



NORFOLK INTERNATIONAL AIRPORT

NORFOLK AIRPORT AUTHORITY

REQUEST FOR QUALIFICATIONS

**DEBT MANAGEMENT AND CAPITAL FINANCING
ADVISORY SERVICES**

April 29, 2024

NORFOLK AIRPORT AUTHORITY
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DEBT MANAGEMENT AND CAPITAL FINANCING ADVISORY SERVICES

I. REQUEST FOR QUALIFICATIONS (RFQ)

A. Introduction

The Norfolk Airport Authority (“Authority” or “NAA”) seeks qualification proposals from interested, qualified and experienced firms (“Offerors”) to provide Debt Management and Capital Financing Advisory Consultant Services for the Authority as required for Norfolk International Airport (“Airport”) for the next five years. Qualified firms must demonstrate considerable experience directly related to the services to be provided. Professional, technical, and advisory services are needed by the Authority for various projects identified in the Airport’s Capital Improvement Program (“CIP”) and in other areas. Offerors must also demonstrate their current ability to offer or alternatively partner with firms that offer the scope of services described within this RFQ. There is no minimum guarantee of the amount of work that will be authorized.

B. Specifications

The Authority maintains an on-going Capital Improvement Program (CIP) to address the capital development needs of the Airport. The current capital financing plan includes several anticipated future financings to fund the CIP. These include:

- General Airport Revenue Bonds/Passenger Facility Charge Bonds: The Authority intends to issue approximately \$200 million in bonds to support several terminal and runway improvements.
- Customer Facility Charge Bonds: The Authority intends to issue approximately \$175 million in bonds to support the construction of a new standalone consolidated rental car facility.
- Line of Credit: The Authority intends to issue a new line of credit with increased debt capacity.
- Refunding Bonds: The Authority may refund outstanding General Airport Revenue Bonds that are eligible for refunding and show present value savings.

C. Minimum Qualifications

- Respondent’s individual lead team member(s) proposed to be assigned to the Authority engagement must have at least five (5) years of experience in the provision of advisory services related to the management of airport debt and capital financing services for airports in the United States with operations comparable to those of the Airport.
- The Respondent must be independent of any firm that serves as underwriter with respect to issuance of securities of types issued by the Authority.

D. Scope of Services

The scope of work described below is a general guide and is not intended to be a complete list of all services that may be required or desired in that subject area. Given the broad range of possible services, the Authority encourages consultant firms to submit a response for all subject areas where they meet or exceed the minimum qualifications described in this RFQ.

- Assistance in structuring of the Authority's borrowing programs
- Assistance in managing the Authority's outstanding debt
- Ongoing support to ensure the Authority receives the highest ratings from the ratings agencies
- Scheduling and management of all bond sales
- Assistance in bond pricing
- Coordination of relationships with financial institutions in matters of lines of credit, liquidity facilities, etc. as required
- Assistance with other debt and capital financing related matters as needed
- Evaluating the Authority's treasury operations and banking relationships and providing recommendations for strategic enhancements
- Other duties as assigned

E. RFQ Exhibits

Exhibit A	Proposal Form for Professional Services
Exhibit B	General Terms and Conditions for Professional Services
Exhibit C	Standard Contract Between Authority and Consultant

II. GENERAL PROPOSAL REQUIREMENTS

- A. RFQ Response: In order to be considered for selection, Offerors must submit a complete response to this RFQ for receipt not later than 5:00 p.m. (Local Time) on May 20, 2024.
- B. One (1) electronic copy (PDF) of the Proposal must be submitted to the Authority via email to: procurement@norfolkairport.com

Hardcopy proposals will not be accepted. Email correspondence transmitting the RFQ response must be time stamped by the deadline stated above.

C. Proposal Format

1. The Proposal must include the completed Proposal Form attached hereto as Exhibit A along with additional required information and must be contained in a single PDF.
2. Proposals shall be signed by an authorized representative of the Offeror. All information requested in this RFQ should be submitted. Failure to submit all information requested may result in rejection of the Proposal.
3. Responses MUST provide full firm name and address of Respondent, and must be manually or electronically signed. Failure to do so will disqualify the Respondent's proposal. Person signing the proposal must show title or authority to bind his/her firm in a contract. Firm name and authorized signature must appear on each page

that calls for this information. The legal status of the Respondent, whether corporation, partnership, or individual, must also be stated in the Proposal. A corporation must execute the Proposal by its duly authorized officers in accordance with its corporate by-laws and shall also list the state in which it is incorporated. A partnership Respondent shall give full names and addresses of all partners. All partners shall execute the Proposal. Partnership and Individual Respondents shall state in the Proposal the names and addresses of all persons with a vested interest therein. The place of residence of each Respondent, or the office address in the case of a firm or company, with city/Authority and state and telephone number, shall be given after the signature.

4. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFQ. Emphasis should be on completeness and clarity and brevity of content. Offerors are not expected to expend resources developing story boards, creative copy, and similar materials. Total number of pages shall be limited to 25 not including the Proposal form, cover sheet, section covers or resumes.
5. Ownership of all data, materials, and documentation originated and prepared for the Authority pursuant to the RFQ shall belong exclusively to the Authority and will be subject to public inspection and disclosure 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, the offeror must invoke the protections of § 2.2-4342F of the Code of Virginia, in writing, either before or at the time the data or other material is submitted. The written notice must 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 in the original signed proposal and paper copies. Additionally, the offeror must submit a redacted copy of the proposal if invoking said protect. The classification of an entire proposal document or prequalification application, line item, prices, and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection of the proposal. If, after being given reasonable time, the offeror refuses to withdraw an entire classification designation, the proposal will be rejected.
6. Proposals should be organized in the order in which the requirements are presented in this RFQ. All pages of the Proposal should be numbered. Information which the Offeror desires to present that does not fall within any of the requirements of the RFQ should be attached at the end of the Proposal and designated as additional material.
7. Proposals cannot be altered or amended after submittal deadline. No proposal submitted in response to this solicitation may be withdrawn after submittal deadline without acceptable reason in writing and only after approval by the Authority.

III. SPECIFIC PROPOSAL REQUIREMENTS

Offerors are required to submit the Proposal Form and the following information in their Proposals:

1. A Statement of Qualification. The Statement of Qualification section shall include a comprehensive identification of the Offeror's qualifications and capacity to perform all requirements under the Scope of Services. The Offeror must support its ability to be responsible for all facets of the Request for Qualifications, including professional background and experience of key personnel in the Scope of Services.
2. References. List three (3) clients who would provide references for Offeror where comparable services have been provided. Provide phone numbers, email, and mailing addresses for each of such reference. Additional references from other clients, commercial service airports in particular, where comparable services have been provided may be included.
3. Conflicts. Disclose any potential conflicts that may arise due to Offeror's representation of other entities.
4. The name and contact information of the individual who would be the Authority's primary contact for coordination of services if the Offeror firm is selected.
5. Resumes of key individuals who will perform work covered under this RFQ.
6. Location of office(s) from which the majority of the work would be performed.
7. The name and contact information of the staff person who is responsible for the Proposal and is to be contacted regarding any questions the Authority may have about the Offeror's response to this RFQ.

IV. SELECTION PROCESS

- A. The Authority intends to select one consultant, but reserves the right to selected multiple consultants, to accept none of the Proposals, to negotiate for modification of the Proposal with the Selected Offeror, or to waive/modify any of the requirements for the Proposal at any time prior to execution of a contract, if deemed to be in the Authority's best interests. If the Offeror is selected for contractual negotiations, the Selected Offeror may be required to prepare and submit additional information prior to final contract execution.
- B. The Authority may elect to conduct interviews with Offerors. Offerors should be prepared to respond to questions related specifically to their Proposals and other pertinent matters contained within the RFQ. Upon completion of the interview process (if interviews are deemed necessary), the Authority will evaluate all information, complete the selection process, and notify the Selected Offeror, as well as the non-selected firms.
- C. The Authority may make such investigations as deemed 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.
- D. Authority reserves the right to reject any Proposal if, in the Authority's sole discretion, (i) such Proposal is deemed nonresponsive, or (ii) the evidence submitted by and investigations of the Offeror fail to satisfy the Authority that such Offeror is properly qualified to fulfill the requirements of the RFQ and to successfully provide the services contemplated herein.

V. EVALUATION AND AWARD

- A. Evaluation of Proposals: Each Proposal will be evaluated for full compliance with the RFQ instructions to the Offeror and the mandatory terms and conditions set forth herein. The specifications within this RFQ represent the minimum performance necessary for response. An award will be made to the Offeror who is determined by the Authority, in its sole discretion, to best meet its needs and objectives of this RFQ as set forth below:
1. Demonstrated significant and successful experience of Offeror in providing the services described within this RFQ
 2. Identification of the project team that will perform the work
 3. Proposed approach to the performance of the work
 4. References

The Authority reserves the right to consider any other evaluation criteria it deems appropriate to the review process. The relative importance of the evaluation criteria will be determined at the sole discretion of the Authority.

- B. Award of and Term of Contract: Following the submission of Proposals and any subsequent interviews the Authority may wish to conduct, the Authority will consider all available information and select one Offeror with whom it will make a good faith effort to negotiate a consulting agreement. The Authority shall select the Offeror determined by the Authority in its sole discretion to be best qualified, responsible, and best suited to meet its needs and objectives among those submitting Proposals. Negotiations shall be conducted with the Offeror(s) so selected. The proposed consultant team of the Offeror may be required to participate at the Airport in at least one negotiation session.

In the event an agreement cannot be reached with the Selected Offeror, the Authority reserves the right to terminate negotiations with no obligation to the first Selected Offeror. Further, the Authority reserves the right to negotiate for modification of any Proposal and may enter into an agreement with any Offeror of its choosing.

The award document will be a written contract in a form which shall be provided by the Authority and shall incorporate by reference all the requirements, terms and conditions of the solicitation and the Selected Offeror's Proposal as negotiated. The term will be for five (5) years with the option for the Authority to extend annually for a maximum of three (3) additional years. The term initiation date will be the date of the Notice of Award as issued by the Authority. The Authority's standard contract for consulting services and standard terms and conditions are attached to the RFQ as Exhibits B-C. Once an award is made, the Authority will negotiate the contract and terms and conditions with the successful Offeror to finalize a mutually acceptable contract document consistent with the standard contract and terms and conditions attached hereto.

The Authority may cancel this RFQ or reject any or all Proposals at any time prior to an award, and shall not be required to furnish a statement of the reasons why a particular Proposal was not selected.

VI. SCHEDULE

The deadlines for this procurement are currently scheduled as follows:

Questions Due by: May 8, 2024

Submit in writing to: procurement@norfolkairport.com

Responses to Questions Posted by: May 10, 2024

Proposals Due by: May 20, 2024 at 5:00 EST

Submit electronically to: procurement@norfolkairport.com

Notify Firms Selected for Interviews (if necessary): May 28, 2024

Interviews (tentative): Week of June 3, 2024

Award is expected in June, 2024, and the Selected Offeror's performance of Services shall begin immediately upon execution of the Authority's standard consultant contract.

VII. GENERAL

- A. This solicitation and any resulting contract are subject to and shall incorporate the General Terms and Conditions attached hereto as Exhibit B.
- B. It is the responsibility of each Offeror to clarify any requirements of this RFQ that are not understood. All inquiries pertaining to this RFQ shall be submitted as directed in the Schedule above. Answers will be posted in the form of an addendum on the Airport website as necessary. No inquiries should be made to any other appointed or elected officials associated with the Authority.
- C. If it becomes necessary to revise any part of this RFQ, or if additional data or information is necessary to clarify any provision, an addendum will be posted to the Airport website.
- D. Expenses for developing and submitting a Proposal are entirely the responsibility of the responding firms and shall not be chargeable to the Authority.
- E. The Norfolk Airport Authority, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.
- F. If you need any reasonable accommodation for any type of disability to participate in this procurement, please contact the Authority as soon as possible.



NORFOLK AIRPORT AUTHORITY

EXHIBIT A

PROPOSAL FORM

**DEBT MANAGEMENT AND CAPITAL FINANCING
ADVISORY SERVICES**

April 29, 2024

PROPOSAL FORM

TO: NORFOLK AIRPORT AUTHORITY

A. The undersigned hereby offers to enter into a contract with the Norfolk Airport Authority ("Authority") to provide services in connection with the Authority's Request for Qualifications dated April 29, 2024 for Debt Management and Capital Financing Advisory services, which is incorporated herein by this reference. Offeror's Proposal attached hereto describes in full the specific Services which Offeror wishes to provide the Authority and Offeror's qualifications and experience.

B. Full legal name of Offeror: _____

C. Name(s) and title(s) of individuals authorized to make representations and agreements on behalf of Offeror with regard to this Proposal:

D. Principal business address of Offeror:

E. Address of office from which majority of work will be performed:

F. This Proposal shall be irrevocable for a period of ninety (90) days after the Due Date.

G. The Offeror hereby makes each and every representation and agreement required by the Request for Qualifications.

H. Offeror agrees that none of the information provided to the Authority with the Proposal 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.

- I. 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 on the property of the Authority unless the Offeror has obtained the express prior approval of the Authority for that individual.
- J. 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 prior to execution of the Contract.
- K. The entire Proposal, any documents 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.
- L. Any notices to be provided by Authority to Offeror pursuant to this Proposal or the Request for Qualifications shall be given to the following individual:

Name: _____
Title: _____
Mailing address: _____

Telephone number: _____
E-mail address: _____

Witness the following signature:

AUTHORIZED SIGNATURE OF OFFEROR:

Printed Name of Offeror

Signed By: _____

Printed Name: _____

Title: _____



NORFOLK AIRPORT AUTHORITY

EXHIBIT B

**GENERAL TERMS AND
CONDITIONS**

**DEBT MANAGEMENT AND CAPITAL FINANCING
ADVISORY SERVICES**

April 29, 2024

**NORFOLK AIRPORT AUTHORITY
GENERAL TERMS AND CONDITIONS
APPLICABLE TO PROCUREMENT OF EQUIPMENT,
PRODUCTS AND/OR SERVICES**

1. **Qualifications of Vendors:** The Authority may make such reasonable investigations as deemed proper and necessary to determine the ability of the Vendor to provide the equipment, products or services, and the Vendor agrees to 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 Vendor fail to satisfy the Authority that such Vendor is properly qualified to carry out the obligations of the contract and to provide the equipment, products or services contemplated herein.
2. **Cooperative Procurement:** As authorized by Virginia law, § 2.2-4304, Va. Code, the Authority may participate in a cooperative procurement agreement in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, or of the United States, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods, services, or construction.
3. **Liability of Authority:** No Vendor will 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 Vendor will be at the sole discretion of the Authority.
4. **Costs:** The Authority assumes no obligation for any costs associated with preparation or submission of a Proposal.
5. **Unauthorized Contact:** Communication with any Authority Commissioner in connection with any procurement is prohibited and will be cause for disqualification of the Vendor.
6. **Applicable Laws and Courts:** This solicitation and any resulting contract will be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto will be brought in the Circuit Court of the City of Norfolk. The Selected Vendor will comply with all applicable federal, state, and local laws, rules, and regulations.
7. **Ethics in Public Contracting:** By submitting a Proposal, Vendor 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 Vendor, Vendor, manufacturer or subcontractor in connection with their Proposal, and that Vendor 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.

8. **Conflict of Interest:** The Vendor represents to the Authority that entering into any contract with the Authority will not constitute a violation of the Virginia Conflict of Interest Act.
9. **Subcontracts:** No portion of the work will be subcontracted without prior written consent of the Authority. If the Vendor desires to subcontract some part of the work specified herein, the Vendor will furnish the Authority the names, qualifications and experience of the proposed subcontractors. The Selected Vendor will remain fully liable and responsible for the work to be done by its subcontractor(s) and will ensure compliance with all requirements of the Contract.
10. **Taxpayer Identification Number:** The Selected Vendor will 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.
11. **Insurance Required of the Vendor:** Prior to the start of any work under the Contract, the Vendor agrees to provide the Authority Certificates of Insurance with coverages outlined in the Contract or as modified by the Authority, and will maintain such insurance throughout the term of this Contract.

12. **Payments to the Vendor:**

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, to the extent applicable, § 2.2-4347 *et seq.*, which is referred to as the Prompt Payment Act.

- (a) The Vendor will submit its invoice with the documentation required by the Authority. The invoice will 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.
- (b) Unless there is a dispute about the compensation due the Vendor then within thirty (30) days after receipt by the Authority of the Vendor's invoice, which will be considered the invoice receipt date, the Authority will pay to the Vendor the amount approved. The date on which payment is due will be referred to as the Payment Date.

13. **Payments by the Vendor to Subcontractors:**

- (a) The Vendor is required to pay interest to any of its sub-vendors or subcontractors on all amounts owed by the Vendor that remain unpaid after seven (7) days following receipt by the Vendor 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 will accrue at the rate of one percent per month.

- (b) The Vendor will include in each of its subcontracts a provision requiring each Vendor or other subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier Vendor or subcontractor.
 - (c) Any obligation of the Vendor to pay an interest charge to a Vendor or subcontractor pursuant to the payment clause in this section will not be construed to be an obligation of the Authority. A contract modification will not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim will not include any amount for reimbursement for the interest charge.
14. **Audit:** The Vendor, by signing any Contract with the Authority, will 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 will have full access to and the right to examine any of the materials during said period.
15. **Default:** In case of the Vendor'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 Vendor will be responsible for any resulting additional procurement and administrative costs. This remedy will be in addition to any other remedies which the Authority may have.

16. Termination of Contract:

- (a) **General:** The Authority may terminate the Contract for convenience, with or without cause, after giving thirty (30) days written notice to the Vendor. 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 Vendor will be responsible for all damages incurred by the Authority as a result of the Vendor's breach of contract or failure to perform, including but not limited to, all costs and expenses incurred in securing a replacement Vendor 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 will 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 Vendor 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 Vendor must stop work, including but not limited to work performed by subcontractors and Vendors, at such time and to the extent specified in the notice. If the Contract is terminated for convenience, the Vendor will be entitled to those fees earned for work performed in accordance with the Contract

prior to the notice of termination. Thereafter, the Vendor will be entitled to any fees earned for work not terminated, but will not be entitled to lost profits for the portions of the Contract which were terminated.

17. **Assignment of Contract:** The Vendor will not assign the Contract between the Authority and the Vendor, in whole or in part, without the written consent of the Authority.
18. **Indemnification and Hold Harmless.** To the fullest extent permitted by law, Vendor will defend, indemnify and hold the Authority and its Commissioners, officers, employees (collectively "Indemnitees") harmless from and against any and all claims, actions, damages, expenses (including reasonable attorneys' fees), losses or liabilities incurred by or asserted against the Authority or any of its Indemnitees arising from the performance of Vendor's obligations under the Contract and any and all fees, costs or penalties incurred by the Authority or any of its Indemnitees, to the extent that such claims, actions, damages, expenses, losses, liabilities, fees, costs or penalties are caused by or arise out of Vendor's performance; provided that Vendor shall not be required to indemnify the Authority or any of its Indemnitees for any loss or claim to the extent such loss or claim is due to the negligence or willful misconduct of the Authority or any of its Indemnitees.
19. **Force Majeure.** Neither party will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.
20. **Waiver.** Failure by either party to act or assert any right under this Contract will not be deemed a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right. Any such waiver must be in writing and signed by the Parties.
21. **Relationship of the Parties.** The relationship of the Parties is one of independent contractors, each free to exercise judgment and discretion regarding the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.
22. **Anti-Discrimination.**
 - (a) By submitting its Proposal, Vendor 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.
 - (b) During the performance of the Contract, the Vendor agrees as follows:
 - (1) The Vendor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin,

age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Vendor. The Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- (2) The Vendor, in all solicitations or advertisements for employees will state that Vendor is an equal opportunity employer.
 - (3) Notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation will be deemed sufficient for the purpose of meeting the requirements of this section.
- (c) The Vendor 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 Norfolk Airport Authority does not discriminate in the solicitation or awarding of contracts based on race, religion, faith-based organizations, color, national origin, age, disability, or any other basis prohibited by state or federal law.

23. **Laws and Regulations.** In performing services under the Contract, the Vendor will comply with applicable federal, state, and local laws and regulations. The Vendor will give all notices and comply with all laws, ordinances, regulations, and lawful orders of any public authority bearing on the performance of the Contract. Vendor must maintain a valid and current status on all required federal, state, and local licenses, bonds, and permits required for the operation of its business.

24. **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, Vendor will 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, Vendor 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, Vendor will provide Authority a statement describing why Vendor is not required to be so authorized.

- (c) Any business entity described in subsection (a) will 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.
25. **Debarment Status.** By entering into the Contract, Vendor 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.
26. **Required Federal Contract Provisions (if applicable).**

GENERAL CIVIL RIGHTS PROVISIONS

The Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as are promulgated to ensure that no person will, 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.

This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

TITLE VI CLAUSES

Compliance with Nondiscrimination Requirements:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes Vendors) 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 this contract.
2. **Nondiscrimination:** 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, including procurements 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. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or Vendor will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. **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 sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six 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 sponsor or the Federal Aviation Administration 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 Vendor because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- 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);
- 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);
- 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);
- 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;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);

- 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);
- 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);
- 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;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- 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;
- 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, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).



NORFOLK INTERNATIONAL AIRPORT

NORFOLK AIRPORT AUTHORITY

EXHIBIT C

**STANDARD CONTRACT BETWEEN
AUTHORITY and CONSULTANT**

**DEBT MANAGEMENT AND CAPITAL FINANCING
ADVISORY SERVICES**

April 29, 2024

NORFOLK AIRPORT AUTHORITY

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is entered this ____ day of _____, 2024 between the **NORFOLK AIRPORT AUTHORITY**, a political subdivision of the Commonwealth of Virginia ("Authority") located at 2200 Norview Avenue, Norfolk, Virginia 23518, and **[Consultant Name]**, a [State of Incorporation] corporation, authorized to do business in the Commonwealth of Virginia and having a business address of [Address of Corporation], FEI No. [FEI Number], ("Consultant").

WITNESSETH:

WHEREAS, Authority desires to obtain professional [Type of Service] services of Consultant for the [Project] project (the "Project") to serve Norfolk International Airport in Norfolk, Virginia; and

WHEREAS, Consultant has submitted Letters of Qualifications seeking to provide those services and represents that it has expertise in the type of professional services required; and

WHEREAS, Authority has conducted a competitive selection process under the terms of the Consultant's Competitive Negotiation Act, Section 287.055, Virginia Statutes (the "CCNA") to obtain the professional services described above and has selected Consultant to provide those services.

NOW, THEREFORE, in consideration of the above, the terms and provisions contained herein, and the mutual consideration described below, the parties agree as follows:

ARTICLE 1 - RECITALS

The recitals as set forth above are true and correct and are incorporated into the terms of this Agreement as if set out herein at length.

ARTICLE 2 - SCOPE OF SERVICES

2.1. Consultant will provide professional [Type of Service] services to Authority for the [Project Description], as described in Exhibit "A", "Scope of Services," attached to this Agreement and incorporated herein, and as assigned by Authority during the term of this Agreement. These services may include serving as Authority's professional [Type of Service] consultant for various tasks and providing the customary services associated therewith.

2.2. Consultant has represented to Authority that it has expertise in the type of professional services that will be required by the Scope of Services. Consultant agrees that that all services provided by Consultant under this Agreement are subject to

Authority's review and approval and will be performed according to the normal and customary standards of professional practice for firms with special expertise in the type of services required by this Agreement, and in compliance with all laws, statutes, ordinances, codes, rules, regulations and requirements of any governmental agencies which regulate or have jurisdiction over those services. If Consultant becomes aware of any conflicts in these requirements, Consultant will notify Authority of such conflict in writing and utilize its best professional judgment to resolve the conflict.

ARTICLE 3 - TERM OF AGREEMENT

3.1 The term of this Agreement commences on the date first written above and continues for a term of [Term] ([Term Number]) years from that date (the "Expiration Date"), or the date Consultant completes, and Authority accepts, any work assigned by a Contract Amendment or Task Authorization issued before the Expiration Date, whichever occurs last. If a Contract Amendment or Task Authorization is issued that will require work to continue beyond the Expiration Date, neither Agreement nor Authorization may extend the term of this Agreement for more than six (6) months from the Expiration Date.

3.2. Authority will have the option to extend the initial term of this Agreement for up to [Extended Term] [Extended Term Number] additional years in one (1) year increments from the Expiration Date of the initial term or any extended term. Each extension is subject to successful negotiation by the parties of a scope of work and compensation schedule for the extended term.

3.3. To exercise its option to extend the initial term, or any extended term of this Agreement, Authority must give Consultant written notice of its intent to exercise its option to extend at least ninety (90) days before the then current term expires. Any extended term will be agreed to in writing and executed by the parties with the same formality as this Agreement.

ARTICLE 4 - CONSULTANT'S RESPONSIBILITIES

Consultant will:

4.1. Obtain and maintain throughout the term of this Agreement all licenses required to do business in the Commonwealth of Virginia and in the City of Norfolk, Virginia, including, but not limited to, all licenses required by any governmental agency responsible for regulating and licensing the professional services provided by Consultant under this Agreement.

4.2. Agree that when services provided under this Agreement relate to professional services which, under Virginia law, require a license, certificate of authorization or other form of legal entitlement to practice such services, Consultant will employ and/or retain only qualified personnel to provide those services.

4.3. Employ and designate a qualified licensed professional to serve as Consultant's project manager ("Project Manager"). Consultant must designate its Project Manager in writing within five (5) calendar days after receiving an executed original of this Agreement. Consultant's Project Manager designation must be executed by the proper officers of Consultant, and will acknowledge that the Project Manager will have full authority to bind and obligate Consultant on all matters arising out of or relating to this Agreement. The Project Manager will be specifically authorized and responsible to act on behalf of Consultant with respect to directing, coordinating

and administering all aspects of the services provided under this Agreement. The person selected as Consultant's Project Manager will be subject to the prior approval and acceptance of Authority. Consultant further agrees not to change its designated Project Manager, or the location or duties assigned to the Project Manager, without prior written consent of Authority.

4.4. Agree to promptly remove and replace the Project Manager, or any other personnel employed or retained by Consultant, or any subconsultant or subcontractor, or any personnel of any such subconsultant or subcontractor, engaged by Consultant to provide services under this Agreement, within fourteen (14) calendar days of receipt of a written request from Authority. Authority may make such requests with or without cause.

4.5 Agree to be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all data, studies, reports, memoranda, other documents and other services, work and materials performed, provided, and/or furnished by Consultant. The Consultant will, without additional compensation, correct or revise any errors, omissions, or other deficiencies in such data, studies and other services, work and materials resulting from the negligent act, errors or omissions or intentional misconduct of Consultant.

4.6 Agree that neither review, approval, nor acceptance by Authority of any data, studies, reports, memoranda, and incidental professional services, work or materials furnished hereunder by the Consultant will in any way relieve Consultant of responsibility for the adequacy, completeness and accuracy of its services and the quality of Consultant's work and materials. Neither the Authority's review, approval or acceptance of, nor payment for, any part of the Consultant's services, work and materials will be construed to operate as a waiver of any of the Authority's rights under this Agreement or any cause of action it may have arising out of the performance of this Agreement.

4.7 If requested by Authority, maintain for the duration of this Agreement a local office in Norfolk, Virginia staffed full-time by Consultant's Project Manager. The local office must be Consultant's main place of business, or an independent branch office of Consultant's business, and not merely the office of a subconsultant or subcontractor providing desk space to the Project Manager.

4.8 Comply with all federal, state and local laws and building requirements. Consultant will devote particular attention to complying with Federal Aviation Administration regulations, requirements and Advisory Circulars. The Consultant must also comply with all pertinent grant agreements and grant conditions applicable to each Contract Amendment or Task Authorization. Authority will provide the Consultant with one copy of any specific and unique grant or regulatory requirements on a task by task basis prior to or concurrent with issuance of any Contract Amendment or Task Authorization.

4.9 Acknowledge that Authority is conducting an ongoing capital improvement program at the Norfolk International Airport. Accordingly, Consultant agrees to coordinate the performance of its services under this Agreement as directed and required by Authority so as not to interfere with, disrupt or delay any work. Consultant further agrees to coordinate its efforts with Authority's other architects, engineers, designers, or construction managers for that work.

ARTICLE 5 - ADDITIONAL SERVICES OF CONSULTANT

Additional Services refer to professional services requested by Authority that are not specifically set out in the Scope of Services.

Additional Services may include, but are not limited to:

5.1. Preparation of applications and supporting documents (except those already to be furnished under this Agreement) for private or governmental grants, loans or advances in connection with any Project or Task.

5.2. Services resulting from significant changes in the general scope, extent or character of any assignment including, but not limited to, changes in size, complexity, Authority's schedule or character of construction; and revising previously accepted studies, reports, designs or documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to and not reasonably anticipated prior to the preparation of such studies, reports, designs or documents, or that are due to any causes beyond Consultant's control and fault.

5.3. Providing models for Authority's use.

5.4. Furnishing services of independent professional associates and consultants for services other than those to be provided by Consultant under this Agreement.

5.5. Services during out-of-town travel required of Consultant and as directed by Authority, other than visits to any Project site or Authority's offices.

5.6. Assistance in connection with bid protests, rebidding or renegotiating contracts for construction, materials, equipment or services, except as otherwise provided for herein.

5.7. Preparing to serve or serving as a consultant or witness for Authority in any litigation, or other legal or administrative proceeding, involving any assignment (except for assistance in any litigation or other legal or administrative proceeding, involving any assignments that are included as part of the services to be provided herein).

5.8. Additional services rendered by Consultant in connection with any assignment, not otherwise provided for in this Agreement or not customarily furnished in accordance with generally accepted professional [Type of Service] practice.

Any additional services may be authorized only by a written amendment to this Agreement, signed by both parties prior to commencement of any additional services. Any additional services agreed to by the parties will constitute a continuation of the professional services requested under this Agreement and must be provided and performed in accord with the terms of this Agreement and any amendment to this Agreement.

Any amendment will describe: (1) the scope of the additional services requested; (2) the basis of compensation; and (3) the period of time or performance schedule for completion of the additional services.

ARTICLE 6 - RESPONSIBILITY FOR ESTIMATES

6.1 If the Consultant is required to evaluate a project budget and prepare preliminary or detailed estimates of probable construction cost for any project or portion of a project, Consultant will insure that all evaluations and estimates represent Consultant's best judgment as a professional familiar with the construction industry. For purposes of the Liability Provisions of this Article only, the Consultant's evaluations or estimate(s) will be considered valid and effective for a period of six (6) months from the date Authority accepts the evaluation or estimate(s).

6.2. Budget Evaluations - Budget in this case applies to the Authority's budget and not to the budget as a project-controlled document. A budget is prepared with the use of flowsheets, layouts, and equipment details. This type of evaluation will be accurate within twenty-five percent (25%) of the cost of construction of the Project. If the bids, as described above, fail to meet this prescribed accuracy, the cost associated with the preparation of the Budget Evaluation will be repaid by Consultant to Authority or deducted from any fees owing Consultant by Authority.

6.3. Construction Estimates - When preparing and submitting preliminary or detailed estimates of probable construction cost to the Authority for any project or portion of a project, the Consultant, by exercise of its experience, effort, knowledge and judgment, will insure that all estimates represent Consultant's best judgment as a professional familiar with the construction industry and will be held accountable, responsible and liable for the accuracy and completeness of any and all such cost estimates.

(A) A construction cost estimate for purposes of this Agreement is an estimate prepared on the basis of well-defined engineering/architectural data and on detailed information set forth in specifications, designs or drawings which are to be used as a basis for obtaining bids or price proposals for constructing a project. This type of estimate will be accurate within plus or minus ten percent (10%) of the cost of the construction of the project. The accuracy and reliability of a Construction Cost Estimate is vital to the Authority's interests because it may be used for such purposes as, but not limited to, the following: budgeting; obtaining, allocating or obligating funds for the project; and evaluating or determining the reasonableness and acceptableness of bids or price proposals for construction projects.

(B) Consultant will certify all estimates of probable construction costs and project completion dates prepared by Consultant. All certifications will be in a form approved by Authority.

(C) If the Authority solicits and receives bids or price proposals from contractors on a construction project based on specifications, design, drawings and a Construction Cost Estimate prepared by the Consultant, and the lowest bid or price proposal, submitted by a responsive and responsible bidder or proposer, exceeds the amount of the Consultant's Construction Cost Estimate by more than the five percent (5%), the Consultant will, upon notification by the Authority, assume responsibility for and proceed to provide and perform the following service without additional compensation. Notwithstanding the above, Consultant will not be required to guarantee that bids or negotiated prices will not vary from any estimate of probable construction cost prepared or agreed to by Consultant.

(D) Consultant will, subject to the review and approval of the Authority, modify at its expense the design, specifications, drawings and related bidding and contract documents to the extent necessary to reduce the anticipated construction costs so that the re-solicitation of bids or price proposals will realize bids or price proposals being received that are within the range of

accuracy established for the Construction Cost Estimate. Any such modifications made by the Consultant will not conflict with the functional or operational requirements established by the Authority for the project and set forth in the Agreement or Task Authorization(s) issued thereto, nor will any such modifications conflict with established rules, regulations, requirements or professional standards pertaining to the design, specifications or drawings prepared by the Consultant, nor will such modifications adversely affect the safe use or operation of the constructed project.

(E) If (i) the Consultant's modification of the design, specifications, drawings and related bidding and contract documents, and (ii) the re-solicitation of bids or price proposals do not result in bids or price proposals being received from a responsive and responsible bidder or proposer that are within the established percent accuracy of the Consultant's Construction Cost Estimate, the costs associated with the Consultant's preparation and development of the Construction Cost Estimate will be recoverable by the Authority by an appropriate reduction in the Consultant's invoice requesting payment for services rendered.

(F) To determine compliance with the accuracy requirement established for the Construction Cost Estimate prepared by the Consultant, the amount of the Construction Cost Estimate will be adjusted from the date the Construction Cost Estimate was received by the Authority until the date bids or price proposals are received by the Authority, by applying the percent change in the "20 Cities Cost Index" as published in the ENR (formerly Engineering News-Record), a McGraw-Hill, Inc. publication. If, in response to its solicitation, the Authority receives less than three bids or priced proposals for a project, there is the potential that such bids or price proposals may not be a realistic representation of the costs expected to be associated with the Project. If under such circumstances, and if in the professional judgment of the Consultant, the low bid or the low price proposal received from a responsive bidder or proposer does not realistically represent the costs associated with the Project, the Consultant may deem it appropriate to recommend that the Authority reject any such bid(s) or price proposal(s). If under such circumstances the Authority concurs with the Consultant's recommendation and rejects the bid(s) or price proposal(s), the Authority will not hold the Consultant responsible to, nor will the Authority require the Consultant to, modify the specifications, design, drawings and related bidding and contract documents as set forth above.

ARTICLE 7 - AUTHORITY'S RESPONSIBILITIES

Authority will:

7.1. Designate in writing a project manager to act as Authority's representative with respect to the issuance of Contract Amendment or Task Authorizations for services rendered under this Agreement ("Authority Project Manager"). The Authority's Project Manager, Executive Director, Deputy Executive Director - Development or the Development Division Director will have authority to execute Contract Amendments, Task Authorizations, and any modifications or changes to Consultant's (1) scope of services; (2) time of commencement or delivery; or (3) compensation related to services required under any Contract Amendment or Task Authorization. The Authority Project Manager will have authority to transmit instructions, receive information, and interpret and define Authority's policies and decisions with respect to Consultant's services under this Agreement. The Authority Project Manager will review and make appropriate recommendations on all requests for payment for services submitted by Consultant.

7.2. The Authority Project Manager is not authorized to, and will not, issue any verbal orders or instructions to Consultant that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever the: (1) scope of services provided and performed by Consultant hereunder; (2) the time Consultant is obligated to commence and complete all such services; or (3) the compensation Authority is obligated or committed to pay Consultant.

7.3. Provide all criteria and information requested by Consultant as to Authority's requirements for any project or task, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and budgetary limitations.

7.4. Upon request from Consultant, make available to Consultant all available information in Authority's possession pertinent to any Contract Amendment or Task Authorization, including existing drawings, specifications, shop drawings, product literature, previous reports and any other data concerning design or construction of a project.

7.5. Arrange access, in accordance with Authority's security regulations, for Consultant to enter any Project site to perform services. Consultant acknowledges that Authority may provide such access during times that are not the Consultant's normal business hours.

7.6. Notify Consultant of any defects or deficiencies in services rendered by Consultant.

ARTICLE 8 – NOTICE TO PROCEED, CONTRACT AMENDMENTS, TASK AUTHORIZATIONS AND TIME FOR COMPLETION OF SERVICES

8.1. Consultant will not commence work under this Agreement until it receives a fully-executed copy of this Agreement and a written Notice to Proceed. Following the Notice to Proceed and during the term of this Agreement, Authority may assign specific tasks by Contract Amendment or Task Authorization, in substantially the form attached and incorporated by reference as Exhibit "___," and signed by both parties. Each Contract Amendment or Task Authorization must include a lump sum or not-to-exceed compensation amount and a schedule of services required or a delivery date for all services.

8.2. All tasks outlined in the Agreement are contingent upon execution of a Task Authorization Form.

8.3 Time is of the essence for all services provided under this Agreement. Authority may suffer damage if Consultant does not complete the required services in a timely manner. Consultant therefore agrees to employ or retain adequate personnel and subconsultants or subcontractors throughout the term of this Agreement to complete all services in a timely and diligent manner.

8.4. If Consultant is obstructed or delayed in the prosecution or completion of its services as a result of unforeseeable causes beyond the control of Consultant, and not due to its own fault or neglect, including but not restricted to: acts of God or of public enemies, acts of government or of Authority, fires, floods, epidemics, quarantine regulations, strikes or lock-outs, then Consultant must notify the Authority in writing within seventy-two (72) hours after commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which Consultant may have had to request a time extension.

8.5. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of Consultant's services from any cause whatsoever, including those for which Authority may be responsible in whole or in part, will relieve Consultant of its duty to perform services or give rise to any right to damages or additional compensation from Authority. Consultant's sole remedy against Authority will be the right to seek an extension of time to its schedule. This paragraph will expressly apply to claims for early completion, as well as claims based on late completion. Provided, however, if through no fault or neglect of Consultant, the services relating to a specific Contract Amendment or Task Authorization hereunder have not been completed within twenty-four (24) months of the date that Contract Amendment or Task Authorization was signed by both parties, Consultant's compensation for that Contract Amendment or Task Authorization will be equitably adjusted, with respect to those services that have not yet been performed, to reflect the incremental increase in costs experienced by Consultant after expiration of said twenty-four (24) month period.

8.6. If Consultant fails to commence, provide, perform or complete any of the services to be provided hereunder in a timely and diligent manner, in addition to any other rights or remedies available to Authority hereunder, Authority at its sole discretion and option may withhold any and all payments due and owing to Consultant until such time as Consultant resumes performance of its obligations in such a manner so as to establish to Authority's satisfaction that Consultant's performance is or will shortly be back on schedule.

ARTICLE 9 - COMPENSATION AND METHOD OF PAYMENT

9.1. Authority will pay Consultant for all authorized services provided by Consultant under this Agreement as prescribed in Exhibit "B", "Basis of Compensation," which is attached hereto and incorporated by reference, and as set forth in this agreement or any individual Task Authorizations executed by the parties. Consultant will be compensated on a lump-sum basis on completion of a particular Task over the course of Consultant's services for Work in Progress, based on a monthly statement of services, as follows:

(1) **Lump Sum** - Upon Authority's acceptance of Consultant's work, Authority will pay Consultant a lump sum as specified in the Task Authorization or Contract Amendment. Lump Sum is a contracting method utilized by the Authority whereby scope equals fee. Lump Sum fees will be based on assumptions/estimates of personnel, hourly rates, man hours, indirect expenses, time durations, etc. needed to effectively accomplish the scope of work. As such, the project assumptions made during good faith negotiations are the basis for the Lump Sum fee.

The Lump Sum scope equals the Lump Sum fee. As such, the Lump Sum fee is not guaranteed regardless of scope or time impacts to the project. If at any time during the progression of work under this Contract the project assumptions and resulting agreed upon scope of work substantially or materially change, then the Lump Sum fee will be adjusted to reflect these changes by a Contract Amendment.

Lump Sum Fees are understood and agreed to include all direct and indirect labor costs, personnel related costs, overhead and administrative costs, costs of sub-consultant(s) and/or subcontractor(s), out-of-pocket expenses and costs, professional service fee(s) and any other costs or expenses which may pertain to the services and/or work to be performed, provided and/or furnished by the Consultant as may be required and/or necessary to complete each and every task

set forth in the Scope of Professional Services, or as may be set out in subsequent Contract Amendments, and/or Task Authorizations agreed to in writing by both parties to this Agreement.

(2) **Monthly Statements** - Consultant may submit an invoice to Authority's Development Division each calendar month covering services rendered and completed during the preceding calendar month. Consultant's invoice must be itemized to correspond to the basis of compensation as set forth in the Task Authorization or Contract Amendment, expressed as a percentage of the total work to be performed under that Task Authorization or Contract Amendment.

(3) **Non-Personnel Reimbursable Expenses** – If authorized, Authority will further compensate Consultant for non-personnel reimbursable expenses and costs as set out in Exhibit "B-1", attached and incorporated by reference.

(4) **Not-To-Exceed Fee(s)** - When all, or any portion, of the Consultant's compensation for performing services required in the Scope of Services or any Contract Amendment or Task Authorization(s), is established on a Not-to-Exceed (N.T.E.) amount basis, it is mutually understood and agreed that such compensation for each Completed Task will be made on the following basis:

a. For the actual hours necessary, required and expended by the Consultant's professional and technical personnel, multiplied by the applicable hourly rates for each classification or position as set forth in Exhibit "B" to this Agreement; and

b. For the actual necessary, required and expended non-personnel reimbursable expenses and costs, multiplied by the applicable charge for each item as set forth in Exhibit "B-1"; and

c. With the understanding and agreement that the Authority will pay the Consultant for all such costs and expenses within the established Not-to-Exceed amount for each Task or Sub-Task subject to the Consultant presenting an itemized and detailed invoice with appropriate supporting documentation attached thereto to show evidence satisfactory to the Authority covering all such costs and expenses; and

d. With the understanding and agreement that the Consultant's invoices and all payments to be made for all Not-to-Exceed amounts will be subject to the review, acceptance and approval of the Authority; and

e. With the understanding and agreement that when the Consultant's compensation is established on a Not-to-Exceed basis for a specific Task(s) or Sub-Task(s) the total amount of compensation to be paid the Consultant to cover all personnel costs, non-personnel reimbursable expenses and costs, and Sub-Consultant and Sub-Contractor costs for any such specific Task(s) or Sub-Task(s) will not exceed the amount of the total Not-to-Exceed compensation established and agreed to for each specific Task(s) or Sub-Task(s).

(5) **Authorization to Commit Funds** - All Tasks outlined in the Agreement are contingent upon execution of a Contract Amendment or Task Authorization Form. The Board of Port Commissioners' approval and execution of this Agreement does not commit the Authority to the expenditure of any federal, state, local or funds for any service listed in this Agreement. Only by execution of a Contract Amendment and subsequent Task Authorization is the expenditure of funds authorized and committed. Consultant and Authority understand, recognize and agree that there is no presumption of funding availability, authorization to work or commitment for future work until an appropriate Contract Amendment or Task Authorization is executed by both parties. Tasks may be authorized in whole or in part.

9.2. Authority will issue payment to Consultant within forty-five (45) calendar days after receipt of an invoice in an acceptable form containing the requested breakdown and detailed description and documentation. If Authority objects or takes exception to the amount of any Consultant invoice, Authority will notify Consultant in writing of such objection or exception within the forty-five (45) day period. If such objection or exception remains unresolved at the end of the forty-five (45) day period, Authority will withhold the disputed amount and make payment to Consultant of all amounts not in dispute. Payment of any disputed amount will be resolved by the mutual agreement of the parties.

9.3. Failure by Consultant to follow the instructions set out above will result in an unavoidable delay in payment by Authority.

9.4. If this Agreement is terminated for the convenience of the Authority, the Authority will compensate the Consultant for: (1) all services performed prior to the effective date of termination; (2) reimbursable expenses then due; and (3) reasonable expenses incurred by the Consultant in effecting the termination of services and work, and incurred by the submittal to the Authority of any Project documents.

9.5. If Authority suspends the Consultant's services or work on all or part of the services required by this Agreement, the Authority will compensate the Consultant for all services performed prior to the effective date of suspension and any reimbursable expenses then due along with any reasonable expenses incurred or associated with, or incurred as a result of such suspension.

9.6. If services required under this Agreement are terminated, canceled, or decreased due to: (1) termination; (2) suspension in whole or in part; and (3) and/or are modified by the subsequent issuance of Contract Amendment(s); the Consultant will not be entitled to receive compensation for anticipated fees; profit, general and administrative overhead expenses or any other anticipated income or expense which may be associated with the services which are terminated, suspended, eliminated, canceled or decreased.

9.7. The Consultant may cross-utilize funds from the various Tasks assigned to accomplish the overall purpose and goal of this Agreement provided Consultant has obtained prior written approval from the Authority. The Authority will review the need for such request and the impact on other assigned Tasks. In doing so, the Authority retains

the authority to delete any Task outlined in the Scope of Services.

ARTICLE 10 – NON-APPROPRIATION CLAUSE

All funds for payment by the Authority under this Agreement are subject to the availability of an annual appropriation for this purpose by the Authority. In the event of non-appropriation of funds by the Authority for the services provided under this Agreement, the Authority will terminate the Agreement, without termination charge or other liability, on the last day of the then current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this Agreement, cancellation will be accepted by the Consultant on thirty (30) days prior written notice, but failure to give such notice will be of no effect and the Authority will not be obligated under this Agreement beyond the date of termination.

ARTICLE 11 - FAILURE TO PERFORM

If Consultant fails to commence, perform and/or complete any of the services and work required under this Agreement in a timely and diligent manner, the Authority may consider such failure as cause to terminate this Agreement. As an alternative to termination, the Authority may, at its option, withhold any or all payments due and owing to the Consultant, not to exceed the amount of the compensation for the work in dispute, until such time as the Consultant resumes performance of its obligations in accordance with the time and schedule of performance requirements set forth in this Agreement.

ARTICLE 12 - PUBLIC RECORDS

Consultant acknowledges that any information concerning its services may be exempt from disclosure under the Virginia Freedom of Information Act.

Consultant agrees not to divulge, furnish or make available to any third person, firm or organization, without Authority's prior written consent, or unless incidental to the proper performance of Consultant's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any confidential or exempt information concerning the services to be rendered by Consultant hereunder. Consultant will require all of its employees, agents, subcontractors to comply with the provisions of this Article.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 37, VIRGINIA CODE TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 757-857-3351, 2200 NORVIEW AVENUE, NORFOLK, VIRGINIA 23518, OR VIA EMAIL AT _____.

ARTICLE 13 - OWNERSHIP OF DOCUMENTS

Upon completion or termination of this Agreement, all records, documents, tracings, plans, specifications, maps, evaluations, reports and other technical data, other

than working papers, prepared or developed by Consultant under this Agreement must be delivered to and become the property of Authority. Consultant may retain copies thereof for files and internal use.

ARTICLE 14 - MAINTENANCE OF RECORDS

Consultant will keep adequate records and supporting documentation that concern or reflect its services hereunder. The records and documentation will be retained by Consultant for a minimum of five (5) years from the date of expiration or termination of this Agreement or the date all work under this Agreement is complete, whichever is later. The FAA, the Comptroller General of the United States or any duly authorized agent or representative of any of them will have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the five (5) year period thereafter; provided, however, such activity will be conducted only during normal business hours.

ARTICLE 15 - INDEMNIFICATION

Consultant will indemnify, hold harmless and defend Authority and its Commissioners, officers, agents, and employees, from and against liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant and other persons employed or utilized by the Consultant in the performance of the contract. This obligation will survive termination of the Agreement and acceptance of the services provided under this Agreement and payment therefore by Authority.

[If Copyright Indemnification used:]

Further, Consultant's patent and copyright infringement and trade secret indemnity and hold harmless obligations, as set out in Request for Qualifications, LOQ-, are specifically incorporated by reference as if set forth in full herein.

ARTICLE 16 – SOVEREIGN IMMUNITY

Consultant acknowledges and agrees that Authority does not waive its sovereign immunity by entering into this Agreement and that nothing herein will be interpreted as a waiver of Authority's rights, including the limitation of waiver of immunity per § 8.01-195.3, Virginia Code, or any other statute, and Authority expressly reserves those rights to the fullest extent allowed by law.

ARTICLE 17 – INSURANCE

During the term of this Agreement, Consultant will provide, pay for, and maintain, with companies satisfactory to Authority, the types of insurance described herein. Promptly after execution of this Agreement by both parties, the Consultant must obtain the insurance coverages and limits as set out below. All insurance will be from responsible companies duly authorized to do business in the Commonwealth of Virginia and/or responsible risk retention group insurance companies registered with the Commonwealth of Virginia.

The Authority reserves the right to reject insurance written by an insurer it deems unacceptable because of poor financial condition or other operational deficiency. All insurance must be placed with insurers who are duly licensed, or authorized to do business within the Commonwealth of Virginia, and with an A.M. Best Rating of not less than A-VII. Regardless of this requirement, Authority in no way warrants that the required minimum insurer rating is sufficient to protect the Consultant from potential insurer insolvency.

All policies of insurance will contain provisions that advance written notice will be given to the Authority of any cancellation, intent not to renew, material change or alteration, or reduction in the policies' coverages, except in the application of the Aggregate Limits provision of any policy. If there is a reduction in the Aggregate Limit of any policy, Consultant will immediately take steps to have the Aggregate Limit reinstated to the full extent permitted under such policy. If there is a cancellation, Provider agrees to obtain replacement coverage as soon as possible.

The acceptance by Authority of any Certificate of Insurance evidencing the insurance coverages and limits required in this Agreement does not constitute approval or agreement by Authority that the insurance requirements have been met or that the insurance policies shown in the Certificates of Insurance are in compliance with the requirements of this Agreement.

All of Consultant's insurance coverages will be primary and non-contributory to any insurance or self-insurance program carried by Authority and applicable to work under this Agreement and will include waiver of subrogation in favor of Authority.

No work may commence on any Task assigned under this Agreement unless and until the required Certificates of Insurance are received and approved by Authority. During the term of this Agreement, Consultant will provide, pay for, and maintain, with companies satisfactory to Authority, the types of insurance described herein.

17.1 INSURANCE REQUIRED

Before starting and until acceptance of any work by Authority, Consultant will procure and maintain insurance of the types and to the limits specified in paragraphs through 17.1.4, inclusive below. All liability insurance policies obtained by Consultant to meet the requirements of this Agreement, other than Worker's Compensation and Employer's Liability and Professional Liability policies, will name Authority as an additional insured as to the services of Consultant under this Agreement and will contain the severability of interests provisions.

The amounts and types of insurance described below are the minimum requirements and are not intended to limit the Authority's access to additional coverage if more coverage is available. All amounts and types of insurance will conform to the following minimum requirements where applicable:

17.1.1 Professional Liability Insurance - Consultant will maintain professional liability insurance insuring its legal liability arising out of the performance of professional services under this Agreement. Such insurance will have limits of not less than \$____ each claim and \$____ annual aggregate. Consultant must continue this coverage for a period of not less than five (5) years after completion of its services to Authority. Consultant will promptly submit a Certificate of Insurance providing for an unqualified written notice to Authority of any cancellation of coverage or reduction in limits, other than the application of the Aggregate Limits provision.

If the professional liability insurance is written on a claims-made basis, Consultant warrants that any retroactive date under the policy will precede the effective date of this Agreement and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Agreement is completed.

17.1.2 Commercial General Liability Insurance - Consultant will maintain commercial general liability insurance. Coverage will include, but not be limited to, Personal Injury, Contractual for this Agreement, Independent Contractors, Broad Form Property Damage including Completed Operations, Broad Form Contractual Liability and XCU Coverages. If Consultant provides any construction work, it must also include Products & Completed Operations, with the Completed Operations Coverage maintained for any project under this Agreement and then for not less than five (5) years following completion and acceptance of the work by Authority. Limits of coverage will not be less than the following:

Each Occurrence Personal and Advertising Injury	\$_____
Products - Completed Operations Aggregate	\$_____
Specific Project Aggregate Limits Same As Above	

If the General Liability insurance required herein is issued or renewed on a "claims made" form, as opposed to the "occurrence" form, the retroactive date for coverage will be no later than the commencement date of any Task under this Agreement and will provide that in the event of cancellation or non-renewal the discovery period for insurance claims(Tail Coverage) will be unlimited.

17.1.3 Automobile Liability Insurance will be maintained by Consultant as to ownership, maintenance, and use of all owned, non-owned, leased or hired vehicles with limits of not less than:

Bodily Injury and Property Damage Liability	\$_____ Combined Single Limit
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17.1.4 Worker's Compensation and Employers Liability Insurance will be maintained by Consultant during the term of this Agreement for all employees engaged in the work under this Agreement, in accordance with the laws of the Commonwealth of Virginia.

Consultant must provide evidence of the required insurance coverage using Authority's Certificate of Insurance attached as Exhibit "___", or similar form acceptable to Authority's Risk Manager, to verify coverages. The Certificate of Insurance must be completed on a "sample only" basis by Consultant's insurance representatives and must be submitted for Authority's review as to acceptability. Upon acceptance, the Certificates must be signed by an Authorized Representative of the insurance company/companies shown on the Certificates with proof that s/he is an authorized representative thereof. In addition, copies of all insurance policies will be provided to Authority, on a timely basis, if requested by Authority. If any insurance provided under this Agreement will expire prior to the completion of the services provided under this Agreement, renewal Certificates of Insurance on an acceptable form and copies of the renewal policies, if requested by Authority, must be furnished to Authority's Risk Manager at least thirty (30) days prior to the date of expiration.

If Consultant does not maintain the insurance coverages required by this Agreement, Authority may cancel the Agreement or at its sole discretion is authorized to purchase such coverages and charge Consultant for such coverages purchased. Authority will be under no obligation to purchase such insurance, nor will it be responsible for the coverages purchased or the insurance company/companies used. The decision of Authority to purchase such insurance coverages will in no way be construed to be a waiver of its rights under this Agreement.

ARTICLE 18 - SERVICES BY CONSULTANT'S OWN STAFF

18.1 Services performed hereunder will be performed by Consultant's own staff, unless otherwise authorized in writing by Authority. The employment of, contract with, or use of the services of any other person or firm by Consultant, as independent contractor or otherwise, will be subject to the prior written approval of Authority. No provision of this Agreement will, however, be construed as constituting an agreement between Authority and any such other person or firm. Nor will anything contained herein be deemed to give any such party or any third party any claim or right of action against Authority beyond such as may otherwise exist without regard to this Agreement.

18.2 Authority hereby gives its prior approval to Consultant to subcontract with for certain services. Provided, however, this prior approval by Authority subject to Authority's rights under Section 4.4., above.

ARTICLE 19 - WAIVER OF CLAIMS

Consultant's acceptance of final payment will constitute a full waiver of any and all claims, except for insurance company subrogation claims, by it against Authority for services rendered under this Agreement, except those previously made in writing and identified by Consultant as unsettled at the time of the final payment. Neither the acceptance of Consultant's services nor payment by Authority will be deemed to be a waiver of any of Authority's rights against Consultant.

ARTICLE 20 - AIRPORT SECURITY REQUIREMENTS

Consultant acknowledges that the Authority is subject to strict federal security regulations limiting access to secure areas of the Airport and prohibiting violations of the adopted Airport Security Program. Consultant may need access to these secure areas to complete the work required by this Agreement.

Consultant therefore agrees, in addition to the other indemnification and assumption of liability provisions set out above, to indemnify and hold harmless the Authority, its commissioners, officers and employees, from any duty to pay any fine or assessment or to satisfy any punitive measure imposed on the Authority by the FAA or any other governmental agency for breaches of security rules and regulations by Consultant, its agents, employees, subconsultants, subcontractors, or invitees.

Consultant further acknowledges that its employees and agents may be required to undergo background checks and take Airport Security and Access Procedures ("S.I.D.A.") training before receiving an Airport Security Identification Badge.

Immediately upon the completion of any work requiring airport security access under this Agreement, or upon the resignation or dismissal or conclusion of any work justifying airport security access to any agent, employee, subcontractor, or invitee of the Consultant, Consultant will notify the Airport's Police Department that the Consultant's access authorization or that of any of Consultant's agents, employees, subconsultants, subcontractors, or invitees has changed. Consultant will confirm that notice, by written confirmation on company letterhead, within twenty-four (24) hours of providing initial notice to the Airport's Police Department.

Upon termination of this Agreement, or the resignation or dismissal of any employee or agent, or conclusion of any work justifying airport security access to any agent, employee, subcontractor, or invitee of the Consultant, Consultant will surrender any Airport Security Identification Badge held by the Consultant or by Consultant's agents, employees, subconsultants, subcontractors, or invitees. If Consultant fails to surrender these items within five (5) days, the Consultant may be assessed a fee per identification badge not returned. This fee will be billed to the Consultant or deducted from any money owing to the Consultant, at the Authority's discretion.

ARTICLE 21 – ASSIGNMENT, TRANSFER AND SUBCONTRACTS

Consultant will not assign or transfer any of its rights, benefits or obligations hereunder, without the prior written consent of Authority. The Consultant will have the right, subject to the Authority's prior written approval, to employ other persons and/or firms to serve as subconsultants or subcontractors in connection with the Consultant's performance of services under the requirements of this Agreement.

ARTICLE 22 – PROVIDER AN INDEPENDENT CONTRACTOR

Consultant is an independent contractor and is not an employee or agent of the Authority. Nothing in this Agreement will be interpreted to establish any relationship other

than that of an independent contractor between the Authority and Consultant, its employees, agents, subcontractors or assigns, during or after the performance of this Agreement.

ARTICLE 23 - TERMINATION OR SUSPENSION

23.1 Consultant will be considered in material default of this Agreement and such default will be considered cause for Authority to terminate this Agreement, in whole or in part, as further set forth in this section, for any of the following reasons: (a) failure to begin work under the Agreement within the times specified under any Contract Amendment or Task Authorization, or (b) failure to properly and timely perform the services as directed by Authority as provided for in the Agreement, or (c) the bankruptcy or insolvency or a general assignment for the benefit of creditors by Consultant, or (d) failure to obey laws, ordinances, regulations or other codes of conduct, or (e) failure to perform or abide by the terms or spirit of this Agreement, or (f) for any other just cause. Authority may so terminate this Agreement, in whole or in part, by giving Consultant seven (7) calendar days written notice.

23.2 If, after notice of termination of this Agreement, it is determined for any reason that Consultant was not in default, or that its default was excusable, or that Authority was not entitled to the remedies against Consultant provided herein, then Consultant's remedies against Authority will be the same as and limited to those afforded Consultant under paragraph 24.3. below.

23.3 Authority will have the right to terminate this Agreement, in whole or in part, without cause upon thirty (30) calendar days written notice to Consultant. In the event of such termination for convenience, Consultant's recovery against Authority will be limited to that portion of the fee earned through the date of termination, together with any retainage withheld and any costs reasonably incurred by Consultant that are directly attributable to the termination, but Consultant will not be entitled to any other or further recovery against Authority, including, but not limited to, anticipated fees or profits on work not required to be performed.

23.4 Upon termination, Consultant will deliver to Authority all original papers, records, documents, drawings, models, and other material set forth and described in this Agreement. Authority will have the power to suspend all or any portions of the services to be provided by Consultant hereunder upon giving Consultant two (2) calendar days prior written notice of such suspension. If all or any portion of the services to be rendered hereunder are suspended, Consultant's sole and exclusive remedy will be an extension of time to its schedule.

ARTICLE 24 - SECURING AGREEMENT

Consultant warrants that Consultant has not employed or retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement and that Consultant has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for

Consultant, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

ARTICLE 25 - CONFLICT OF INTEREST

25.1 Conflict of Interest - Clients - The Authority desires to avoid any real or perceived conflict of interest in obtaining Consultant's services during the term of this Agreement. Consultant therefore agrees not to perform work for any third party related to development of Norfolk International Airport, nor perform work related to any property directly abutting the boundary of Norfolk International Airport, or within the Runway Protection Zones of the Airport, or within the Airport Noise Overlay Zone.

Consultant represents that it presently has no interest and will acquire no interest, during the term of this Agreement, either direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Consultant further agrees that no person having any such interest will be employed or engaged by Consultant for said performance.

If Consultant, for itself and on behalf of its subconsultants or subcontractors, is about to engage in representing another client, which it in good faith believes could result in a conflict of interest with the work being performed by Consultant or such subconsultants or subcontractors under this Agreement, then it will promptly bring such potential conflict of interest to Authority's attention, in writing. Authority will advise Consultant, in writing, within ten (10) calendar days as to the period of time required by Authority to determine if such a conflict of interest exists. If Authority determines that there is a conflict of interest, Consultant or such subconsultant or subcontractor will decline the representation upon written notice by Authority.

If Authority determines that there is no conflict of interest, then Authority will give its written consent to the proposed representation. If Consultant or a subconsultant or subcontractor accepts any representation without obtaining Authority's prior written consent, and if Authority subsequently determines that there is a conflict of interest between that representation and the work being performed by Consultant or a subconsultant or subcontractor under this Agreement, then Consultant or such subconsultant or subcontractor agrees to promptly terminate the representation. Consultant will require each of its subconsultants or subcontractors to comply with the provisions of this Article.

If Consultant fails to advise or notify Authority as provided hereinabove of representation which could, or does, result in a conflict of interest, or if Consultant fails to discontinue such representation when requested, Authority may consider such failure as justifiable cause to terminate this Agreement.

25.2 Conflict of Interest - Projects - If Consultant or any subconsultant or subcontractor is requested by Authority to prepare any early analysis, concept study, preliminary design, cost estimate, project schedule, etc. for a project and the estimated

construction cost of that project is expected to exceed the statutory threshold for competitive solicitations (currently \$4 million) the Consultant and any subconsultant or subcontractor will be prohibited from pursuing any future solicitation or contracting with another firm, as a prime consultant or subconsultant, for that same project. The Consultant may not decline any work assigned by the Authority under this Agreement because of this restriction.

As identified in the Request for Letters of Qualification, Consultant acknowledges and accepts that all work that is potentially funded with any federal funds will be awarded to the top ranked firm as previously determined during the competitive selection process.

ARTICLE 26 - NOTICES AND ADDRESS OF RECORD

26.1 All notices required or made under this Agreement to be given by either party to the other will be in writing and will be delivered by hand or by United States Postal Service, first class mail service, postage prepaid, and addressed to the following addresses of record:

Authority:

Consultant:

Either party may change its address of record by written notice to the other party given in accordance with requirements of this Article.

ARTICLE 27 - NO THIRD PARTY RIGHTS

Nothing contained in this Agreement will create a contractual relationship with a third party, or any duty, obligation or cause of action in favor of any third party, against either the Authority or Consultant.

Services performed by Consultant under the Agreement are solely for the benefit of the Authority. This Agreement will not be construed to create any contractual relationship between Consultant and any third party. It is the intent of the parties that there be no third party beneficiaries to this Agreement. The fact that the Authority may enter into other agreements with third parties that give Consultant and Authority the right to observe work being performed by those third parties, will not give rise to any duty or responsibility on the part of Consultant in favor of such third parties.

ARTICLE 28 - MISCELLANEOUS

28.1 Consultant, in representing Authority, will promote the best interest of Authority and assume towards Authority a fiduciary relationship of the highest trust, confidence, and fair dealing. Services provided under this Agreement must be performed in a workmanlike manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in

the same geographic location.

28.2 No modification, waiver, suspension or termination of the Agreement or of any terms thereof will impair the rights or liabilities of either party.

28.3 Waiver by either party or a breach of any provision of this Agreement will not be deemed to be a waiver of any other breach and will not be construed to be a modification of the terms of this Agreement.

28.4 The headings of the Articles, Sections, Schedules and Attachments as contained in this Agreement are for the purpose of convenience only and will not be deemed to expand, limit or change the provisions in such Articles, Sections, Exhibits and attachments.

28.5 This Agreement, including any Addenda and referenced Exhibits and Attachments hereto, constitutes the entire agreement between the parties hereto and will supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matter set forth herein, and any such prior agreements or understanding will have no force or effect whatever on this Agreement.

ARTICLE 29 - PROHIBITED INTERESTS

No member, officer or employee of the Authority during his or her tenure or for one year thereafter may have any interest, direct or indirect, in this contract or in the proceeds thereof, other than his or her own employment.

ARTICLE 30 - LOBBYING CERTIFICATION

The Authority agrees that no Federal appropriated funds have been paid or will be paid by or on behalf of the Authority, to any person for influencing or attempting to influence any officer or employee of any Federal agency, a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

If any funds other than Federal appropriated funds have been paid by the Authority to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, the undersigned will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Authority will require that the language of this section be included in this award document and any award document for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients will certify and disclose accordingly.

ARTICLE 31 - E-VERIFY

Consultant certifies that it has enrolled and is using in the U.S. Department of Homeland Security's E-Verify Program for Employment Verification in accordance with the terms governing use of the Program and is eligible to enter this Agreement. The Consultant further agrees to provide the Authority with proof of such enrollment within thirty (30) days of the date of this Agreement.

Consultant agrees to use the E-Verify Program to confirm the employment eligibility of:

All persons employed by Consultant during the term of this Agreement.

All persons, including subconsultants and subcontractors, assigned by the Consultant to perform work or provide services under the Agreement.

Consultant further agrees that it will require each subconsultant or subcontractor performing work or providing services under this Agreement to enroll in and use the U.S. Department of Homeland Security's E-Verify Program for Employment Verification to verify the employment eligibility of all persons employed by the subconsultant or subcontractor during the term of this Agreement.

Consultant agrees to maintain records of its participation and compliance with the provisions of the E-Verify Program, including participation by its subconsultants and subcontractors as provided above, and to make such records available to the Authority or other authorized state or federal agency consistent with the terms of this Agreement.

Compliance with the terms of this Article is made an express condition of this Agreement, and the Authority may treat failure to comply as a material breach of the Agreement and grounds for immediate termination.

ARTICLE 32 - COVENANTS AGAINST DISCRIMINATION

During the performance of this Agreement, Consultant, for itself, its assignees and successors in interest agrees as follows:

32.1 Compliance with Regulations. Consultant will comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (the "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

32.2 FAA Nondiscrimination Clause. Consultant or subconsultant will not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Consultant will carry out all applicable requirements of 49 CFR Part 23 and Part 26 in the award and administration of DOT-assisted contracts. Failure by Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as Authority (recipient) deems appropriate. Every contract that Consultant enters with a subconsultant or subcontractor for services under this Agreement must contain this clause.

32.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation made by Consultant

for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier will be notified by Consultant of Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

32.4 Information and Reports. Consultant will provide all information and reports required by the Regulations or directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Authority or the FAA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant will so certify to Authority or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

32.5 Sanctions for Noncompliance. In the event of Consultant's noncompliance with the nondiscrimination provisions of this Agreement, Authority will impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to Consultant under the Agreement until Consultant complies; and/or

(b) cancellation, termination, or suspension of the Agreement, in whole or in part.

32.6 DBE Policy. It is the policy of the Department of Transportation (the "DOT") that Disadvantaged Business Enterprises ("DBE's") as defined in 49 CFR Part 23 and Part 26 will have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 23 and Part 26 apply to this Agreement. The Consultant agrees to ensure that DBE's as defined in 49 CFR Part 23 and Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard, Consultant will take all necessary and reasonable steps in accordance with 49 CFR Part 23 and Part 26 to ensure that DBE's have the maximum opportunity to compete for and perform contracts.

32.7 Prompt Payment Requirements. Authority has adopted a DBE Program in compliance with 49 CFR Part 26, therefore, the following requirement will apply to all contracts funded, either wholly or in-part, with DOT financial assistance:

Consultant agrees to pay each subconsultant under this contract for satisfactory performance of its contract no later than fifteen (15) days from the receipt of each payment Consultant receives from Authority. Consultant agrees further to return any retainage payments to each subconsultant within thirty (30) days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment beyond these time limits may occur only for good cause following written approval of the delay by Authority. This clause applies to both DBE and non-DBE subconsultants.

32.8 Incorporation of Provisions. Consultant will include the provisions of paragraphs 36.1. through 36.7. in every subcontract, including procurements of materials and leases of

equipment, unless exempted by the Regulations or directives issued pursuant thereto. Consultant will take such action with respect to any subcontract or procurement as Authority or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, Consultant may request Authority to enter into such litigation to protect the interests of Authority and, in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 33 - NONDISCRIMINATION CLAUSE

Pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, the Restoration Action of 1987, the Virginia Civil Rights Act of 1992, and as said Regulations may be amended, the Contractor/Consultant must assure that “no person in the United States will on the basis of race, color, national origin, sex, creed or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,” and in the selection and retention of subcontractors/subconsultants, including procurements of materials and leases of equipment.

The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

ARTICLE 34 - GENERAL CIVIL RIGHTS CLAUSE

The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person will, 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.

This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

ARTICLE 35 - AMENDMENTS OR MODIFICATIONS

No amendment or modification to this Agreement will be valid or binding upon the parties unless in writing as an Amendment to this Agreement and executed by both parties intended to be bound by it.

This Agreement will become effective upon concurrence by the Federal Aviation Administration and/or the Virginia Department of Transportation, if required, and otherwise on the date first written above.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year first written above.

NORFOLK AIRPORT AUTHORITY

Signature

Name: Mark A. Perryman
Title: President and Chief Executive Officer

CONSULTANT:

Signature

Name: _____
Title:

WITNESS:

Name: _____

EXHIBIT A

SCOPE OF SERVICES

EXHIBIT B

BASIS OF COMPENSATION

EXHIBIT C

FAA REQUIREMENTS

1. ACCESS TO RECORDS AND REPORTS

The Consultant must maintain an acceptable cost accounting system. The Consultant agrees to provide the Owner, the FAA and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Consultant which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Consultant agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

2. CLEAN AIR AND WATER POLLUTION CONTROL

Consultant agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC § 1251-1387). The Consultant agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the FAA. Consultant must include this requirement in all subcontracts that exceed \$150,000.

3. DEBARMENT AND SUSPENSION

The successful consultant, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by: a) checking the System for Award Management at website: <http://www.sam.gov>; b) collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above; and c) Inserting a clause or condition in the covered transaction with the lower tier contract. If the FAA later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

4. TEXTING WHILE DRIVING

In accordance with Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving”, (10/1/2009) and DOT Order 3902.10, “Text Messaging While Driving”, (12/30/2009), the FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the LCPA encourages the Consultant to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Consultant must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

5. ENERGY CONSERVATION REQUIREMENTS

Consultant and Subconsultants agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201 *et seq.*)

6. EQUAL OPPORTUNITY CLAUSE

During the performance of this contract, the Consultant agrees as follows:

(a) The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action will include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(b) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(c) The Consultant will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section and will post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Consultant's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Consultant will include this section in every subcontractor purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subconsultant or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subconsultant or vendor as a result of such direction by the administering agency the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

7. CERTIFICATION REGARDING LOBBYING

The Consultant certifies by signing and submitting proposals, to the best of his or her knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned will complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The undersigned will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients will certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

8. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subconsultant's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part

1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

**9. CERTIFICATION REGARDING TAX DELINQUENCY
AND FELONY CONVICTIONS CERTIFICATION**

(a) The consultant represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

(b) The consultant represents that it is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

10. VETERANS PREFERENCE

In the employment of labor (excluding executive, administrative, and supervisory positions), the Consultant and all sub-tier Consultants must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan- Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.