



**NORFOLK AIRPORT AUTHORITY**

**REQUEST FOR PROPOSALS**

**VENDING AND MICRO-MARKET  
CONCESSIONAIRE SERVICES**

**RFP-FY25-100-02**

**August 16, 2024**

# NORFOLK AIRPORT AUTHORITY

## REQUEST FOR PROPOSALS VENDING AND MICRO-MARKET CONCESSIONAIRE SERVICES

### I. REQUEST FOR PROPOSALS (RFP)

#### A. Introduction

The Norfolk Airport Authority (“Authority” or “NAA”) seeks proposals from interested, qualified and experienced firms (“Respondents”) to provide Vending and Micro-Market Concessionaire Services for the Authority staff and its tenants at the Norfolk International Airport. The successful contractor should custom design Micro Market with a self-checkout, replace current vending locations with latest model machines and replenish stock as required for Norfolk International Airport (“Airport”). Contractor shall provide high quality products and services at the lowest and competitive prices, with or without commission coming back to the Norfolk Airport Authority. Qualified firms must demonstrate considerable experience directly related to the services to be provided.

#### B. Specifications

The Authority maintains an on-going Capital Improvement Program (CIP) to address the modernization development needs of the Airport. The work to be completed includes but is not limited to providing all labor, materials, carts, kiosks, supplies, tools and equipment, miscellaneous incidentals, transportation and related items necessary for the successful upgrade of the vending and staff vending operations. The Contractor should be prepared to accomplish the following over four locations throughout the airport.

- Remove, replace, rotate stock and replenish 4 snack machines daily
- Remove, replace, rotate stock and replenish 5 drink machines daily
- Custom design, install a Micro-Market with a self-checkout kiosk in staff breakroom, replenish and rotate stock daily with fresh, healthy food, snacks and drink options.
- The following holidays are observed:

1. New Year’s Day
2. Martin Luther King, Jr. Day

3. President's Day
4. Memorial Day
5. Independence Day
6. Labor Day
7. Yorktown Day (Observed) October 19 if on a weekday
8. Veteran's Day
9. Thanksgiving Day
10. Day after Thanksgiving
11. Christmas Eve
12. Christmas Day
13. New Year's Eve

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 and expertise in performing similar tasks
- Respondents should hold appropriate certifications and licenses relevant to electrical work and design, replenishment and vending installation. This may include certifications demonstrating competency in handling electrical systems and equipment, as well as any specific certifications required by Virginia regulations.
- Respondents must have adequate insurance coverage, including general liability insurance and workers' compensation insurance, to protect against potential liabilities and risks associated with the project.
- Respondents must be able to provide references from previous clients or projects demonstrating their competence, reliability, and quality of workmanship. A track record of successfully completed projects, particularly in similar environments or industries would further validate their qualifications.
- Respondents must provide a warranty and honor service calls on all products used within a reasonable timeframe.

D. Scope of Services

The scope of the 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 firms to submit a response for all subject areas where they meet or exceed the minimum requirements described in this RFP.

- Supply and Installation:
  - The successful offeror shall provide all labor, materials, carts, supplies, tools, and equipment necessary for snack and beverage vending machine services at Norfolk International Airport.

- All machines installed, whether original or replacement, must be current production models.
- Operational Hours and Service Responsiveness:
  - Services shall operate 24 hours a day, 7 days a week.
  - The offeror must respond to all service requests within 24 hours for repairs, servicing, or restocking.
- Equipment Maintenance and Compliance:
  - Maintain and service all equipment to ensure good working order and minimal service interruptions.
  - Ensure all electrically operated equipment meets OSHA regulations, National Electrical Code standards, and Virginia safety measures.
  - Fire extinguishers must not be blocked during regular use, with temporary blocking permitted during restocking.
- Regulatory Compliance and Permits:
  - Obtain and maintain all necessary permits, licenses, and comply with federal, state, and local health codes governing food and beverage service.
- Sanitation and Cleanliness:
  - Maintain all equipment in a clean and sanitary condition.
  - Remove all crating and debris generated daily from the premises during restocking.
- Financial and Operational Responsibilities:
  - Pay all taxes associated with the operation.
  - Be responsible for any damage to existing equipment or finishes, repairing them to the Authority's satisfaction.
  - Arrange for delivery, unloading, receiving, and storing merchandise without involvement from the Authority.
- Payment Methods and Compliance:
  - Provide vending machines with a minimum one-dollar bill acceptor and coin changer.
  - Offer vending machines that accept credit/debit cards, complying with PCI DSS standards and providing annual certification of PCI compliance.
  - Accept MasterCard and VISA as payment methods.
- Menu and Product Offering:
  - Offer healthy alternative items for beverages and snacks as determined by the Authority.
  - Provide a negotiable menu with all pricing inclusive, subject to approval by the Authority.

- Placement and Operational Procedures:

- Complete all final connections for vending machines without altering airport buildings.
- Place equipment only in designated areas approved by the Authority.
- Establish routine operational procedures in accordance with these specifications, subject to Authority approval.

- Price Adjustments and Contractual Terms:

- Seek prior approval from the Authority for any adjustments to sales prices on food and beverage items.
- Ensure all contractual terms and conditions are adhered to throughout the duration of the agreement.

Support Services Provided by the Airport:

- Utilities and Facilities:
  - Standard utilities (gas, water, sewer, electricity) and access to existing tables and chairs.
  - Ensured adequate ingress and egress to required areas.
- Maintenance and Custodial Services:
  - Pest control extermination services if necessary.
  - Placement of trash containers in dining areas, with daily custodial services for emptiness.
  - Weekly custodial services for cleaning floors.
  - General maintenance of building structure and systems, including HVAC, utilities, electrical, lighting, ductwork, floor coverings, walls, fire sprinkler systems, ceilings, and paint.
- Financial Arrangements:
  - The Airport does seek a commission from food sales in locations as specified in the RFP but also expects pricing to be fair and reasonable, encouraging usage and meeting minimum profitability standards.
- Responsibility for Damages:
  - The Contractor assumes responsibility for any damage to airport property resulting from market malfunctions or power loss, unless mutually agreed otherwise.
  - Market units must be installed only in airport buildings equipped with emergency generators unless otherwise agreed upon.

E. RFP Exhibits

Exhibit A	Detailed Photographs and Vending Specifications
Exhibit B	Proposal Form for Goods and Services
Exhibit C	General Terms and Conditions for Services
Exhibit D	Standard Contract Between Authority and Contractor
Exhibit E	Commission Rate Schedule Form
Exhibit F	FAA Requirements

## **GENERAL PROPOSAL REQUIREMENTS**

- F. RFP Response: In order to be considered for selection, Respondents must submit a complete proposal in response to this RFP for receipt not later than 5:00 p.m. (Local Time) on September 13, 2024.
- G. One (1) electronic copy (PDF) of the Proposal must be submitted to the Authority via email to: [procurement@norfolkairport.com](mailto:procurement@norfolkairport.com)  
Hardcopy proposals will not be accepted. Email correspondence transmitting the RFP response must be time stamped by the deadline stated above.
- H. Proposal Format
1. The Proposal must include the completed Proposal Form and Commission Rate Schedule Form attached hereto as Exhibit A & E along with additional required information and must be contained in a single PDF.
  2. Proposals shall be signed by an authorized representative of the Respondent. All information requested in this RFP should be submitted. Failure to submit all the 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. The 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 straight-forward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity and brevity of content. Respondents are not expected to expend resources developing story boards, creative copy, and similar materials. The 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 RFP 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 a

Respondent shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Respondent 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 Respondent 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 Respondent 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 RFP. All pages of the Proposal should be numbered. Information which the Respondent desires to present that does not fall within any of the requirements of the RFP should be attached at the end of the Proposal and designated as additional material.
7. Proposals cannot be altered or amended after the 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.

## **II. SPECIFIC PROPOSAL REQUIREMENTS**

Respondents 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 Respondent's qualifications and capacity to perform all requirements under the Scope of Services. The Respondent must support its ability to be responsible for all facets of the REQUEST FOR PROPOSAL, including professional background and experience of key personnel in the Scope of Services.
2. References. List three (3) clients who would provide references for Respondent where comparable services have been provided. Provide phone numbers, email, and mailing addresses for each of such references. 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

Respondent'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 Respondent firm is selected.
5. Resumes of key individuals and sub contractors who will perform work covered under this RFP.
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 Respondent's response to this RFP.

### **III. SELECTION PROCESS**

- A. The Authority intends to select one Contractor, but reserves the right to selected multiple contractors, to accept none of the Proposals, to negotiate for modification of the Proposal with the Selected Respondent, 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 Respondent is selected for contract negotiations, the Selected Respondent may be required to prepare and submit additional information prior to final contract execution.
- B. The Authority may elect to conduct interviews as part of this RFP.. Respondents should be prepared to respond to questions related specifically to their Proposals and other pertinent matters contained within the RFP. 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 Respondent, 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 Respondent to perform the services, and the Respondent 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 Respondent fail to satisfy the Authority that such Respondent is properly qualified to fulfill the requirements of the RFP and to successfully provide the services contemplated herein.



#### IV. EVALUATION AND AWARD

- A. Evaluation of Proposals: Each Proposal will be evaluated for full compliance with the RFP instructions to the Respondent and the mandatory terms and conditions set forth herein. The specifications within this RFP represent the minimum performance necessary for response. An award will be made to the Respondent who is determined by the Authority, in its sole discretion, to best meet its needs and objectives of this RFP as set forth below:
1. Experience and Qualifications of company and personnel assigned to perform service (20pts).
  2. Proposed methodology and plans for providing services (15pts).
  3. Menu/Vending selection and prices (50pts).
  4. DSBSD Certified Small Business/Swam (15pts).

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 Respondent with whom it will make a good faith effort to negotiate a consulting agreement. The Authority shall select the Respondent 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 Respondent(s) so selected. The proposed Contractor team of the Respondent 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 Respondent, the Authority reserves the right to terminate negotiations with no obligation to the first Selected Respondent. Further, the Authority reserves the right to negotiate for modification of any Proposal and may enter into an agreement with any Respondent 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 Respondent'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 RFP as Exhibits B-C. Once an award is made, the Authority will negotiate the contract and terms and conditions with the successful Respondent to finalize a mutually acceptable contract document consistent with the standard contract and terms and conditions attached hereto.

The Authority may cancel this RFP 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.

**V. SCHEDULE**

The schedule for this procurement is as follows:

On-site assessment by request NLT: August 7, 2024  
Request via email : procurement@norfolkairport.com  
Deadline for question Requests: August 9, 2024  
Submit in writing to: procurement@norfolkairport.com Responses  
to Questions Posted by: August 16, 2024 Proposals Due by:  
August 26, 2024, at 5:00 EST  
Submit electronically to: procurement@norfolkairport.com  
Interviews if necessary: September 2- 6, 2024

The award is expected in September 2024, and the Selected Respondent's performance of Services shall begin immediately upon execution of the Authority's standard contractor contract.

**VI. GENERAL**

- A. This solicitation and any resulting contract are subject to and shall incorporate the General Terms and Conditions attached hereto as Exhibit C.
- B. It is the responsibility of each Respondent to clarify any requirements of this RFP that are not understood. All inquiries pertaining to this RFP 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 RFP, 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 Respondents 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.

## EXHIBIT A

### DETAILED PHOTOGRAPHS AND VENDING SPECIFICATIONS VENDING AND MICRO-MARKET CONCESSIONAIRE SERVICES

Location #1: Cell Phone/TNC building, one story building serving patrons waiting to pick up passengers, Uber Drivers and Lyft Drivers. Existing vending machines consist of 2 drink machines and 1 snack, the Airport Authority would like to maintain the same quantity of vending machines for this area.



Location #2: Basement of the Departures building. Serves Airport Tenants, and staff. Currently, there are 3 drink machines and 3 snack machines. It is the intent of the Airport Authority to reduce the number of vending machines in this area.





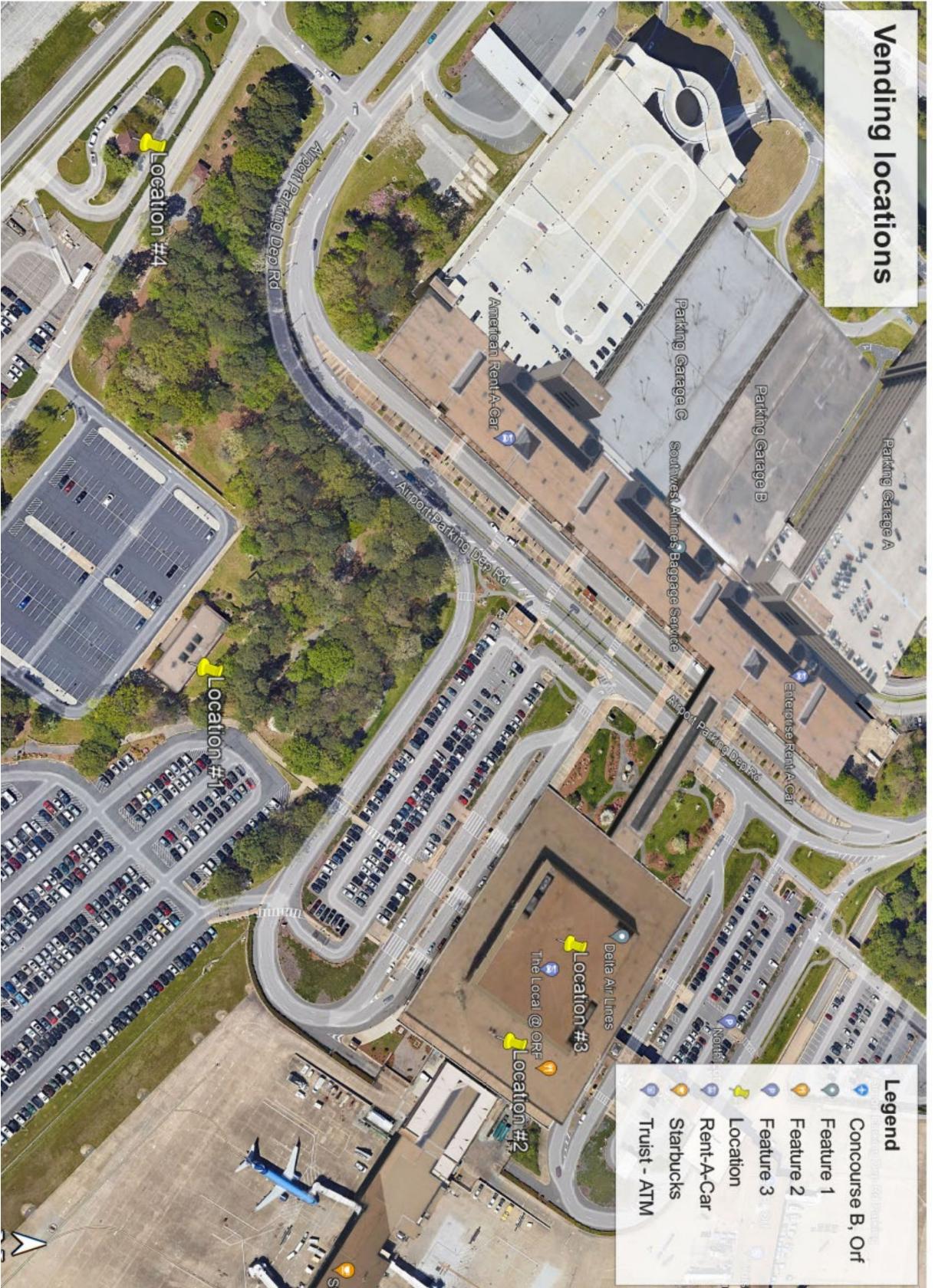
Location #3: Norfolk Airport Authority Employee breakroom. The location is in the Departures building on the 2nd floor. Four outlets were provided in preparation for a Micro Market type of setup. It's preferred to have fresh food options within the Micro Market.



Location #4: Taxi Que building, one story building that services the taxi drivers that operate out of the airport. It's preferred to keep the same number of vending machines.







**EXHIBIT B**  
**PROPOSAL FORM**  
**VENDING AND MICRO-MARKET CONCESSIONAIRE**  
**SERVICES**

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 PROPOSAL dated July 29, 2024 for Vending and Micro-Market Concessionaire Services, which is incorporated herein by this reference. Respondent's Proposal attached hereto describes in full the specific Services which Respondent wishes to provide the Authority and Respondent's qualifications and experience.

**B.** Full legal name of Respondent: \_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

**D.** Principal business address of Respondent:

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_



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- F.** This Proposal shall be irrevocable for a period of ninety (90) days after the Due Date.
- G.** The Respondent hereby makes each and every representation and agreement required by the REQUEST FOR PROPOSAL.
- H.** Respondent 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.** Respondent hereby certifies that no officer, director, employee, or agent of Respondent 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. Respondent 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 Respondent has obtained the express prior approval of the Authority for that individual.
- J.** Respondent 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 Respondent to provide the Service, and that Respondent 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 Respondent pursuant to this Proposal

or the REQUEST FOR PROPOSAL shall be given to the following individual:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Mailing address: \_\_\_\_\_

\_\_\_\_\_

Telephone number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

**AUTHORIZED SIGNATURE OF RESPONDENT:**

\_\_\_\_\_

Printed Name of Respondent

Signed By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT C

### 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 state or federal courts located in 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) 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 of the Code of Virginia, 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).

## EXHIBIT D

### STANDARD CONTRACT BETWEEN AUTHORITY and CONTRACTOR

#### NORFOLK AIRPORT AUTHORITY SERVICE PROVIDER AGREEMENT

THIS SERVICE PROVIDER AGREEMENT (“AGREEMENT”) is entered this \_\_\_\_ day of \_\_\_\_\_, 2023, between the **NORFOLK AIRPORT AUTHORITY**, a political subdivision and independent special district of the Commonwealth of Virginia ("Authority") located at 2200 Norview Avenue, Norfolk, Virginia 23518, and **[Contractor 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], ("Contractor") (the Authority and Contractor are referred to throughout this Agreement as the “Parties”).

#### WITNESSETH:

**WHEREAS**, the Authority is seeking a [description of goods and services} to serve the Norfolk International Airport (“Airport” or “ORF”); and

**WHEREAS**, Authority has conducted a competitive selection process under the Virginia Public Procurement Act, Ch. 43, Virginia Code, to obtain the services described above [and, if applicable, more specifically described in the RFP, Scope of Services], and has selected Contractor to provide those services; and

**WHEREAS**, Contractor has submitted a proposal in response to RFP \_\_\_\_ seeking to provide those goods and services and represents that it has expertise in the type of services required.

**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. Contractor will provide all services necessary to meet the requirements of the Authority for the Project, 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 will include serving as Authority's primary Contractor for all tasks described in Exhibit

“A” [and the RFP], and providing the customary services associated with implementation and deployment of the Project.

2.2. Contractor has represented to Authority that it has expertise in the type of services that will be required by the Scope of Services. Contractor agrees that all services provided by Contractor under this Agreement are subject to Authority’s review and approval and will be performed according to the normal and customary standards of 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 Contractor becomes aware of any conflicts in these requirements, Contractor will notify Authority of such conflict in writing and utilize its best 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 \_\_\_\_\_ years from that date (the “Expiration Date”), or the date Contractor 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 \_\_\_\_\_ 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 Contractor 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 - CONTRACTOR'S RESPONSIBILITIES**

Contractor will:

- 4.1. If necessary, 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, including, but not limited to, all business and other licenses required by any governmental agency responsible for regulating and licensing the services provided by Contractor under this Agreement.
  - 4.2. Agree that when services provided under this Agreement relate to services which, under Virginia law, require a license, certificate of authorization or other form of legal entitlement to practice such services, Contractor will employ and/or retain only qualified personnel to provide those services.
  - 4.3. Employ and designate a qualified licensed individual to serve as Contractor's project manager ("Project Manager"). Contractor must designate its Project Manager in writing within five (5) calendar days after receiving an executed original of this Agreement. Contractor's Project Manager designation must be executed by the proper officers of Contractor, and will acknowledge that the Project Manager will have full authority to bind and obligate Contractor 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 Contractor with respect to directing, coordinating and administering all aspects of the services provided under this Agreement. The person selected as Contractor's Project Manager will be subject to the prior approval and acceptance of the Authority. Contractor further agrees not to change its designated Project Manager, or the location or duties assigned to the Project Manager, without prior written consent of the Authority.
  - 4.4. Agree to promptly remove and replace the Project Manager, or any other personnel employed or retained by Contractor, or any subcontractor, or any personnel of any such subcontractor, engaged by Contractor to provide services under this Agreement, within fourteen (14) calendar days of receipt of a written request from the Authority, which may make such requests in its sole discretion, with or without cause.
  - 4.5. Agree to be responsible for the 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 Contractor. The Contractor will, without additional compensation, correct or revise any errors, omissions, or other deficiencies in such data, studies and other services, work and materials.
  - 4.6. Agree that neither review, approval, nor acceptance by Authority of any data, studies, reports, memoranda, and incidental services, work or materials furnished hereunder by the Contractor will in any way relieve Contractor of responsibility for the adequacy, completeness and accuracy of its services and the quality of Contractor's work and materials. Neither the Authority's review, approval or acceptance of, nor payment for, any part of the Contractor'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, and needed for project implementation, maintain for the duration of this Agreement a local office at ORF staffed by Contractor's Project Manager.

4.8. Comply with all federal, state and local laws and building requirements. Contractor will devote particular attention to complying with Federal Aviation Administration (FAA) regulations, requirements and Advisory Circulars. The Contractor must also comply with all pertinent grant agreements and grant conditions applicable to each Contract Amendment or Task Authorization. Authority will provide the Contractor 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 may be undertaking improvements or renovations at the Airport and agrees to coordinate the performance of its services under this Agreement as directed and required by the Authority so as not to interfere with, disrupt or delay any work. Contractor further agrees to coordinate its efforts with Authority's other architects, engineers, designers, or construction managers for that work.

#### **ARTICLE 5 - ADDITIONAL SERVICES OF CONTRACTOR**

Additional Services refer to 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 Contractor's control and fault.

5.3. Providing models for Authority's use.

5.4. Furnishing services of independent associates and Contractors for services other than those to be provided by Contractor under this Agreement.

5.5. Services during out-of-town travel required of Contractor 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. Additional services rendered by Contractor in connection with any assignment, not otherwise provided for in this Agreement or not customarily furnished in accordance with generally accepted information technology practices.

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 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 or performance schedule for completion of the additional services.

#### **ARTICLE 6 - RESPONSIBILITY FOR ESTIMATES**

6.1 If the Contractor is required to evaluate a project budget and prepare preliminary or detailed estimates of probable cost for any project or portion of a project, Contractor will ensure that all evaluations and estimates represent Contractor's best judgment consistent with industry standards. For purposes of the Liability Provisions of this Article only, the Contractor'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 Contractor to Authority or deducted from any fees owing Contractor by Authority.

6.3. Implementation Estimates - When preparing and submitting preliminary or detailed estimates of probable implementation and deployment cost to the Authority for any project or portion of the Project, the Contractor, by exercise of its experience, effort, knowledge and judgment, will insure that all estimates represent Contractor's best judgment consistent with industry standards will be held accountable, responsible and liable for the accuracy and completeness of any and all such cost estimates.

#### **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, President/Chief Executive Officer, or other authorized designee(s) will have authority to execute Contract Amendments, Task Authorizations, and any modifications or changes to Contractor'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 Contractor's services under this Agreement. The Authority Project Manager will review and make appropriate recommendations on all requests for payment for services submitted by Contractor.

7.2. The Authority Project Manager is not authorized to, and will not, issue any verbal orders or instructions to Contractor 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 Contractor hereunder; (2) the time Contractor is obligated to commence and complete all such services; or (3) the compensation Authority is obligated or committed to pay Contractor.

7.3. Provide all criteria and information requested by Contractor 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 Contractor, make available to Contractor 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 Contractor to enter any Project site to perform services. Contractor acknowledges that Authority may provide such access during times that are not the Contractor's normal business hours.

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

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

8.1. Contractor 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, to be 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 Contractor does not complete the required services in a timely manner. Contractor therefore agrees to employ or retain adequate personnel and subcontractors throughout the term of this Agreement to complete all services in a timely and diligent manner.

8.4. If Contractor is obstructed or delayed in the prosecution or completion of its services as a result of unforeseeable causes beyond the control of Contractor, 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 Contractor 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 Contractor may have had to request a time extension.

8.5. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of Contractor's services from any cause whatsoever, including those for which Authority may be responsible in whole or in part, will relieve Contractor of its duty to perform services or give rise to any right to damages or additional compensation from Authority. Contractor'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 Contractor, 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, Contractor'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 Contractor after expiration of said twenty-four (24) month period.

8.6. If Contractor 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 Contractor until such time as Contractor resumes performance of its obligations in such a manner so as to establish to Authority's satisfaction that Contractor's performance is or will shortly be back on schedule.

#### **ARTICLE 9 - COMPENSATION AND METHOD OF PAYMENT**

9.1. Authority will pay Contractor for all authorized services provided by Contractor 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. Contractor will be compensated on a lump-sum basis on completion of a particular Task over the course of Contractor's services for Work in Progress, based on a monthly statement of services, as follows:

a. **Lump Sum** - Upon Authority's acceptance of Contractor's work, Authority will pay Contractor 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-Contractor(s) and/or subcontractor(s), out-of-pocket expenses and costs, 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 Contractor as may be required and/or necessary to complete each and every task set forth in the Scope of 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.

b. **Monthly Statements** - Contractor may submit an invoice to Authority's Development Division each calendar month covering services rendered and completed during the preceding calendar month. Contractor'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.

c. **Non-Personnel Reimbursable Expenses** – If authorized, Authority will further compensate Contractor for non-personnel reimbursable expenses and costs as set out in Exhibit “B-1”, attached and incorporated by reference.

d. **Not-To-Exceed Fee(s)** - When all, or any portion, of the Contractor'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:

- i. For the actual hours necessary, required and expended by the Contractor's and technical personnel, multiplied by the applicable hourly rates for each classification or position as set forth in Exhibit "B" to this Agreement; and
- ii. 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
- iii. With the understanding and agreement that the Authority will pay the Contractor for all such costs and expenses within the established Not-to-Exceed amount for each Task or Sub-Task subject to the Contractor 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
- iv. With the understanding and agreement that the Contractor'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
- v. With the understanding and agreement that when the Contractor'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 Contractor to cover all personnel costs, non-personnel reimbursable expenses and costs, and Sub-Contractor 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).

e. **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. Contractor 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 Contractor within forty-five (45) calendar days after receipt of an invoice in an acceptable form and containing the requested breakdown and detailed description and documentation. If Authority objects or takes exception to the amount of any Contractor invoice, Authority will notify Contractor 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 Contractor 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 Contractor 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 Contractor for: (1) all services performed prior to the effective date of termination; (2) reimbursable expenses then due; and (3) reasonable expenses incurred by the Contractor 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 Contractor's services or work on all or part of the services required by this Agreement, the Authority will compensate the Contractor 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 Contractor 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 Contractor may cross-utilize funds from the various Tasks assigned to accomplish the overall purpose and goal of this Agreement provided Contractor 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 Contractor 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 Contractor 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 Contractor, not to exceed the amount of the compensation for the work in dispute, until such time as the Contractor resumes performance of its obligations in accordance with the time and schedule of performance requirements set forth in this Agreement.

**ARTICLE 12 - PUBLIC RECORDS**

Contractor acknowledges that any information concerning its services may be exempt from disclosure under the Virginia Freedom of Information Act ("FOIA"). All information relating to the security systems for any property owned by or leased to the Authority and all information relating to the security systems for any privately-owned or leased property which is in Authority's possession, including all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to or revealing such systems or information, and all meetings relating directly to or that would reveal such systems or information, is confidential and exempt from disclosure.

Contractor 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 Contractor'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 Contractor hereunder. Contractor will require all of its employees, agents, subcontractors to comply with the provisions of this Article.

**ARTICLE 13 – CONTRACTOR'S PUBLIC RECORDS OBLIGATIONS**

Contractor specifically acknowledges its obligation to comply with Virginia law regarding public records, and will:

- (1) Keep and maintain public records that ordinarily and necessarily would be required by the Authority in order to perform the services required under this Agreement;
- (2) Upon request from the Authority, provide the Authority with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided under FOIA or as otherwise provided by law;
- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
- (4) Meet all requirements for retaining public records and transfer, at no cost to the Authority, all public records in possession of Provider upon termination of this

Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Authority in a format that is compatible with the information technology system of the Authority.

#### **ARTICLE 14 - 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 Contractor under this Agreement must be delivered to and become the property of Authority. Contractor may retain copies thereof for files and internal use.

#### **ARTICLE 15 - MAINTENANCE OF RECORDS**

Contractor will keep adequate records and supporting documentation which concern or reflect its services hereunder. The records and documentation will be retained by Contractor 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. Authority, the FAA, the Comptroller General of the United States, the Virginia Department of Aviation, 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 16 - INDEMNIFICATION**

General Indemnification. To the fullest extent permitted by law, Contractor shall 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 Contractor's obligations under the Agreement 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 Contractor's performance; provided that Contractor 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.

Intellectual Property Indemnification. Contractor will defend, indemnify and hold the Authority, its Commissioners, officers and employees (collectively "Indemnitees") harmless from and against any liability, loss, damage, cost and expense (including without limitation reasonable attorneys' fees) suffered as a result of any claim, demand, action or suit made or raised against Authority or any of its Indemnitees, by reason of Contractor's infringement of any patent, trade secret, trademark, copyright or any other intellectual property right of any third party in relation to work delivered to Authority by Contractor in connection with the Agreement. This commitment is conditioned upon Authority (i) providing Contractor with prompt written notice of the claim, (ii) giving Contractor sole control of the defense to the claim including settlement negotiations if any; and (iii) providing at Contractor's costs reasonable cooperation in the defense against the claim. Under this commitment, Contractor will indemnify Authority (as well as its Commissioners, officers and employees) for the payment of (i) any

damages awarded by any competent court by way of a final decision, (ii) any settlement indemnity agreed upon by Contractor with Authority's prior written approval which shall not be unreasonably withheld, and (iii) related costs of investigation and expertise as well as reasonable attorneys' fees if any, to the exclusion of any other payment whatsoever.

***ARTICLE 17 – SOVEREIGN IMMUNITY***

Contractor 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 under Virginia law, and Authority expressly reserves those rights to the fullest extent allowed by law.

***ARTICLE 18 – INSURANCE***

During the term of this Agreement, Contractor 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 Contractor 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 Contractor from potential insurer insolvency.

All policies of insurance will contain provisions that advance written notice will be given to Authority's Risk Manager 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, Contractor 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 Contractor'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, Contractor will provide, pay for, and maintain, with companies satisfactory to Authority, the types of insurance described herein.

18.1. INSURANCE REQUIRED

Before starting and until acceptance of any work by Authority, Contractor will procure and maintain insurance of the types and to the limits specified in paragraphs 18.2.1 through 18.2.6, inclusive below. All liability insurance policies obtained by Contractor 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 Contractor under this Agreement and will contain the severability of interests provisions.

18.2. COVERAGES

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 with the use of Insurance Service Office (ISO) forms and endorsements or broader where applicable:

18.2.1. Professional Liability Insurance - Contractor will maintain liability insurance insuring its legal liability arising out of the performance of services under this Agreement. Such insurance will have limits of not less than \$2,000,000 each claim and \$2,000,000 annual aggregate. Contractor must continue this coverage for a period of not less than five (5) years after completion of its services to Authority. Contractor 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 liability insurance is written on a claims-made basis, Contractor 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.

18.2.2. Commercial General Liability Insurance - Contractor 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 Contractor 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	\$ <u>1,000,000</u>				
Products - Completed Operations Aggregate	\$2,000,000	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.

18.2.3. Automobile Liability Insurance will be maintained by Contractor 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            \$1,000,000\_Combined Single Limit

18.2.4. Worker's Compensation and Employers Liability Insurance will be maintained by Contractor 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. The amount of such insurance will not be less than:

Worker's Compensation            Virginia Statutory Requirements Employer's Liability  
Each Accident \$500,000\_ Disease Each Employee    \$500,000\_ Disease Policy Limit \$ 500,000

18.2.5. Environmental Liability and/or Contractors Pollution Liability Insurance and/or Errors and Omissions Liability Applicable to the Work Performed – Contractor will maintain pollution liability insurance, including the cost of defense during the term of this Agreement and for a period of five (5) years following completion of all services under this Agreement. Such coverage will apply specifically to the services/scope of work outlined in this Agreement and will include, but not limited to, Pollution Legal Liability (legal liability arising out of fumes, acids, alkalis, toxic chemicals, liquids or gasses, hazardous materials, waste materials or other irritants, contaminants, or pollutants) into or upon land, the atmosphere, or any watercourse or body of water, including groundwater at, under, or emanating from the site of services:

Per Claim or Occurrence            \$ 1,000,000 per 1 year period  
General Aggregate per policy \$2,000,000\_\_\_per 1 year period

18.2.6. Crime Insurance/Fidelity Bond - Contractor will maintain crime insurance coverage, or at the discretion of Authority, a Fidelity Bond, with limits equal to fifty-percent (50%) of the Agreement value or \$50,000.00 whichever is greater. The bond or policy will include coverage for all directors, officers, agents, and employees of the contractor. The bond or policy will include coverage for third party fidelity and name the Authority as Loss Payee. The bond or policy will include coverage for extended theft and mysterious disappearance. The bond or policy will not contain a condition requiring an arrest and conviction. Policies will be endorsed to provide coverage for computer crime/fraud.

18.2.7. Contractor must provide evidence of the required insurance coverage using Authority's Certificate of Insurance attached as Exhibit "C", 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 Contractor'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 he or she 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.

18.2.8. If Contractor 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 Contractor 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 19 - SERVICES BY CONTRACTOR'S OWN STAFF**

19.1. Services performed hereunder will be performed by Contractor'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 Contractor, 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.

19.2. Authority hereby gives its prior approval to Contractor to subcontract with for certain services. Provided, however, this prior approval by Authority is subject to Authority's rights under Article 4 above.

#### **ARTICLE 20 - WAIVER OF CLAIMS**

Contractor's acceptance of final payment will constitute a full waiver of 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 Contractor as unsettled at the time of the final payment. Neither the acceptance of Contractor's services nor payment by Authority will be deemed to be a waiver of any of Authority's rights against Contractor.

#### **ARTICLE 21 - AIRPORT SECURITY REQUIREMENTS**

Contractor 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. Contractor may need access to these secure areas to complete the work required by this Agreement.

Contractor therefore agrees, in addition to the other indemnification and assumption of liability provisions set out above, to indemnify and hold harmless the Authority and 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 Contractor, its agents, employees, subcontractors, or invitees.

Contractor 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 Contractor, Contractor will notify the Airport's Police Department that the Contractor's access authorization or that of any of Contractor's agents, employees, subcontractors, or invitees has changed. Contractor 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 Contractor, Contractor will surrender any Airport Security Identification Badge held by the Contractor or by Contractor's agents, employees, subcontractors, or invitees. If Contractor fails to surrender these items within five (5) days, the Contractor will be assessed a fee of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) per identification badge not returned. This fee will be billed to the Contractor or deducted from any money owing to the Contractor, at the Authority's discretion.

#### **ARTICLE 22 – ASSIGNMENT, TRANSFER AND SUBCONTRACTS**

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

#### **ARTICLE 23 – PROVIDER AN INDEPENDENT CONTRACTOR**

Contractor 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 Contractor, its employees, agents, subcontractors or assigns, during or after the performance of this Agreement.

#### **ARTICLE 24 - TERMINATION OR SUSPENSION**

24.1. Contractor 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 Contractor, 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 Contractor seven (7) calendar days written notice.

24.2. If, after notice of termination of this Agreement, it is determined for any reason

that Contractor was not in default, or that its default was excusable, or that Authority was not entitled to the remedies against Contractor provided herein, then Contractor's remedies against Authority will be the same as and limited to those afforded Contractor under paragraph 24.3. below.

24.3. Authority will have the right to terminate this Agreement, in whole or in part, without cause upon thirty (30) calendar days written notice to Contractor. In the event of such termination for convenience, Contractor'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 Contractor that are directly attributable to the termination, but Contractor 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.

24.4. Upon termination, Contractor will deliver to Authority all original papers, records, documents, drawings, models, and other material set forth and described in this Agreement.

24.5. Authority will have the power to suspend all or any portions of the services to be provided by Contractor hereunder upon giving Contractor two (2) calendar days prior written notice of such suspension. If all or any portion of the services to be rendered hereunder are so suspended, Contractor's sole and exclusive remedy will be an extension of time to its schedule.

#### **ARTICLE 25 - NOTICES AND ADDRESS OF RECORD**

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:

Norfolk Airport Authority  
President/CEO  
2200 Norview Avenue  
Norfolk, VA 23518

Contractor:

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

#### **ARTICLE 26 - 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 Contractor.

Services performed by Contractor under the Agreement are solely for the benefit of the Authority. This Agreement will not be construed to create any contractual relationship between Contractor 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 Contractor 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 Contractor in favor of such third Parties.

**ARTICLE 27 – MISCELLANEOUS**

27.1 Contractor, in representing Authority, will promote the best interests of Authority and assume towards Authority a 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.

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

27.2 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.

27.3 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.

27.4 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 28 - APPLICABLE LAW**

Unless otherwise specified, this Agreement will be governed by the laws, rules, and regulations of the Commonwealth of Virginia, and by the laws, rules, and regulations of the United States when providing services funded by the United States government. Any suit or action brought by either party to this Agreement against the other party relating to or arising out of this Agreement may only be brought in the state or federal courts residing in the City of Norfolk. The prevailing party in any such suit or action will be entitled to recover from the other party their reasonable attorneys' fees and court costs, including any appeals.

**ARTICLE 29 - E-VERIFY**

If required by law, Contractor 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 Contractor further agrees to provide the Authority with proof of such enrollment within thirty (30) days of the date of this

Agreement.

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

29.1 All persons employed by Contractor during the term of this Agreement.

29.2 All persons, including subcontractors, assigned by the Contractor to perform work or provide services under the Agreement.

Contractor further agrees that it will require each 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 subcontractor during the term of this Agreement.

Contractor agrees to maintain records of its participation and compliance with the provisions of the E-Verify Program, including participation by its 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 30 - COVENANTS AGAINST DISCRIMINATION**

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

30.1 Compliance with Regulations. Contractor 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.

30.2 FAA Nondiscrimination Clause. Contractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Contractor 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 Contractor 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 Contractor enters with subcontractor for services under this Agreement must contain this clause.

30.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation made by Contractor 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 Contractor of Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

30.4 Information and Reports. Contractor 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 Contractor is in the exclusive possession of another who fails or refuses to furnish this information, Contractor will so certify to Authority or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

30.5 Sanctions for Noncompliance. In the event of Contractor'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 Contractor under the Agreement until Contractor complies; and/or
- (b) cancellation, termination, or suspension of the Agreement, in whole or in part.

30.6 DBE Policy. It is the policy of the Department of Transportation 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 Contractor 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, Contractor 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.

30.7 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 FAA financial assistance:

Contractor agrees to pay each subcontractor under this contract for satisfactory performance of its contract no later than fifteen (15) days from the receipt of each payment Contractor receives from Authority. Contractor agrees further to return any retainage payments to each subcontractor within thirty (30) days after the subcontractor'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 subcontractors.

30.8 Incorporation of Provisions. Contractor 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. Contractor 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 Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, Contractor may request Authority to enter into such litigation to protect the interests of Authority and, in addition, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### **ARTICLE 31 - 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, and as said Regulations may be amended, the Contractor/Contractor 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, 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 32 - 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 33 - 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 Aviation, if required, and otherwise on the date first written above.

***ARTICLE 34 - COUNTERPARTS***

This Agreement may be executed in one or more counterparts, each of which will be deemed an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by attachment of an Adobe Portable Document Format (“PDF”) file to e-mail shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by attachment of a PDF file to e-mail shall be deemed their original signatures for all purposes.

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

AUTHORITY:

NORFOLK AIRPORT AUTHORITY

\_\_\_\_\_  
Signature

Name: \_\_\_\_\_

Title: \_\_\_\_\_

CONTRACTOR:

\_\_\_\_\_  
Signature

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Witness:

\_\_\_\_\_  
Name: \_\_\_\_\_



**EXHIBIT E**  
**COMMISSION RATE SCHEDULE**

This form must be returned with response to solicitation.

**LOCATION(S) COMMISSION RATES APPLY TO:** 1 2 3 4

Commission Rate should only apply to vending location specified in Exhibit A (1, 2 and 4).

The successful offeror shall supply all labor, materials, carts, supplies, tools, and equipment (except for the Authority provided items – once negotiated), miscellaneous incidentals, transportation, and related items necessary to provide snack and beverage vending machine service to the Authority(s).

Commission rates shall be paid to the Authority based on gross monthly sales if allowed. Remittance, along with a statement indicating gross monthly sales, shall be provided monthly to the Authority, by the 15<sup>th</sup> of the following month. Commission rate will be negotiated per Authority at the start of a new contract and at the renewal time. At the Authority’s discretion the Authority may opt out of commissions.

The successful offerors shall check above the zones that such commission rate applies to or name the specific Authority that work may be performed at in a specific zone, based on the zones in Attachment 6. The successful offeror shall reproduce this Attachment for zones or Authority’s with different commission rates

The successful offeror shall submit their proposed commission rate below.

**Vending Sale Commission Percentage:**

	<b>COMMISSION RATE</b>
Commission rate for Vending Sales based on <b>gross sales</b> .	_____ %
Offeror will pay the commission rate percentage on the Gross Amount of sales over:	\$ _____

## **EXHIBIT D**

### **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 Respondent /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 Contractor and all sub-tier Contractors 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.

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