

NORFOLK AIRPORT AUTHORITY

PART I

**REQUEST FOR PROPOSALS
GENERAL AIRPORT REVENUE BOND
UNDERWRITING SERVICES**

December 1, 2020

1.0 INTRODUCTION

The Norfolk Airport Authority (the “Authority”) is seeking proposals from qualified underwriting businesses (“Respondents” or “Offerors”) to serve as **senior managing underwriter** or **co-managing underwriter** in connection with the sale of the Authority’s airport revenue bonds and related services.

The Authority’s Series 2011 Bonds qualify for early redemption on July 1, 2021. The Authority may issue general airport revenue bonds (“GARBs” or the “Bonds”) totaling up to approximately \$31 million to refund all or part of the Series 2011 Bonds then outstanding.

2.0 BACKGROUND

2.1 THE AUTHORITY

The Authority was established on July 1, 1948 as a political subdivision of the Commonwealth of Virginia pursuant to Chapter 463 of the 1948 Acts of the General Assembly. The Authority is governed by a Board of Commissioners of at least seven but not more than nine members appointed for four-year terms by the City Council of the City of Norfolk (the “City”). The Authority is managed by a staff headed by the Executive Director who is appointed by the Board of Commissioners and serves at the pleasure of the Board of Commissioners. The Authority owns and operates the Norfolk International Airport (the “Airport”).

The Airport provides air transportation services for the Hampton Roads region of Virginia and northeastern North Carolina. Hampton Roads includes the cities of Norfolk, Chesapeake, Virginia Beach, Portsmouth, Suffolk, Hampton, and Newport News, and comprises the second-largest metropolitan area in Virginia and the 37th largest metropolitan area in the United States. The Airport is served by seven airlines, offering non-stop service to 30 airports. The Airport is approximately six miles from downtown Norfolk and occupies approximately 1,300 acres of land in Norfolk and Virginia Beach.

Financial statements for the Authority are available at <http://www.norfolkairport.com/> under Annual Report.

2.2 THE ROLE OF THE MANAGING UNDERWRITER

The Managing Underwriter(s) selected will be expected to work closely with representatives of the Authority, and other members of the financing team including bond counsel and the financial advisor. The underwriting firm selected will be expected to provide all the services typically provided by the senior managing underwriter on the negotiated sale of airport revenue bonds, including, but not limited to:

- Work with the Authority, its financial advisor and bond counsel, as appropriate, to develop financing alternatives, and structure the issuance of the Bonds

- Assist in the preparation of preliminary and final official statements and all other financing documents
- Develop and implement a marketing plan to encourage a strong investor response to the financing and identify investors who are most likely to purchase the Bonds at rates most favorable to the Authority
- Assist the Authority and its financial advisor, as required, in the preparation and presentation of information regarding the financing plan and the Authority's credit profile to rating agencies and other entities as needed
- Attend working group meetings, conference calls and other related discussions as requested
- Analyze market conditions prior to, during and after the sale of the Bonds and advise the Authority and its financial advisor regarding market timing
- Lead the sale of the Bonds, including ensuring compliance with any federal, state, and local laws, and regulations
- Provide pricing information and purchase the Bonds upon terms and conditions mutually acceptable to the Authority
- Supervise the closing of the transaction and the transfer of funds
- Prepare a post-sale analysis to record market conditions, investor allocation of the Bonds, rates received by comparable issues at the time of sale and other necessary information as requested
- Assist the Authority and its financial advisor in such other matters related to the financing plan that may become necessary.

2.3 MINIMUM QUALIFICATIONS

Respondents will be deemed non-responsive and rejected without any further evaluation if they do not meet the following qualifications:

- Respondents submitting responses to serve as senior managing underwriter must have served as the book-running senior managing underwriter on at least three (3) long-term fixed rate general airport revenue bond financings, each of which was for a principal amount of at least \$25 million in the last five (5) years;

OR

- Respondents that wish to submit a response to serve only as a co-managing underwriter must have served as either a senior managing underwriter or a co-managing

underwriter on at least three (3) long-term fixed rate general airport revenue bonds financings, each of which was for a principal amount of at least \$25 million in the last five (5) years.

3.0 PROPOSALS

3.1 INTERPRETATION OR CLARIFICATION OF THIS RFP

It is the Respondent's responsibility to inquire about and clarify the requirements of this RFP that are not understood. NO ORAL INTERPRETATION OR CLARIFICATION OF THIS RFP WILL BE MADE TO ANY RESPONDENT. If discrepancies or omissions are found by any Respondent, or there is doubt as to the meaning of any part of the RFP, a written request for a clarification or interpretation must be submitted by email to **Jarred Roenker**, *Director of Finance*, Email: jroenker@norfolkairport.com.

It is the responsibility of the Respondent to verify that the Authority timely receives the request. All interpretations and any supplemental instructions and information will be in the form of a written addendum or clarification via e-mail. The Authority will make a diligent attempt to review and respond to written requests as quickly as possible after they are received. To be given consideration, final requests for clarification must be received by 3:00 p.m. in the Norfolk, Virginia time zone on December 18, 2020. No addendum will be distributed less than 72 hours prior to the deadline for submitting proposals.

Respondents and any consultants or lobbyists retained by Respondents, whether paid or not, are expressly prohibited from any contact with the Authority, its Commissioners, the financial advisory team from PFM and bond counsel from Kaufman & Canoles, P.C., relating to this selection process. Violations of the policy may disqualify Respondent from consideration in the selection process.

Respondents intending to respond to this RFP are encouraged to send an email to **Jarred Roenker**, jroenker@norfolkairport.com of Respondent's intent to submit a proposal and providing the contact information for the person preparing the proposal in order to assure that the Authority sends any additional information to the correct person and address within the organization.

3.2 SUBMISSION OF PROPOSALS

Proposals must be submitted via email in PDF format to the Authority by 3:00 p.m. in the Norfolk, Virginia time zone on January 8, 2021 (the "Due Date") to the following person and address:

Jarred Roenker
Director of Finance
Norfolk Airport Authority
Email: jroenker@norfolkairport.com

All costs associated with preparing and delivering a proposal must be borne by the Respondent. The Authority will not compensate Respondents for any expenses incurred as a result of this RFP process.

LATE PROPOSALS WILL NOT BE CONSIDERED. The delivery of the proposal to the Authority prior to the Due Date is solely and strictly the responsibility of the Respondent.

3.3 PROPOSAL REQUIREMENTS

To be considered for the position of senior managing underwriter or co-managing underwriter, Respondent must submit a complete response to this RFP. Proposals shall be prepared simply and economically, providing a straightforward, concise description of the firm's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. Elaborate brochures and other representations beyond that sufficient to present a complete and effective proposal are neither required nor desired. Proposals should not exceed 25 pages, excluding exhibits and forms.

The Authority reserves the right to waive any irregularities and technical defects and reserves the right to modify, amend or waive any provision of this RFP, prior to the issuance of a contract for these services.

3.4 PROPRIETARY INFORMATION

Ownership of all data, materials and documentation originated and prepared for the Authority pursuant to the RFP shall belong exclusively to the Authority and be subject to public inspection in accordance with the Virginia Freedom of Information Act (FOIA). Trade secrets or proprietary information submitted by a Respondent shall not be subject to public disclosure under FOIA; however, the Respondent must, in writing, specifically identify the data or 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 will result in rejection of the proposal.

3.5 ORAL PRESENTATION

Proposals should be complete when submitted. Respondents who submit proposals in response to this RFP may be required to give an oral presentation of their proposal. This provides an opportunity for the Respondent to clarify or elaborate on the proposal. The Authority will schedule the time and location in the event such presentations are requested, however, oral presentations are only an option that may or may not be used.

3.6 SPECIFIC PROPOSAL REQUIREMENTS

The proposal must be submitted with a Transmittal Letter in the form attached as Section II and the Proposal Form attached as Section III. The Transmittal Letter should summarize the key points of your firm's proposal, include the contact information for your firm's lead representative, and state whether your firm wishes to be considered as senior managing underwriter, co-managing underwriter, or both. The proposal shall include these items in the following order:

A. Qualifications of the Respondent

1. State the name of your firm, address, telephone and the name and title of the person who will serve as the key contact for your firm with respect to your proposal on behalf of the firm. State whether you wish to be considered as senior managing underwriter or co-managing underwriter. If your firm is not selected as senior managing underwriter, state if you are willing to serve as a co-managing underwriter.
2. Provide a brief introduction to your firm. Describe any relevant municipal finance presence your firm has in Virginia since January 1, 2016 and specify what role your firm played for related transactions (i.e., senior managing underwriter or co-managing underwriter).
3. Disclose any conflicts of interest your firm may have associated with underwriting this transaction and any governmental investigations or litigation instituted by any governmental body against your firm. This includes but is not limited to: (i) pending investigations or completed investigations within the past five years by the SEC or any other regulatory body regarding the conduct of your firm or the firm's management, (ii) any relationship, contractual or otherwise, that your firm has with any individual, organization or firm that may be a party to the Authority financing, (iii) any litigation between your firm and the Commonwealth of Virginia or any of its political subdivisions, including the Authority.
4. If your firm is proposing as a senior managing underwriter, identify two possible law firms that you would propose to retain as underwriters' counsel, and provide an estimate of the fees that either firm would charge for a GARB refunding transaction assuming \$30 million par value. The Authority reserves the right to approve any firm employed to serve as underwriters' counsel. Payment of fees and expenses of underwriters' counsel will be made from the underwriting spread – expense component. Please note that Kaufman & Canoles, P.C. is expected to serve as the Authority's bond counsel and Vandeventer Black LLP currently serves as the Authority's General Counsel. The Authority would view it as a conflict of interest if either of these firms were also to serve as underwriters' counsel; hence, they may not be proposed to serve as underwriters' counsel. If requested by Kaufman & Canoles, P.C., Vandeventer Black LLP and/or the Authority, any firm selected as either a senior managing underwriter or co-managing underwriter will sign a legal representation conflict-waiver letter relating to representation of the Authority by Kaufman & Canoles, P.C. and Vandeventer Black LLP. In connection with the issuance of the Bonds and the scope of responsibilities of underwriter's counsel, bond counsel will be the responsible party drafting the Official Statement of the Authority.

5. Using the format shown below, please provide tabular summaries of your firm’s experience as an underwriter on negotiated airport GARB transactions since January 1, 2016.

**Experience as Underwriter on Negotiated
GARB Financings**

Year	Book-Running Senior Manager		Co-Senior Manager		Co-Manager	
	Number of Issues	Total Dollar Amount	Number of Issues	Total Dollar Amount	Number of Issues	Total Dollar Amount
2016						
2017						
2018						
2019						
2020						
Totals						

Provide a list of the financings which are summarized in the table above as an appendix to your proposal. Please include sale date, issuer name, issue size, issue description, purpose (new money, refunding, multi-purpose), tax status, coupon type, final maturity and role of your firm.

B. Qualifications of Individuals Assigned to the Engagement

- Identify the individual who will be the lead day-to-day representative of your firm on this financing. Provide a brief description of that person’s experience serving in a similar lead role on other financings for airport clients. Identify not more than two other people who will also be part of your day-to-day team on this financing. Explain the roles each would play and provide a brief description of their experience with airport financings.

As an appendix to your proposal, include résumés for each of the persons identified.

- Provide three references, preferably from airport clients, for the person identified in the question above as your lead day-to-day representative on this financing.

C. Understanding of Key Financing Issues Related to the Authority

- Describe at least three issues that you feel may create challenges for the Authority in the current financing environment or in the process of obtaining ratings for the Bonds. What

issues would you recommend be addressed, and what points should be emphasized with investors or with ratings agencies to receive the best possible outcome for the Bonds. Describe issues that you feel are specific to the Authority, as opposed to being generally applicable to all airports.

Note: In preparing your response to this question, firms are specifically advised not to contact the rating agencies about the Authority or otherwise discuss the Authority with representatives of the rating agencies. If the Authority learns that any firm has made such contacts or engaged in such discussions, that firm will be disqualified from further consideration in this selection process.

2. Describe the marketing strategies you would propose, the strength of your institutional and retail network, and any other actions you would want the Authority to undertake in order to achieve the best possible investor response to the Bond sale. Describe the specific steps in your marketing plan, and when such steps would occur in the Bond sale process.

D. Fees

1. Please present the fees you would propose to charge if your firm is selected to serve as the Authority's senior managing underwriter assuming one or more GARB refunding issuances totaling approximately \$31 million, structured with debt service schedules similar to the existing Series 2011 bonds.

Describe any and all proposed fees including average takedown, management fee (if any) and underwriter's expenses (including fees and expenses of underwriter's counsel). Please provide the following specific information:

- a) The takedowns you would propose by maturity and indicate whether your proposed takedowns would differ based on tax status (AMT or non-AMT).
- b) If you propose a management fee, please present only the amount you would propose to receive as senior manager.
- c) Provide a breakdown of the types of expenses on the transactions for which your firm would expect to be reimbursed and provide an estimate for each (including underwriters' counsel).

3.7 EVALUATION AND SELECTION

Proposals will be evaluated primarily based on the evaluation criteria stated below and such other factors as the Authority might deem appropriate. The general criteria (not listed in order of priority or significance) to be used by the Authority in evaluating responses are:

1. Total net costs of the transaction, including all fees and expenses (although proposed costs will be given significant consideration in the selection process, the Authority reserves the right to negotiate lower fees or a different fee structure than proposed)

2. Qualifications and experience of firm, including (a) past performance on similar undertakings, (b) experience with airport clients, (c) qualifications of personnel, and (d) resources committed to the Authority
3. General quality of submission, including (a) an understanding of the Authority's requirements under this RFP, and (b) responsiveness to terms and conditions.

The Authority reserves the right to request additional information from any and all Respondent(s) to assist it in its evaluation and selection process. The Authority reserves the right to negotiate the terms and conditions of any contract with the selected Respondent.

Proposals will be reviewed by the Authority's staff, financial advisor and others the Authority may deem qualified to review the proposals. Such review and evaluation will consider cost, financial and legal matters and the review will focus on a Respondent's ability to arrange, structure, implement and provide the services with a high degree of professional competence, at the least cost, on the most advantageous terms to the Authority and its overall operational and financing structure, and on a basis that complies with applicable law. The Authority will not furnish a statement of the reason why a particular proposal was not deemed to be the most advantageous. The Authority specifically may choose other than the lowest cost proposal in order to provide the requisite services under terms and conditions which, in its sole judgment, are deemed to be in the best interest of the Authority.

Based on the written proposals received and the applicable evaluation criteria set forth above, two or more of the highest-ranking Respondents deemed fully qualified, responsible and suitable to provide the requested services may be selected for an interview for the respective undertaking. The Authority will notify Respondents of its decision to shortlist or interview. If desirable, the Authority will schedule and proceed with formal interviews with the selected short list of Respondents. The Authority will not reimburse costs of oral presentation or any other costs of any Respondent.

Alternatively, based on the written proposals received and the applicable evaluation criteria set forth above, the Authority may determine to request best and final offers from a selected shortlist.

After completion of any interview process, the Authority shall re-evaluate the short-listed Respondents for the most responsive and responsible firm. The Authority reserves the right to request a best and final offer to determine the successful Respondent. At the conclusion of negotiations, the Respondent(s) may be asked to submit in writing, a best and final offer. The Authority's decision to award will be based on its final evaluation including any best and final offer.

Should the Authority determine that only one Respondent is fully qualified, or that one Respondent is clearly more highly qualified than the others under consideration, it may proceed to select that Respondent.

The Authority may cancel this RFP or reject proposals at any time prior to an award. The Authority reserves the right to reject any or all proposals and to waive any irregularity in any proposal or the process.

In the process of evaluation, the Authority may acquire and use, to the extent deemed necessary, information obtained from the Respondent, other information available in publications, including

trade and financial journals or reports, and any other information as may be available to the Authority. The Authority reserves the right to consider, in its evaluation and selection process, information obtained from Respondent or as the Authority may obtain from its independent investigation of Respondent.

The selection of a proposal will be by written Notice of Intent to Award, specifically indicating a selected respondent and signed by an authorized representative of the Authority. No other act of the Authority shall constitute the selection of a proposal. The selection of a proposal shall be deemed to constitute an agreement of the selected respondent to execute a written agreement on the terms set forth in the proposal as may be modified by any negotiations. The selection of a proposal shall not be effective and binding upon the Authority until the written agreement in form and substance satisfactory to the Authority has been formally executed by both parties.

4.0 SCHEDULE

The table below contains the Authority’s overall anticipated schedule for this RFP and selection process:

<u>Item</u>	<u>Date</u>
Deadline for submitting questions related to RFP	December 18, 2020 at 3:00 p.m. (Norfolk, VA time)
Responses to questions related to RFP to be distributed to Respondents	December 30, 2020
Deadline for submission of proposals to the Authority	January 8, 2021 at 3:00 p.m. (Norfolk, VA time)
Technical evaluation; identification of shortlisted firms based on terms of proposal	January 15, 2021
Shortlist interviews, if necessary	January 20, 2021
Identification of recommended underwriting team	January 21, 2021
Board approval of underwriting team	January 28, 2021

5.0 ACCEPTANCE AND REJECTION

Any proposal submitted by a Respondent will be accepted or rejected within a period of sixty (60) days following the Due Date. The Authority reserves the right to waive any informality or irregularity in any proposal, to negotiate for the modification of any proposal(s), to accept the proposal(s) that in the Authority’s sole judgment is/are deemed the most desirable and advantageous to the Authority, to reject any and all proposals, or to re-advertise for proposals, to such extent as the Authority, in its sole opinion, deems necessary or desirable. Any proposal that is incomplete,

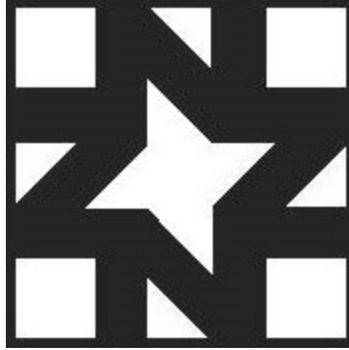
conditional, ambiguous, and obscure or contains additions or alterations not called for, or irregularities of any kind, may be rejected for such reason or reasons.

All material submitted in response to this RFP becomes the property of the Authority upon its submission.

6.0 GENERAL TERMS AND CONDITIONS.

The General Terms and Conditions attached hereto as Exhibit A and incorporated herein are a part of this RFP as if set forth in full.

4814-5586-5555, v. 1



NORFOLK AIRPORT AUTHORITY

PART II

TRANSMITTAL PAGE

**GENERAL AIRPORT REVENUE BOND
UNDERWRITING SERVICES**

December 1, 2020

[Transmittal Page]

Please use this as a form for the transmittal page on offeror's letterhead

Dear. Mr. Roenker,

In compliance with the Request for Proposals for Bond Underwriting Services dated December 1, 2020 which is incorporated by reference, the undersigned offers and agrees to furnish underwriting services to the Norfolk Airport Authority in accordance with the attached signed proposal, or as mutually agreed by subsequent negotiations. The firm wishes to be considered for the role of senior managing underwriter and /or co-managing underwriter (Edit as appropriate to identify your proposed role).

INCLUDE BRIEF SUMMARY OF PROPOSAL:

The undersigned individual is fully authorized to make representations for the firm.

Name of Proposer Firm: _____

Signature: _____

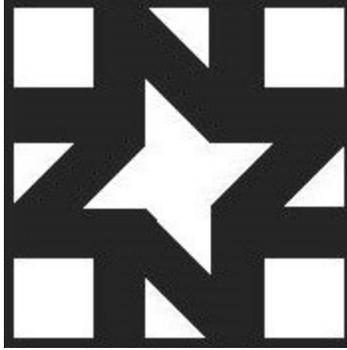
Name and Title of Individual Signing: _____

Date Signed: _____

Email: _____

Address: _____

Telephone: _____



NORFOLK AIRPORT AUTHORITY

PART III

PROPOSAL FORM

**GENERAL AIRPORT REVENUE BOND
UNDERWRITING SERVICES**

December 1, 2020

PROPOSAL

TO: Norfolk Airport Authority

A. The undersigned hereby offers to provide underwriting services to the Norfolk Airport Authority (“Authority”) in connection with the Authority’s anticipated issuance of general airport revenue bonds in 2021 as described in the Request for Proposals dated as of December 1, 2020, which is incorporated herein by this reference. Offeror’s letter of transmittal attached hereto describes the specific services which Offeror wishes to provide the Authority (the “Service”).

B. Full legal name of Offeror: _____

C. Principal business address of Offeror:

D. This Proposal shall be irrevocable for a period of one hundred eighty (180) days after the Due Date. The Offeror hereby makes each and every representation and agreement required by the RFP. Offeror agrees that none of the information provided to the Authority has been given in confidence. All or any part of the information may be used or disclosed by or on behalf of the Authority without liability of any kind.

E. The Proposal is based solely on Offeror's own knowledge of the underwriting business and its own assessment of the financial market and the finances of the Authority.

F. Offeror hereby certifies that no officer, director, employee, or agent of Offeror who will be directly involved in the supervision, direction, or provision of Service to the Authority, has ever been convicted of, and does not have pending criminal charges of, the disqualifying criminal offenses listed in 49 CFR §1542.209(d) or any comparable regulations. Offeror further certifies that no individual who has been convicted of, or has pending criminal charges of, the disqualifying criminal offenses listed above, will perform any work pursuant to the Proposal Documents on the property of the Authority unless the Offeror has obtained the express prior approval of the Authority for that individual.

G. Offeror certifies that it has full authority to conduct business in the Commonwealth of Virginia and has determined all requirements for permits, licenses, and certificates required by any regulatory agency (federal, state, and local) for Offeror to provide the

Service, and that Offeror has obtained or will be able to obtain any required permits, licenses, and certificates promptly upon receipt of the Notice of Intent to Award.

- H.** The entire Proposal and all of the Proposal Documents, all papers required by it and all exhibits and other papers made a part thereof by its terms are incorporated herein and made a part of this Proposal. The Proposal consists of this Proposal Form, the transmittal letter and the following additional documents and exhibits submitted by Offeror: _____
-

- I.** Any notices to be provided by Authority to Offeror pursuant to this Proposal or the RFP shall be given to the following individual:

Name: _____

E-mail address: _____

Telephone number: _____

Mailing address: _____

Witness the following signatures:

AUTHORIZED SIGNATURE OF OFFEROR:

Name of Offeror Firm: _____

Signature: _____

Name and Title of Individual Signing: _____

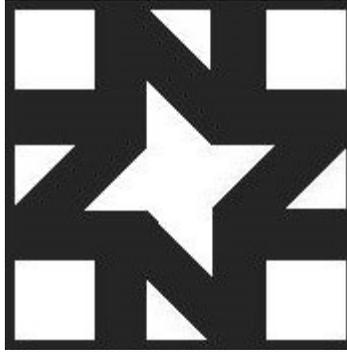
Date Signed: _____

ACKNOWLEDGEMENT

I, the undersigned, as Secretary, Assistant Secretary or other officer of the Offeror submitting the foregoing Proposal, hereby certify that pursuant to the By-Laws or Resolutions of the Offeror, the agent who has signed this Proposal on behalf of the Offeror is authorized to do so.

NAME
TITLE

(Corporate Seal)



NORFOLK AIRPORT AUTHORITY

EXHIBIT A

GENERAL TERMS AND CONDITIONS

**GENERAL AIRPORT REVENUE BOND
UNDERWRITING SERVICES**

December 1, 2020

**NORFOLK AIRPORT AUTHORITY
GENERAL TERMS AND CONDITIONS**

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The following General Terms and Conditions, where applicable, shall be incorporated by this reference in any agreement (“Contract”) between the Authority and the Offeror(s) selected to provide the underwriting services (the “Services”) pursuant to the Request for Proposals for General Airport Revenue Bond Underwriting Services:

1. **Qualifications of Offerors:** The Authority may make such reasonable investigations as deems proper and necessary to determine the ability of the Offeror to perform the Services, and the Offeror shall furnish to the Authority all such information and data for this purpose as may be requested. The Authority reserves the right to reject any Proposal if the evidence submitted by, or investigations of, such Offeror fail to satisfy the Authority that such Offeror is properly qualified to carry out the obligations of the Managing Underwriter or Co-Managing Underwriter and to provide the Services contemplated herein.
2. **Late Proposals:** To be considered for selection, a Proposal must be received by the Authority by the designated date and hour. It is the sole responsibility of the Offeror to ensure that its Proposal is timely received by the Authority by the designated date and hour. Proposals received after the date and hour designated are automatically disqualified and will not be considered.
3. **Liability of Authority:** No Offeror shall have any cause of action against the Authority arising out of a failure by the Authority to consider a Proposal, or the methods by which the Authority evaluated Proposals received. The selection of the prospective Offeror shall be at the sole discretion of the Authority.
4. **Proposal Acceptance Period:** Any Proposal in response to this RFP shall be valid for one hundred eighty (180) days. At the end of one hundred eighty (180) days, the Proposal may be withdrawn at the written request of the Offeror. If the Proposal is not withdrawn at that time, it remains in effect until an award is made or the RFP is canceled.
5. **Costs:** The Authority assumes no obligation for any costs associated with preparation or submission of a Proposal.
6. **Unauthorized Contact:** Except the communications with the Director of Finance as specifically authorized herein, contact with any official or employee of the Authority, including any Commissioner, in connection with this RFP and the Service described herein is prohibited and shall be cause for disqualification of the Offeror. The Authority will not meet individually with any Offeror prior to receipt of Proposals.
7. **Applicable Laws and Courts:** This solicitation and any resulting Contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the Circuit Court of the City of Norfolk. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations. The Contractor shall give all notices and comply with all laws, ordinances, regulations, and lawful orders of any public authority bearing on the performance of the Contract.

8. **Ethics in Public Contracting:** By submitting a Proposal, Offeror certifies that its Proposal is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other Offeror, or subcontractor in connection with its Proposal, and that Offeror 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.
9. **Conflict of Interest:** The Offeror represents to the Authority that entering into any contract with the Authority will not constitute a violation of the Virginia Conflict of Interest Act.
10. **Subcontracts:** No portion of the work shall be subcontracted without prior written consent of the Authority. In the event that the Offeror desires to subcontract some part of the work specified herein, the Offeror shall furnish the Authority the names, qualifications and experience of the proposed subcontractors. The Subcontractor shall remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the Contract.
11. **Taxpayer Identification Number:** The Offeror selected to perform the Services (also referred to herein as the “Contractor”) shall furnish to the Authority at the time of Contract award and as a condition precedent to receiving payment from the Authority its federal Employer Identification Number (EIN) if a corporation or a partnership, or its Social Security Number (SSN) if a sole proprietor.
12. **Insurance Required of the Contractor:** Contractor agrees to maintain Errors and Omissions insurance coverage in the amount of \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate, at a minimum, to cover all of its own personnel engaged in performing the Services under the Contract.
13. **Ownership of Documents and Materials:** Ownership of all materials and documentation including any reports and copies of any analyses prepared pursuant to the Contract with the Authority, shall belong exclusively to the Authority. Such materials and documentation shall be the property of the Authority whether the work for which they are made is executed or not. The Contractor shall not use these materials on any other work or release any information about these materials without the express written consent of the Authority.
14. **Payments to the Contractor:** To the extent applicable, the following procedures are established in conformance with the Virginia Public Procurement Act (VPPA), Code of Virginia §§ 2.2-4300 through 2.2-4377, as amended, and, in particular, § 2.2-4347 *et seq.*, which is referred to as the Prompt Payment Act.
 - (a) The Contractor shall submit its invoice with the documentation required by the Authority. The invoice shall generally itemize or show a breakdown of the total

Contract amount, the value of the various phases or parts, the previously invoiced and approved amounts for payment, and the amount of the current invoice. Invoices for reimbursables shall include documentation of costs for which reimbursement is sought.

- (b) Unless there is a dispute about the compensation due the Contractor then within thirty (30) days after receipt by the Authority of the Contractor's invoice, which shall be considered the invoice receipt date, the Authority shall pay to the Contractor the amount approved, less any retainage and prior payments/advances. The date on which payment is due shall be referred to as the Payment Date.
- (c) Interest shall accrue on all amounts owed by the Authority to the Contractor which remain unpaid thirty (30) days following the Payment Date. Said interest shall accrue at the discounted ninety-day U.S. Treasury bill rate as established by the Weekly Auction and as reported in the *Wall Street Journal* on the weekday following each such Weekly Auction. During the period of time when the amounts due to the Contractor remain unpaid following the thirtieth (30th) day after the Payment Date, the interest accruing shall fluctuate on a weekly basis and shall be that established by the immediately prior Weekly Auction. It shall be the responsibility of the Contractor to gather and substantiate the applicable weekly interest rates to the satisfaction of the Authority and to calculate to the satisfaction of the Authority the interest due. In no event shall the rate of interest charged exceed the rate of interest established pursuant to Code of Virginia § 58.1-1812. No interest shall accrue when payment is delayed because of a dispute between the Authority and the Contractor. This exception to the accrual of interest shall apply only to that portion of a delayed payment which is actually the subject of the dispute and shall apply only for the duration of such disagreement. The date of mailing of any payment through the U.S. Postal Service is deemed to be the date of payment to the addressee.
- (d) The Authority is entitled to interest on any amounts from the Contractor that remain unpaid thirty (30) days after the amount is deemed due, whether as a result of a resolution of a dispute or otherwise. Any such interest shall be calculated by the same method as set forth above in this subsection.

15. Payments by the Contractor to Subcontractors:

- (a) If applicable, the Contractor is required to pay interest to any of its subcontractors on all amounts owed by the Contractor that remain unpaid after seven (7) days following receipt by the Contractor from the Authority for work performed by the subcontractor under that contract, except for amounts withheld as allowed. Unless otherwise provided under the terms of the contract, interest shall accrue at the rate of one percent per month.

- (b) The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier
 - (c) Any obligation of the Contractor to pay an interest charge to a subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of the Authority. A contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.
16. **Audit:** The Contractor, by signing any Contract with the Authority, shall agree to retain all books, records, and other documents relative to the contract for five (5) years after final payment, or until audited by the Authority, whichever is sooner. The Authority and its authorized agents shall have full access to and the right to examine any of the materials during said period.
17. **Default:** In case of the Contractor's failure to deliver the reports, documents or services in accordance with the Contract terms and conditions, the Authority, after due written notice, may procure same from other sources, and the Contractor shall be responsible for any resulting additional procurement and administrative costs. This remedy shall be in addition to any other remedies which the Authority may have.
18. **Termination of Contract:**
- (a) **General:** The Authority may terminate the Contract for cause or for convenience after giving thirty (30) days written notice to the Contractor. The written notice need not include a statement of reasons for the termination.
 - (b) **Termination for Cause:** If the Contract is terminated by the Authority for cause, the Contractor shall be responsible for all damages incurred by the Authority as a result of the Contractor's breach of contract or failure to perform, including but not limited to, all costs and expenses incurred in securing a replacement Contractor to fulfill the obligations of the Contract. Any termination by the Authority for default, if determined by a court of competent jurisdiction not to have been justified as a termination for default shall be deemed a termination for the convenience of the Authority.
 - (c) **Termination for Convenience:** The Authority may terminate the Contract in whole or in part for convenience by delivering to the Contractor a written notice of termination as set forth above, specifying the extent to which performance under the Contract is terminated and the effective date of the termination. Upon receipt of such notice, the Contractor must stop work, including but not limited to work performed by subcontractors and Contractors, at such time and to the extent specified in the notice. If the Contract is terminated for convenience, the Contractor shall be entitled to those fees earned for work performed in accordance with the Contract prior to the notice of termination. Thereafter, the Contractor shall be

entitled to any fees earned for work not terminated but shall not be entitled to lost profits for the portions of the Contract which were terminated.

- 19. Assignment of Contract:** The Contractor shall not assign the Contract between the Authority and the Contractor, in whole or in part, without the prior written consent of the Authority.
- 20. State Anti-Discrimination Law:**
- (a) By submitting its Proposal, Contractor certifies to the Authority that it 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 Code of Virginia § 2.2-4311. 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 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.
 - (b) During the performance of the Contract, the Contractor agrees as follows:
 - (1) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, 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.
 - (2) The Contractor, in all solicitations or advertisements for employees will state that Contractor is an equal opportunity employer.
 - (3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
 - (c) If the Contractor intends to subcontract work as part of its performance under the Contract, the Contractor will include the provisions of the foregoing paragraphs (1),

(2) and (3) in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

- (d) The Authority does not discriminate against faith-based organizations.

21. Drug Free Workplace:

- (a) The Authority seeks to establish and maintain a work environment free from the adverse effects of alcohol and other drugs. The adverse effects of alcohol and other drugs create a serious threat to the safety and welfare of all personnel at the job-site, to job-site safety in general, to worker productivity and quality of workmanship, and to the project schedule. Each of the following acts is prohibited by the Contractor, its employees, subcontractors and suppliers while performing services under the terms of the Contract.
 - (1) The unlawful or unauthorized manufacture, distribution, dispensation, possession, or use of drugs (except the possession and use of medically prescribed drugs for legitimate medical purposes) in the workplace;
 - (2) The unlawful or unauthorized manufacture, distribution, dispensation, or use of alcoholic beverages in the workplace during hours of work;
 - (3) The impairment of a person in the workplace, or at the construction site, related to the use of alcohol or other drugs including impairment from prescription drugs.
- (b) The Contractor shall post a copy of this policy in a conspicuous place at the workplace and assure that all personnel are advised of the policy. A violation of this policy will be recognized as a breach of contract and may result in termination of the Contract.
- (c) To the extent applicable, during the performance of this Contract, the Contractor agrees to (i) provide a drug free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees 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 provision will be binding upon each subcontractor or vendor.

22. Compliance with State Law; Foreign and Domestic Businesses Authorized to Transact Business in Virginia:

- (a) If organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, 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 Virginia Code, or as otherwise required by law.
 - (b) If organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Virginia Code, Contractor must provide Authority the identification number issued to it by the State Corporation Commission. If not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Virginia Code, or as otherwise required by law, Contractor shall provide Authority a statement describing why Contractor is not required to be so authorized.
 - (c) Any business entity described herein 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.
- 23. Debarment Status:** By entering into the Contract, Contractor certifies that it is not currently debarred from doing business with or in the Commonwealth of Virginia, nor is it an agent of any person or entity that is currently debarred from doing business in the Commonwealth of Virginia.
- 24. Anti-Trust:** By entering into the Contract, Contractor conveys, sells, assigns, and transfers to the Authority all rights, title and interest in and to all causes of the action it may now have to hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the Services acquired by the Authority under the Contract.
- 25. Immigration Reform and Control Act of 1986:** By submitting a Proposal, Offeror certifies that it does not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.
- 26. Required Federal Contract Provisions:** The following clauses must be included in the Contract between Contractor and the Authority:
- (a) The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. The provision binds the Contractor and sub tier contractors from the bid solicitation period through the completion of the Contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

(b) During the performance of the Contract, the Contractor, for itself, its assignees and successors in interest, agree as follows:

1. Compliance with Regulations: The Contractor will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of the Contract.

2. Non-discrimination: The Contractor, with regard to the work performed by it during the Contract, will not discriminate on the grounds of race, color or national origin in the selection and retention of subcontractors, if any, including procurement of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sourced of information , and its facilities as may be determined by the Authority or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of Contractor is in the exclusive possession of another who fails or refuses to furnish the information the Contractor will so certify to the Authority or the FAA as appropriate, and will set forth what efforts it has made to obtain the information.

4. Sanctions for Noncompliance. In the event of a Contractor's noncompliance with the non-discrimination provisions of Contract, the Authority will impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to: (i) withholding payments to the Contractor until the Contractor complies; or (ii) cancelling, terminating, or suspending the Contract, in whole or in part.

5. Incorporation of Provisions. The Contractor will include the provisions of subsections 1-4 above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Authority or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Authority to enter into any litigation to protect the interests of the Authority. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(c) During the performance of the Contract, the Contractor, for itself, its assignees, and successors agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
4. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
5. The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
9. The FAA’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, reasonable steps must be taken to ensure that LEP persons have meaningful access to programs (70 Fed. Reg. at 74087 to 74100); and

12. Title IX of the Education Amendments of 1972, as amended, which prohibits discriminating because of sex in education programs or activities (20 USC 1681 et seq).

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