ADDENDA

ADDENDUM NUMBER 02

DATE: 4-11-2025

PROJECT: Mason Farm Primary Effluent Improvements

OWASA CIP NUMBER: 278-21

OWNER: ORANGE WATER AND SEWER AUTHORITY

TO: ALL SUBMITTERS

This Addendum is to provide answers to questions submitted by Respondents concerning this RFQ.

Addenda #02 consists of 6 pages:

Questions:

1. We request that OWASA share the master plan with all parties, which will help us develop our proposal and concepts.
    a. OWASA will provide the master plan for the plant upon request by each DB Team.

2. Please confirm if any Federal or SRF funding provisions will apply to this project, or if provisions of the Build America Buy America (BABA) Act will apply to the Project?
    a. There are no specific Federal of SRF funding provisions that will apply to this project.

3. Please reference RFQ Section 1 Background, Section 1.1 – Introduction: The RFQ states "… addendum will be posted on the Owner's website and will be

distributed directly to potential Proposers who have registered with the Owner as described herein." Is there a formal registration process Proposers need to follow to be authorized to submit an SOQ?

a. There is no formal registration process.

4. Please reference RFQ Section 5 – Proposal Evaluation Criteria, Section 5.6 – Selection: Please confirm negotiations between the selected Proposer and Owner regarding the proposed Progressive Design-Build Agreement (RFQ Attachment B and all Exhibits) will be allowed following submission of Proposer's SOQ and prior to Notice of Award.
    a. OWASA intends on using the attached contract terms, if you have concerns about particular terms please identify those concerns in your SOQ.

5. Please Reference RFQ Section 6 – Conditions for Proposers: Section 6.6 - Payment and Performance Bonds indicates Proposers are to provide said bonds upon execution of the Agreement as outlined in Article 10 of the Agreement. RFQ Attachment B Progressive Design-Build Agreement, Article 10 – Bonds and Insurances, Section 10.2 does not have any boxes checked for requiring bonds. Please confirm what bonds, if any, are required. Also, please confirm that performance bonds and labor and material payment bonds or other performance security will be provided upon Progressive Design-Build Agreement Amendment execution authorizing Phase 2 Construction Services.
    a. Payment and Performance Bonds will not be required until Phase 2 services are identified and negotiated with the awarded proposer.

6. Please Reference RFQ Attachment B – Progressive Design-Build Agreement, Article 5 – Contract Time, Section 5.4 Liquidated Damages, Section 5.5 and Section 5.6: Will there be Liquidated Damages negotiated for the Phase 2

Services for failure to attain Substantial / Final Completion? Will LDs be capped?

a. Liquidated Damages will be negotiated upon selection of the Proposer.

7. Please Reference RFQ Attachment B – Progressive Design-Build Agreement, Article 6 – Contract Price, Section 6.5 Cost of Work: Will consideration be given to reinstating Article 6.5.1.16 during negotiations with the selected Proposer?
    a. OWASA intends on using the attached contract terms, if you have concerns about particular terms please identify those concerns in your SOQ.

8. Please reference RFQ, Attachment B Progressive Design-Build Agreement, Exhibit C Article 7 - Indemnification, Section 7.4 Design-Builders General Indemnification: Section 7.4.1 includes a duty to defend. However, the insurance of those providing professional services does not provide coverage of the defense of anyone but the named insured. Therefore, please reinsert the former Section 7.4.2 which applies solely to professional errors and omissions claims and did not include the duty to defend for this reason.
    a. OWASA will take this request under consideration.

9. Please reference RFQ, Attachment B Progressive Design-Build Agreement, Article 8 –Termination for Convenience: Under Section 8.1, please clarify the intended option (neither is selected) for negotiation.
    a. A selection will be made in collaboration with the selected Proposer.

10. Please reference RFQ Attachment B Progressive Design Build Agreement, Article 12 – Limitation of Liability: Please explain the basis for removing the Limitation of Liability provision. Will consideration for reinstating this provision be considered during negotiations with selected Proposer?

a. OWASA intends on using the attached contract terms, if you have concerns about particular terms please identify those concerns in your SOQ.

11. Please Reference RFQ Attachment B – Progressive Design-Build Agreement, Exhibit E – Insurance Requirements, Section 1.1 - Insurance Types and Limits: Please explain the basis for requiring the $10,000,000 Professional Errors and Omissions policy as noted in Table included under Section 1.1.1. These limits are excessively high given the project's advertised budget. Please consider incorporating limits more in-line with the project's construction budget.
    a. OWASA intends on using the attached contract terms, if you have concerns about particular terms please identify those concerns in your SOQ.

12. Please reference RFQ Attachment B Progressive Design-Build Agreement, Exhibit C – General Conditions, Article 10 – Contract Adjustments and Disputes: Please explain the basis for removing the provision of Section 10.3 - Arbitration. Following the provision outlined in Section 10.2 - Dispute Avoidance and Resolution, is there an alternate Dispute Avoidance and Resolution process intended to be utilized for the project?
    a. The removal of the arbitration provision in Section 10.3 allows for greater flexibility in determining the most appropriate forum, whether arbitration or litigation, for resolving disputes that are not resolved through mediation.

13. Please reference RFQ Attachment B Progressive Design-Build Agreement, Exhibit E Insurance Requirements, Section 1.1 Insurance Types and Limits: Line 7 of the table included in Section 1.1.1 does not list any coverage limits

for Contractor's Pollution Liability. Please confirm that Contractor's Pollution Liability insurance is not required for this project.

a. Contractor's Pollution Liability insurance **is** required with a minimum limit of $1,000,000. Please adjust your qualifications packages to reflect.

14. Please reference RFQ Attachment B Progressive Design-Build Agreement, Exhibit E Insurance Requirements Section 1.1.3(A) Professional Liability Insurance Is To Be Provided By Design Consultant): Professional Liability Insurance by Design Consultant does not appear to be applicable for this project. Please confirm Exbibit E Section 1.1.3(A) will be removed.
    a. OWASA intends on using the attached contract terms, if you have concerns about particular terms please identify those concerns in your SOQ.

15. Please reference RFQ Attachment B Progressive Design-Build Agreement, Exhibit E – Insurance Requirements, Section 1.1.3(B) Professional Liability Insurance Is To Be Projected By Design-Builder: Line 6 in the Table under Section 1.1 Insurance Types and Limits, Section 1.1.1 states that Professional Errors and Omissions insurances shall be provided pursuant to Section 1.3 (B) [1.1.3 (B)].
    1) Please confirm the intent for the Design-Builder to provided Contractor's Protective Professional Indemnity (CPPI) insurance. Design-Builder of a contractor-led Design-Build team cannot provide Professional Liability (PL) insurance because even though it is responsible for all scope of the contract, including design services, it is not an entity providing professional services so therefore cannot be insured through a PL policy. Also, PL insurance does not meet the requirements of the subsections. For instance, PL insurance excludes coverage for means, methods,

techniques, etc. of construction, so cannot meet 1.1.3(B)(1). Allowing the exclusion only to the extent the coverage is provided by Design-Builder's Commercial General Liability (CGL) and umbrella policies is not applicable to PL insurance, because PL insurance provides different coverage than CGL and umbrella, and umbrella coverage does not extend to PL coverage. Furthermore, a design consultant and other professional services consultants cannot, as required by 1.1.3(B)5, provide the Design-Builder and Design Consultant with evidence of insurance set forth in 1.1.3(B) because PL insurance does not provide coverage for what is required by the subsections on 1.1.3(B).

2) If requiring CPPI from the Design-Builder rather than PL insurance directly from the Design Consultant, please confirm whether the policy must cover the Design Consultant and its design subconsultants and whether rectification coverage is required on the policy.
3) Please delete "Design Builder" from Section 1.1.3(B)6 unless also requiring Design-Builder to waive subrogation in favor of subs.
4) Accordingly, please confirm these provisions are subject to negotiation with the selected Proposer.
    a. For all parts of question 15 above, OWASA intends on using the attached contract terms, if you have concerns about particular terms please identify those concerns in your SOQ.