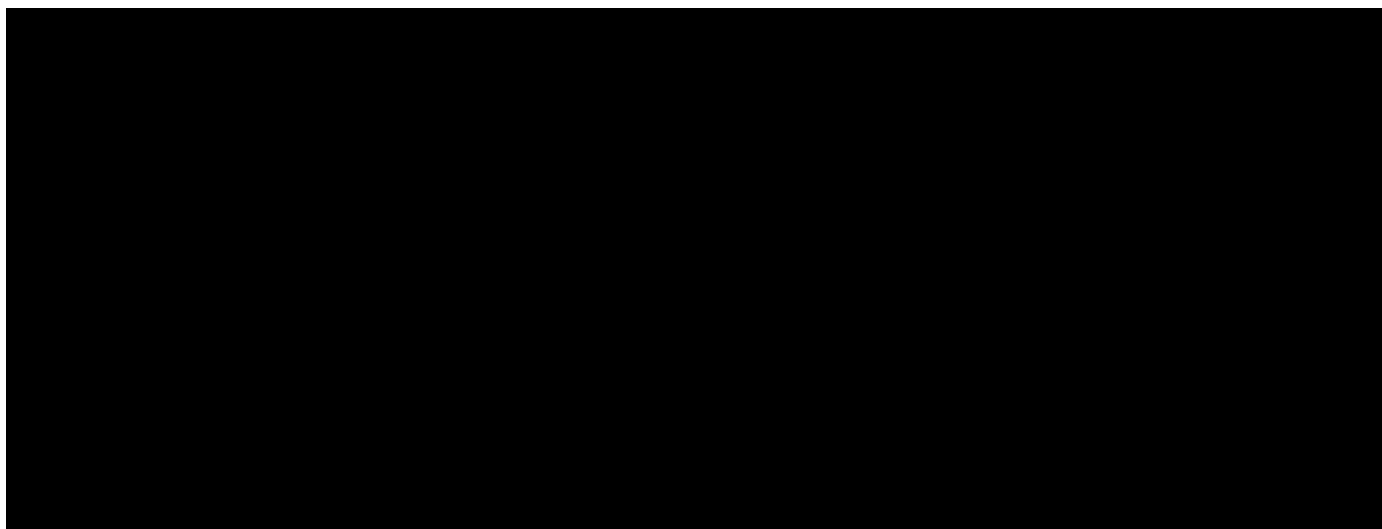


Let's Talk:

smainello@rcmd.com | 



Ryan Stabile
Client Manager



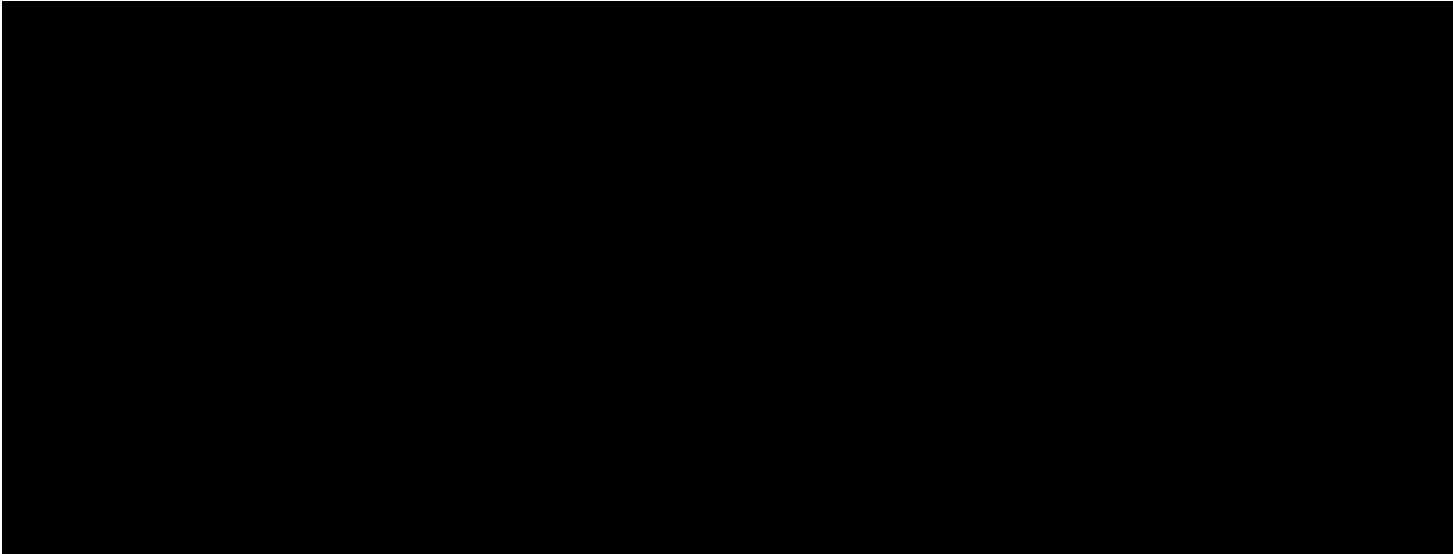
Let's Talk:
rstable@rcmd.com | [REDACTED]

UNISON
RISK ADVISORS



Alex McMullen, CRIS

Construction - Associate Client Manager | Oswald Companies



Let's Talk:

AMcMullen@oswaldcompanies.com | [REDACTED]

1100 Superior Avenue, Suite 1500 | Cleveland, Ohio 44114 | OswaldCompanies.com



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4200 Innslake Drive Suite 303 | Glen Allen, VA 23060 | 800.346.6439

rcmd.com



A UNISON RISK ADVISORS Company

RESPONSE TO STANDARD NEGOTIATION QUESTIONS FOR VENDORS

Virginia Polytechnic Institute and State University

July 28, 2023

rcmd.com | 800.346.4075

RESPONSE TO STANDARD NEGOTIATION QUESTIONS FOR VENDORS

for

Virginia Polytechnic Institute and State University

Presented by:
James Shewey, RCM&D
Tim Walsh, Oswald Companies

Submitted: July 28, 2023

4200 Innslake Drive Suite 303 | Glen Allen, VA 23060
800.346.4075 | rcmd.com

1. As part of Virginia Tech standard procedures, all awarded contracts will be publicly posted on an online contract portal. Is there any information included considered confidential/proprietary information? If so, please provide a redacted copy of your proposal. If redacted documents are not provided, the documents on hand will be posted publicly. {Liz, I believe you sent them both a redacted and unredacted copy of the proposal, correct? If so, we should reply with a reference back to the redacted copy of the proposal which was uploaded}. If not, let me know.

Yes, some of our information is considered confidential/proprietary information. We have provided a redacted copy with our original submittal. Please post the redacted copy.

2. End of Contract Service Transition Expectations: If or when a transition of service to another provider is required (end of contract life or otherwise), the university would require the incumbent firm to cooperate fully in a successful transition of services. Explain any requirements your firm might have in preparing for such a transition of services. Additionally, please indicate your willingness to establish a transition plan alongside the new provider of service which may include but not be limited to sharing important data and/or existing service information via a cooperative knowledge transfer process.

We are committed to partnering with Virginia Tech and would assist any potential transition by providing information prepared for Virginia Tech in electronic form. We just require a list of required information.

3. Are you registered with and willing to participate in the eVA internet procurement solution described in the terms and conditions of the RFP?

Yes, RCM&D is registered with the eVA procurement solution and we agree to the terms and conditions.

4. Are the prices for all goods/services listed in your proposal inclusive of all applicable eVA system transaction fees?

Yes, prices are inclusive of transaction fees.

5. Are you willing to provide an annual report at the end of each Virginia Tech Fiscal Year detailing the insurance savings generated by utilization of this contract? Virginia Tech's Fiscal Year ends June 30th of each year.

Yes.

6. Do you agree that the initial contract period shall be two (2) years?

Yes.

7. Upon completion of the initial contract period, do you agree that the contract may be renewed by Virginia Tech upon written agreement of both parties for two (2) additional two (2) year periods, under the terms of the current contract?

Yes.

8. Do you agree that you will be performing services as an Independent Contractor, Company, Corporation or other business entity and are not an employee of Virginia Tech or any other Commonwealth Entity?

Yes.

9. Do you further agree that Virginia Tech will not withhold any income taxes from its payments to contractors nor will it provide any employment benefits to the contractor or contractor's employees?

Yes.

10. How soon after contract award can you begin providing services?

Immediately.

11. Do you acknowledge, agree and understand that your contract is not exclusive, and that Virginia Tech cannot guarantee a minimum amount of business if a contract is awarded to your company?

Yes.

12. Do you acknowledge that prior to commencing any work related to this contract, you must be in receipt of a Purchase Order?

Yes, acknowledged.



13. Does the vendor acknowledge, agree, and understand that the terms and conditions of the RFP # 154542303 shall govern the contract if a contract is awarded to your company?

Yes, acknowledged.

14. Cost to the University is a major component of this solicitation and one of the 5 factors considered during the award process. With this in mind, please submit a detailed cost proposal and brief synopsis of next analytical steps for the upcoming Mitchell Hall project CCIP. All relevant information related to this project is available for download here. If you have any difficulties with the attached information, please contact John Spence directly at (540)231-3333 or jspenc@vt.edu

Pursuant to our compensation model which was revised and submitted on 6/28/23, the per project fee for the Mitchell Hall project with a Part 2 budget of \$170M is \$50,000.00.

Compensation Model (revision to original Cost Proposal – Section 5)

- **Monthly General Support Fee** - At Virginia Tech's option, should you desire to have ongoing support for ongoing training, general questions, reports, evaluation and input on standard form insurance requirement and advisory services on projects that have not reached the formal stage of initiating the Project Risk Evaluation Report, we propose a monthly fee of \$2,500 - 5,000 (payable quarterly), depending on scope of services desired and anticipated travel expenses for the duration of the Monthly General Support services.
- **Per Project Advisory Fee** - For each project in which Virginia Tech initiates the process to perform the Project Risk Evaluation Report, we propose a per project fee, payable within 30 days of delivery of the report:

Estimated Hard Cost/GMP	Per Project Fee
\$25M - \$75M	\$25,000
\$75.1M - \$150M	\$35,000
\$150.1M - \$250M	\$50,000
\$250.1M - \$400M	\$65,000
\$400M+	As Mutually Agreed

We strongly believe this approach offers Virginia Tech the best value as our hours are not capped nor is there any impediment to fully utilize our resources to accomplish the advisory services outlined in this proposal. Furthermore, it allows you to budget the risk advisory services for each project. Based on our experience, project size and complexity, we anticipate it will take our team 100-200 hours per project to fulfill the services as proposed herein.

The analytical steps as detailed in our RFP response include:

- » Detailed review of all project data.
- » Call with project team to ensure understanding of the project and unique challenges and exposures.
- » Complete a Hazard Analysis.
- » Review all contract agreements and identify owner insurance obligations.
- » Evaluate Skanska insurance proposals. Prepare Pro-Forma of CCIP vs. traditional insurance cost option and “market” rate for contractor-furnished insurance options. Evaluate the efficacy of the coverages and identify coverage recommendations to protect Virginia Tech.
- » Prepare a project insurance budget by line of cover.
- » Deliver Project Risk Evaluation Report.
- » Assist in any negotiations with Skanska.



15. Please confirm your willingness to extend this agreement as a cooperative contract option to other public entities.

Yes, confirmed.

16. Please acknowledge your understanding that Central State Agencies utilize different Terms and Conditions as provided for in the RFP and will require execution of the Virginia Cooperative Contract Addendum included in the RFP as Attachment B.

Yes, acknowledged.





A **UNISON RISK ADVISORS** company

4200 Innslake Drive Suite 303 | Glen Allen, VA 23060 | 800.346.6439

rcmd.com